

CHILI PLANNING BOARD
December 15, 2009

A meeting of the Chili Planning Board was held on December 15, 2009 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: George Brinkwart, Karen Cox, John Hellaby, Steve Hendershott, John Nowicki and Chairperson James Martin.

ALSO PRESENT: George Barnett, Traffic Safety Committee Representative; Ken Hurley, Town Engineering Representative; David Lindsay, Commissioner of Public Works/Superintendent of Highways; Keith O'Toole, Assistant Counsel for the Town; Pat Tindale, Conservation Board Representative.

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

JAMES MARTIN: I will also recognize the fact Paul Bloser from the Zoning Board, Chairman of the Zoning Board, is here with us tonight.

JOHN HELLABY: Mr. Chairman, I would request to be allowed to step down on Application 1 and 2, as I am a leaseholder on one of the cell towers in town.

JAMES MARTIN: You are recused, Mr. Hellaby.

PUBLIC HEARINGS:

1. Application of Bell Atlantic of Rochester LP/Verizon Wireless, 175 Calkins Road, Rochester, New York 14623 for preliminary site plan approval and special use permit for modifications to telecommunications tower to replace antennas and increase amount from nine to twelve antennas at property located at 20 Chili Wheatland TL Road in A.C. & FPO zone.
2. Application of Bell Atlantic of Rochester LP/Verizon Wireless, 175 Calkins Road, Rochester, New York 14623 for preliminary site plan approval and special use permit for modifications to telecommunications tower to replace antennas and increase amount from nine to twelve antennas at property located at 50 Jet View Drive in L.I. zone.

Ashley Baker was present to represent the application.

MS. BAKER: Good evening, ladies and gentlemen. My name is Ashley Baker, and I'm with Nixon, Peabody here tonight on behalf of Verizon Wireless. As you know, Verizon Wireless is a public utility licensed by the FCC to provide wireless telecommunication service in this region, including in the Town of Chili, and Verizon currently has the two aforementioned sites in the Town.

Verizon is currently in the process of upgrading its system due to the evolving use of cellular technology, which has evolved beyond just the simple voice-to-voice communication. Verizon has also recently been assigned a new frequency by the FCC, and is looking to incorporate that into the existing sites.

So to that end, Verizon is before this Board tonight seeking modification to their existing conditional use permits for the two sites to allow them to increase the total number, which would be three additional antennas to be added at each site, represent the antennas for that 700 megahertz frequency that was just assigned to it by the FCC and also to replace some of the existing antennas at each site with newer, more reliable equipment.

JAMES MARTIN: Do you have any diagrams that you could put up on the board so that the public could see exactly what we're talking about from the antenna array changes that are being proposed?

MS. BAKER: Sure. I have from the site plans.

JAMES MARTIN: I believe you do have site plan and engineering diagrams for the antenna array.

MS. BAKER: These are the plans for each site showing the existing towers with the antennas to the left and then the proposed to the right.

Nothing as far as the actual tower is being proposed to change. Nothing within the equipment shelter or around the base of the tower is being proposed to change. All that is happening is these antennas at the top here, these are Verizon Wireless' antennas. They are just simply being swapped out with newer antennas and three additional antennas are being added to each site. In each circumstance where 9 antennas currently exist, there will be 12. So right now,

each -- right now each site has three different arrays of three antennas on each, and they're just adding a fourth antenna to each one of the antenna arrays. So it is not increasing, um, the width of the arrays. It is not increasing the height of the tower. It is just adding another antenna to each set, and again, replacing the ones that are existing.

JAMES MARTIN: All right. Thank you.

MS. BAKER: One note I would also like to mention, we did receive a letter from the Town Engineer with regard to one of the sites, the structural analysis, and the concerns raised in that letter have been addressed and a new structural analysis report and new copy of the site plan has been provided to the Town Engineer and I also have hard copies for the Board, as well.

JAMES MARTIN: Anything else in your presentation?

MS. BAKER: I just can take any questions.

JAMES MARTIN: So there is no change in the height of the tower as a result of this?

MS. BAKER: That's correct.

JAMES MARTIN: There is no change in the site plan, per se, as a result of what you're doing.

Ken (Hurley), in your letter you have cited two things around the structural analysis of the tower themselves, engineering structural analysis. One of the ones was -- caught my eye was the structural opinion letter states the wind speed, resistance of the tower. Are you satisfied at this time that what has been submitted meets all your requirements, or is there still further need for additional action?

KEN HURLEY: I'm fine. The new letter certifies and it has been updated for what they're proposing, so everything is fine.

JAMES MARTIN: So you're okay?

KEN HURLEY: Uh-huh.

JAMES MARTIN: So I do not need to put your two comments in as a condition of approval?

KEN HURLEY: No, you don't.

JAMES MARTIN: Do you still want final approval over anything on this site? You did on one -- didn't on one, but you did on the other.

KEN HURLEY: Just in case -- I just got the report today, but just in case we see something in there. The initial check looked fine, but...

JAMES MARTIN: So on the 20 Wheatland-Chili Town Line Road you would still want pending engineering approval on that?

KEN HURLEY: Yes.

MS. BAKER: I can provide the copies of the revised -- of the structural in a letter.

JAMES MARTIN: You can provide us so we have it as part of the record.

MS. BAKER: You can swap out the existing, I believe Exhibit C and E for the application, and that is for the Chili Wheatland Road one.

STEVE HENDERSHOTT: You spoke -- are we doing both of these at the same time?

JAMES MARTIN: We're doing both of them at the same time.

STEVE HENDERSHOTT: You spoke on the one off Jet View as an existing pole. What about the one on Wheatland Town Line Road?

MS. BAKER: Yes. Both of the poles are existing. We currently have antennas on both poles, as well. We're just swapping out the ones we have.

STEVE HENDERSHOTT: Are they the same height?

MS. BAKER: Yes. The height will not be raised at all on either site.

STEVE HENDERSHOTT: The one on Jet View, the proximity to the airport, is there any special considerations that have to be done on it, either lighting or anything to do with the frequencies?

MS. BAKER: Um, well, as far as -- well -- there is no additional or new lighting concerns, because the height of the tower hasn't been raised at all.

And our RF engineers insure when the tower is designed that there is not going to be any sort of frequency interference.

KAREN COX: My question was the same as Ken (Hurley)'s about the structural analysis, so I don't have anything further.

JOHN NOWICKI: Same here. Structural analysis was the major concern.

GEORGE BRINKWART: That was my question, as well, and you addressed that by providing Ken (Hurley) the latest structural analysis.

KEITH O'TOOLE: I would ask that the Board impose a condition that all prior conditions remain in full force and effect.

Thank you, Mr. Chairman.

JOHN NOWICKI: One quick one. On the application, is this in the Drainage District yet? Because on the application, it doesn't -- it wasn't checked off.

JAMES MARTIN: Let's see. We do have the property sheets. 20 Wheatland -- Chili Wheatland Town Line Road is in -- is in, and Jet View Drive is in.

JOHN NOWICKI: They both are?

JAMES MARTIN: They're both in.

JOHN NOWICKI: Okay. Wasn't checked on the sheet. Thank you.

JAMES MARTIN: Pat (Tindale), you want 1 percent?

PAT TINDALE: Very good, Mr. Martin. We require 1 percent of whatever the overall cost is for this addition to the tower. It goes to the Landscape Fund.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

FRED TROTT, 101 Golden Road

MR. TROTT: These towers aren't anywheres in my neighborhood, but I do have one that I live next to. The issue I had before was they had brought in a crew that worked on the weekend, Saturday and Sunday, and we -- I believe the last time they came for an antenna improvement for Golden Road we asked that they did not have work hours from 8 to 4. And unfortunately when they did do the work, they didn't do it between 8 and 4 on weekdays. They decided to go on the weekends again. I would like to request that you make that a condition with them.

And I don't know in talking to Chris (Karelus), there really wasn't -- I don't know if you can make some kind of penalty for them for doing this. When I went to talk to the tower crew, they had no idea that there was a condition to not work at those hours. And I don't know -- Chris (Karelus) seemed to throw his hands up in the air and said, "There is nothing I can really do I about it."

I guess I'm asking if it happens at these sites, they should pay -- pay a penalty. It seems like a simple request. And also that they use radios to communicate with the ground crew. It seems as though, the last -- the first time, we had a crew from Kentucky maybe that loved to use vulgar language on a Sunday. You know, I have kids. I don't think they need to hear it. And this last crew that came a month ago, they didn't have radios either, and I know Patriot Construction here in Chili, they always use radios. They always use safety equipment. It's just something to consider.

JAMES MARTIN: Interesting.

Well, I will certainly condition this if it goes forward that the work is to be performed during normal business hours, Monday through Friday, but I don't know what --

JOHN NOWICKI: Ask legal opinion. What can we do?

KEITH O'TOOLE: Effectively, there would have to be a complaint filed with the Town and then prosecuted, based on that.

MR. TROTT: There was one.

KEITH O'TOOLE: (Inaudible) it wasn't there, unfortunately. That is the process. It is filed, reviewed and if found to have merit, we prosecute them in Town Court.

JOHN NOWICKI: Can we make a note of that in our minutes, or condition -- or a note that they have it on file that we will prosecute them?

MS. BAKER: Okay. I mean I know that the work is generally performed Monday through Friday, normal business hours. That's not problematic at all to condition the approval on that. They don't -- and once construction is complete of the antennas, it is about just once a month that a maintenance person would just come by to check.

MR. TROTT: I know that is said. There is three -- there is three communication uses on the Golden Road site. Two times, work on Saturday and Sunday. I mean what are the odds? I mean, the one team was from Kentucky and they were happy to leave. They -- they just had a great party when they left. I know you guys go for the cheap low bid. These guys come from out of state. They're going to work around the clock. The last crew were there at 8 o'clock at night in the dark.

MS. BAKER: Okay. Well, to alleviate any concern of that nature, that is fine to condition it.

JAMES MARTIN: I have noted that the work to be performed during normal business hours, Monday through Friday. Obviously we can't set any penalties or anything. If it is violated, Mr. O'Toole said, we need a formal complaint and go from there.

Fred (Trott), there is nothing we can do to change that.

James Martin made a motion to close the Public Hearing portions of these applications, and John Nowicki seconded the motion. The Board unanimously approved the motion.

The Public Hearing portions of these applications were closed at this time.

On both applications, 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: On the applications themselves, I have noted four conditions.

James Martin reviewed the proposed conditions with the Board.

JAMES MARTIN: The applicant shall make a contribution totaling 1 percent of the total construction costs to the Town of Chili Landscape Fund.

On the -- the work is to be performed during normal business hours, Monday to Friday. I actually have a -- one more condition on the 20 Chili Wheatland Chili Town Line Road application and that is pending final Town Engineer approval on that particular site. Those are the conditions. Anything else I should add? On the Applications 1 and 2 for both sites, for preliminary site plan and special use permit?

Two votes were cast.

JOHN NOWICKI: Are you waiving final?

JAMES MARTIN: We didn't talk about that.

MS. BAKER: I was actually going to request that this Board waive the final approval, given that there will be no intended modifications to the site plan.

JAMES MARTIN: I will back up and make a motion that we waive final on both applications.

JOHN NOWICKI: Second.

The Board was unanimously in favor of the motion.

JAMES MARTIN: On the application, we had an aye from Steve (Hendershott) and Karen (Cox).

The rest of the Board continued to cast their votes.

DECISION ON APPLICATION #1: Approved by a vote of 5 yes with 1 abstention (John Hellaby) with the following conditions:

1. All previously imposed conditions remain in effect.
2. The applicant shall make a contribution of 1% of the total construction cost to the Town of Chili Landscape fund.
3. All work to be performed during normal business hours: Monday through Friday, 8 am to 5 PM.
4. Pending final Town Engineer approval.

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

DECISION ON APPLICATION #2: Approved by a vote of 5 yes with 1 abstention (John Hellaby) with the following conditions:

1. All previously imposed conditions remain in effect.
2. The applicant shall make a contribution of 1% of the total construction cost to the Town of Chili Landscape Fund.
3. All work to be performed during normal business hours: Monday through Friday, 8 am to 5 pm.

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

3. Application of BVR Construction, 244 Lake Avenue, Rochester, New York 14608, property owner: James & Robert Dugan; for preliminary subdivision approval to combine six lots into one lot at property located at 8 King Road and five other properties bordering the 490 Expressway in L.I. zone.
4. Application of BVR Construction, 244 Lake Avenue, Rochester, New York 14608, property owner: James & Robert Dugan; for special use permit to allow a construction company at property located at 8 King Road and five other properties bordering the 490 Expressway in L.I. zone.
5. Application of BVR Construction, 244 Lake Avenue, Rochester, New York 14608, property owner: James & Robert Dugan; for preliminary site plan approval to erect an 8,000 sq. ft. shop warehouse with 3,200 sq. ft. office building at property located at 8 King Road and five other properties bordering the 490 Expressway in L.I. zone.

Jess Sudol and Chip Stevenson were present to represent the applications.

MR. SUDOL: Good evening, members of the Board. My name is Jess Sudol. I'm with Passero Associates. We're the engineers for our client, BVR Construction. Here with me this evening is Chip Stevenson, who is the President of BVR Construction. We're here tonight for site and subdivision approval and also a special use permit to construct a 3,200 square foot office building which is shown in the foreground in the image up there on the screen and also an 8,000 square foot shop building to house the operations of BVR Construction.

The project is located on the north side of 490, south of the railroad tracks, and east of King Road. As you can see on the image up there where it says "site" is where our development area is. The actual parcel in question is actually six lots that are being combined into one. There is actually 85 acres in total area that extend all of the way up to the upper right-hand portion of our screen. But our actual development area, um, where we propose to construct the new office

building and the shop building is down where you can see that little white box which says "site," and we're only proposing to disturb about nine acres.

Again, that is King Road running east/west or right to left, and then that is 490 that goes through the middle of the screen there, so we're right between 490 and the railroad tracks.

We were here in November, and we presented who BVR was and what exactly they did and what they plan to do at this particular site, and we also got a little bit into each of the utilities and access and things of that nature. I would be happy to answer any questions on those again, but we did cover a lot of that last time, so I'm not going to get too much into that.

Before I move into the two issues that were identified at last month's meeting, I just wanted to reiterate that Chip (Stevenson) and BVR really like this particular site for the reasons that I mentioned a little bit with the location, which is there is a lot of really great natural buffering going on. We have 490 to our south. A lot of woods and wetlands to our north and to our east, and actually to our northwest, and the railroad tracks directly north. So we really have some good separation for any kind of residences or single-family homes, and we're able to tuck our site in the back corner there.

I will just switch to our colored site plan.

So again, as I said previously, last time we were here in November, there really are two issues that the Board and the side table had some concerns with, and I'm happy to report that we're back here tonight and we feel we really have done a good job working with Town staff to resolve both of those issues.

The first one is the sanitary sewer service, and how we can -- are going to provide sanitary sewer to this particular, um, building, because there is no sewer in King Road, so we can't just pull a lateral back and service the site as you may normally, um -- with a similar layout.

The sanitary manhole that we have access to is actually -- it's tough to see, but directly above where we say "site," all along the tracks you can see there a dark area, which is actually an existing pond and right next to that pond is a little bit of a blip where you can see there was some clearing.

About 15 to 20 years ago, when the sewer was installed along the railroad tracks, they actually brought a stub across the tracks, and left a dedicated manhole right where you can see that little clearing area, which is very beneficial to us and to this property in general, because it does provide us access to a sewer without having to go across the railroad tracks, which, um, is actually quite the process.

So when we came in with our original preliminary design, we were showing a gravity sewer extending from that manhole up to the project site. It was actually around 2,000 feet of 8-inch sanitary sewer that we were going to be dedicating and subsequent manholes, and that was our plan. We showed that the topography worked and we could feasibly construct it.

Then after we submitted our plans, we started getting into doing some of the construction estimating to see how much the different elements of this project were going to cost. That's why we found that this sewer, because it is 2,000 feet away, in order to do the gravity sewer was going to be roughly 110 to \$120,000, and this isn't a big, 5, 10, \$15 million project. You know, this is only a million dollar project.

So that 60,000 or \$70,000 represents 6 to 7 percent of the project cost on what was already a pretty tight budget. So at that point we started looking at what our other alternatives may be.

First, we looked at was a sanitary sewer -- or I'm sorry, an individual septic system, which we pretty much ruled out right away for a variety of reasons. Maintenance. They don't have a very long life. They are in themselves fairly expensive to construct and generally the municipalities we deal with, and I believe Chili may be the same, wouldn't want to see that constructed out here.

So the second option or alternative we looked at was in putting in a private sanitary sewer forced main and a small grinder pump with a lift station. What that allows us to do is pump the small amount of water that does come from this project down to the existing manhole. That also eliminates us having to put 8 and 10 foot deep 8-inch pipe with 4 foot diameter manholes. We can just use a regular trencher, and put in -- I'm sorry -- you know, a 2-inch forced main which saves again roughly 60, \$70,000. That's where we were at the last meeting.

At that time we hadn't gotten a chance to really review in detail with Town staff or with Gates-Chili -- the Gates-Chili Sewer District -- Gates-Chili Ogden Sewer District, I'm sorry. After the meeting we went and sat down with those folks, Mr. Lindsay, Kevin Quinn and Ken Glazer from GCO and laid this out for them and showed them what we were thinking.

One of the important things to see on this plan and also on our recently submitted design plan, while we have decided not to go with the gravity sewer, we have decided to still provide a sewer easement to the Town. You can see that on the sheet here (indicating) where it kind of comes in from the right and splits the darker green area, and that extends all of the way back to that existing manhole and goes from there all of the way out to the King Road right-of-way. And the intent of that is if a developer comes in the future, we're not shutting down what we see as an asset and a benefit to the Town. As a matter of fact, we're actually keeping the window open for future development in this area by taking the easement which currently ends right 10 feet from that manhole and extending it 3,000 feet all of the way up to King Road.

So, again, if a larger development were -- or multiple developments were to be pursued along King Road or Paul Road, they still have that option and we have kind of paved the way for them. We actually went so far as to lay out the sewer all of the way to King Road, just to make sure it worked, with -- you know, with our alignment and what we plan on constructing here to try to insure in the future if the sewer were constructed, it would take the easiest path possible

and was, in fact, feasible. So we weren't just offering an easement for the sake of offering when we knew it really couldn't be constructed anyway. The truth is it can be constructed and we have looked at it.

After we met with Mr. Lindsay and Kevin (Quinn) and Ken (Glazer), I think we were able to come to an agreement that this was the best approach, because it really benefited everyone involved. It benefited applicant Mr. Stevenson because he was able to save himself a substantial amount of cost and also benefits the Town, because, again, we're keeping that window open and extending the easement to up King Road. At such time there was a gravity sewer installed in the area, BVR would actually have the opportunity to connect their sanitary lateral to the new gravity sewer and take their pump station off line, so he would actually like to see this built in the future; just this project can't currently support it.

So the second issue had to do with the land use of this particular project and how it related to Limited Development District -- or I'm sorry, the Limited Industrial District at the time.

Again, I want to reiterate, I said this at the last meeting, that this particular operation is not used for any type of storage or any type of warehousing. What this facility will be used for is first office administration in the smaller 3200 square foot building to the left, and then in the yard area, for temporary staging of construction equipment materials. Then inside the building, some light fabrication and also some small steel erection.

For example, when BVR has, you know, maybe a six to eight-month project in, you know, anywhere in Central New York, when that project is complete, some of that equipment comes back to this site where Chip (Stevenson) and his team have an opportunity to perform any maintenance they use, stage up for a couple of weeks and then send it off to the next job, wherever that may be. So there is no long-term storage going on. It is just as all of the different jobs that BVR have going on and equipment is coming off site, going off to another site, this is where their central location is where they can bring it, treat it as necessary, and then send it back out.

Well, again, the concern last meeting really came up, I believe, because Chairman and Chris Karelus at the time went and they reviewed -- or I'm sorry, they visited BVR's current site on Lake Avenue in the City of Rochester. Now, unfortunately, Chip (Stevenson) nor myself were really there to direct that site visit, but the problem about it is, BVR Construction in the city shares its site and its area with a bunch of different users. So it is really tough to go out there and be able to say BVR owns that, they own that, they don't own that. You kind of go out there and it is like, I'm not sure where the property lines are. There is a bunch of different fences. You know, so I could completely understand where the concern was at that time.

But I want to report back today, and which we have been working with Town staff is, that we have really done our due diligence and went out and took an inventory of all of the materials that could be seen out there, whether they were BVR's or not, and put them together in a package and submitted it to the Town so we could really get our arms around what exactly we're talking about here, and what could be expected at that site in the future.

So as you will see in the packages that were submitted about a week ago, we took every piece of, um, equipment or material that we could find, we took a picture and then we put it into one of five categories. The first category were items that are not coming to this site. Either not owned by BVR Construction or they are owned by BVR Construction, but they do not plan on bringing them here. They plan on discarding them. Real good news about this category are the big items that were identified at the last meeting such as some of these large soil piles and rubble and some of the old tires and old, old site trailers, they all are going in Category 1. So they're not coming to this site. If you flip through, will you see -- I think, Jim (Martin), those were the type of things that really concerned you up front, but fortunately, they are not coming.

The second category are items that we identify as being greater than 6 feet in height. When you flip through your packet again, you might see that the crane is in there and there is also some large signs that are actually being used on the 490 project. Again, anything that is 6 feet or taller. And I'm -- in a minute here I will get to why that is where we made the cut-off.

The third category are items less than 6 feet in height. Those would be some of the construction barrels, some of the sand -- sand bags that they have, I should say. Some of their rebar. Um, those type of things, and there is actually a good amount of pictures in there that identify items that would be in Category 3, which are less than 6 feet in height.

For example, they do a lot of large work, so they have floats and barges that they have on site, and, you know, it might be in between jobs where they bring the barge back to the site and temporarily stage it before moving it back off, but again, those are the items that are less than 6 feet in height.

The fourth category is items that would be placed likely inside the building. Now, again, some of these could fit in one category or another, but, um, item -- Category 4 is really what we would expect to see inside the building. That is a lot of their equipment, their generators, a lot of their larger vehicles, such as the crane would be inside to keep it out of the weather, which is really one of the main points of this project itself.

The fifth category, which was another one that was an item of concern at the last meeting, are raw materials I call them, that would require a covering system per the Town Code.

Now, once we eliminated a lot of those big soil piles that are not owned by BVR, nor do they intend on bringing any of that stuff to this site, it really came down to the -- at times they had some concrete sand, an actual pile of concrete sand that would fit into this Category 3, which would require -- excuse me, require a covering system. We have actually included a sample of what type of covering system we intend on using in that packet so you could see what our

intention is.

So all these categories and breaking these items into different heights and things of that nature are done for a reason.

As you can see on the plan that was submitted to the Board members, the rendering up here, and also on that color-coded -- color-coordinated map over to my right with the orange, the pink and the yellow, we have designated three zones that correspond with these categories. The intent is if you fit into this Category 1, where you're -- or I'm sorry, two, where there is an item greater than 6 feet, there is a zone that goes along with that.

Now, the whole point of the categories and the zones thing is -- well, it is actually twofold. The first is, there is a concern about the visual impact of this operation and how people on 490 may view it. And what we have done strategically is we have placed the higher items behind the building. I will go back to that 3-D perspective there.

So you can see in the background where the shop building is, all of the higher items or the taller items like the crane would be placed behind the building. The building is 16 to 18 feet tall. The highest item we saw on site, you know, when the crane had its boom half up to balance itself, it was about 10 feet tall. So from 490, that building is really going to block any views of those type of equipment or vehicles or -- and so on.

Secondly, we put a fence, a wood fence, stockade fence along the entire southern portion of the yard area. I am actually going to go back to the other one just so you can see where that fence is.

And that extends from the lower right-hand corner of the shop building, all of the way to the clearing limits. That is going to be a 6 foot high fence. So, again, that is where we made our division with our categories, at 6 feet. Because right now, you have a visual -- a visual impairment where you can't see past that fence and all of the items on the other side of it are less than 6 feet. So from 490 or King Road coming over the bridge, you have the building blocking all of the taller items and the 6 foot fence blocking all of the smaller materials and things of that nature.

So we have set this whole strategy up to really reduce the impact or the visual impact to be negligible to where anyone -- even if you really looked hard, you wouldn't be able to see what is back there. Not that we're trying to hide anything, but we heard you last month, and we tried to make every practical effort to really minimize this visual impact.

So that is the first goal of this whole category and zones.

The second is, there is a concern about, well, sure, this is all of the stuff that Chip (Stevenson) has at his site today, but they're a specialty contractor. We don't know what they'll be doing next year, two years from now and how does the Town as part of this special permit process have the ability to enforce what BVR can have on site and what they cannot have on site. You tell us, "You're going to just be staging items here, and you're not going to have stuff in the back. How do we enforce this?"

By setting up these zones with these specific dimensions and specific height requirements, the Town has a tool where if there was a 12-foot crane parked out front, they could say -- look back to our plans, our application, to this meeting and say, "Chip (Stevenson), you know, your special permit says if it is over 6 feet, it has got to be behind the building." So he could put it behind the building, and the Town would have the ability to really enforce the items of concern that, um, came up about the special permit.

We then sat down with Town staff and reviewed this whole approach, and, again, I'm happy to report it seemed to go over very good and we were able to really solve some of these larger issues and items the Board had last month.

So those were the two big issues that came up. Just to touch on a couple more of our approvals and things of that nature.

Mr. Marchioni is not here tonight, but he had requested the perspective from 490, which is actually included in your packages, and also the 3-D perspective that I had up earlier.

We also had Mr. Hurley's comments, and I have responded to them. As I said at the last meeting, they were, very, um -- they were detail-oriented. We had no problem addressing them. They don't affect what we're trying to do here. They were good comments and we responded to them and revised our plans accordingly. We met with the Conservation Board several times. You know, we heard what they were saying. We made some additions to our screening up along 490. We changed some of our species up to provide a little more variety, and we think that we're in a really good place with them.

Then all of the County Agencies, Water, Sewer, County DOT, we're really on the 1 yard line with them where we have received all of their comments, we have responded back to all their comments and we're really in a position to finalize the project.

So, again, I would be happy to answer any questions, and I know you may have some questions on some of those items in the packet and I'm sure Chip (Stevenson) would be happy to give an explanation as to what some of those may be.

JAMES MARTIN: From an engineering standpoint, the Monroe County DOT, in their comments back, requested a field evaluation with you on the sight distances to the driveway, and based on the response that you have provided, when I go down through here and I -- I read this, it raises a little bit of a concern in my mind. You measured it for 14 feet back from the edge of the pavement. The sight distance to the left was an acceptable sight distance, 472 versus the 430 required, but on the right you're about 28 feet short of meeting that requirement. Understand the site is constrained by where the road, access has to be in order to interface with King Road. But, there is still a little bit of a concern about the fact that that sight distance is not meeting the

minimum requirement, and some of the lowboys that, you know, that are a part of the equipment that BVR uses are fairly lengthy. And I'm not exactly sure whether or not a lowboy pulling out of that driveway to the -- to the -- you know, probably would be to the left, I guess, because the sight distance to the right -- whether or not there is enough sight distance here to be safe from a standpoint of exiting from the site onto King Road.

MR. SUDOL: Sure. I would be happy to address that. When we got the comment letter from the DOT, we did identify the two -- that's being really the main issue of the letter. What we did is myself and another one of our engineers met with their field staff and we actually examined six different scenarios. We kind of went above and beyond the standard of what the State and County require and we said, "Well, let's look at these a bunch of different ways and think about what type of equipment and vehicles would be pulling out of here," and that is why you saw in our correspondence back to the County DOT, there wasn't just a -- here is what is required, here is what we have. There was really a table provided with all of the scenarios.

Now, five of the six actually were greater than what was required, and then as you mentioned, there was the one scenario in which the sight distance measured was less. In that case, it wasn't even a case of not being able to see. It was the fact that we are crossing a property line. We're on the inside of a curve. So we're at a disadvantage, one, because we're very much restricted by our access. We can move it 5 feet over right or left, and that doesn't make too much of a difference, but being on the inside of a curve, when you look to the right or the left, and you use the actual property line as the sight distance, then it cuts our number back, which was the case in the number evaluation. Even then we were only 28 feet short, but when you actually just go out there today and you look at it, we are in excess of what is there now, so we're very confident that Chip (Stevenson)'s equipment would, you know, have ample sight distance and also stopping distance for approach vehicles.

Another thing, as I mentioned -- not to cut you off, but at our previous meeting is this is a really low impact project with respect to traffic. And these pieces of equipment, like the lowboys, aren't coming in and out of this site all day every day. Again, you know, some of these projects lasting six or eight months, when they end, you will have maybe a couple more come in that day, but there is really only a couple coming in and out every day, and that is generally off the peak hours.

JAMES MARTIN: I guess your explanation, you said -- I'm not quite sure what you are actually meeting. Are you meeting County DOT standards for sight distance to make an exit off of that property onto King Road in either direction?

MR. SUDOL: In three of the scenarios -- in two of the scenarios we studied we met for both right and left, and the third scenario we met for one and not the other.

JAMES MARTIN: All right. What were the first two scenarios?

MR. SUDOL: I forget exactly. One of them was 12 foot off the edge of pavement and it was 14 and 16, or something to that effect.

But if this is a true concern of the Town, um, what we could do, and the only real way to mitigate this since we don't have a lot of frontage, is from that particular approach where we don't have the sight distance, we could put up an entrance-a-head sign to the -- for the vehicles where the stopping sight distance would be a concern on King Road. So we would go down King Road a ways, and we could put an entrance-a-head sign.

KAREN COX: Will the County issue the permit? You see, the thing, is Jim (Martin), if the -- the County will issue a permit if -- and if they're concerned with sight distance not being met, they will ask for mitigation of that. You know, an example of that is what Jess (Sudol) just said, of additional signage.

So the County is going to have to be satisfied that the sight distance is met or mitigated.

MR. SUDOL: Either way, we need them to sign our plans to finalize it, so we have to make them happy regardless.

JAMES MARTIN: All right. So at this point, you don't have a definitive answer from County DOT on whether or not they were going to issue --

MR. SUDOL: No. I talked with County DOT this week and they were still reviewing the numbers we submitted.

JOHN NOWICKI: Just a question. On the bottom left-hand corner here, where it says "sight distance and access," you have, "proposed speed limit 40. Distance right," I think it says "467. 300 required. Distance left, 500." Is it 500?

MR. SUDOL: Right now, it is one of those scenarios.

JOHN NOWICKI: Does that mean it meets the requirements?

MR. SUDOL: It was one of the scenarios that met the requirements, but there was the other that did not.

And there was a question when we originally submitted the plans, well, they meet this one, but when our field guy went out and looked at it, he didn't feel it would meet the second scenario. That is when we all met out there together, so we all agreed on the six different measurements we took and tabulated them.

JAMES MARTIN: Thank you for clarifying that issue at this point.

Obviously, you will find out whether the County is going to issue a permit or condition a permit or whatever, anyway, whatever they give to you, in order to make that road cut.

I got to go to the Board.

GEORGE BRINKWART: For the building you propose, have you sent the plans to architectural review?

JAMES MARTIN: The Zoning District doesn't require it.

GEORGE BRINKWART: Okay. The route you're taking for your forced main, is that the identical route you had originally proposed for your draft sewer?

MR. SUDOL: Just about. It is actually a foot outside of the proposed easement, and the easement follows our route for the sewer. Our route is pretty much dictated by where the wetlands are, where that 100-foot adjacent area to the wetlands is. We avoid it all of the way to the end until there is really no way to avoid. As Mr. Hurley pointed out at the last meeting, we're in the process of getting a permit to do just the minor disturbance in the wetland.

GEORGE BRINKWART: And that -- if I understand -- if my memory serves me right, that was from -- you need to get a permit for work that ties into the existing manhole; is that correct?

MR. SUDOL: Yes. Just right at the end, before you get to the manhole, the wetland kind of comes in on either side of it, so the 100-foot adjacent area kind of overlaps there and there is no way to get to that manhole without going through the adjacent area. Fortunately, we're not disturbing any wetlands or anything like that. Just the associated buffer.

GEORGE BRINKWART: Have you shown the plans to the Sewer -- the -- the Gates -- yeah. Pure Waters?

MR. SUDOL: Yes. As I mentioned earlier, we showed our first approach to them, and then we were able to sit down with Mr. Lindsay and also members of GCO to discuss our new approach, and they were agreeable to it.

GEORGE BRINKWART: Are they -- if that gravity sewer ever gets put in, you will tie into it at what point?

MR. SUDOL: Our site -- we would probably tie into it right when they install it. You know, while they are disturbing the area, and they would put the sewer in, they would most likely put a, you know, 6-inch or 4-inch Y for us, and then the way we positioned our pump station, it would be a quick fix where once they put it in, while they have the trench open, we would just hook up and pull the pump station out.

GEORGE BRINKWART: So you will connect closer to the building, so basically --

MR. SUDOL: Much closer.

GEORGE BRINKWART: Either abandon or remove the existing forced main from where your connection point is --

MR. SUDOL: Yes. Most likely be abandoned.

GEORGE BRINKWART: Pure Waters, did they give you any indication if they wanted you to extend the gravity portion of that a certain length?

MR. SUDOL: No, they didn't. They had no request --

GEORGE BRINKWART: Core the manhole and tie directly into the manhole.

MR. SUDOL: The only specific request they have, there are two stubs in the manhole. One stub comes in our easement alignment. There is one off to the west. They said, "Why don't you go into the west stub, that way we don't have to deal with it if the sewer gets built or when it gets built, you can hook onto the stub to the south." Other than that, their design comments we're addressing now were limited to providing them detail of our grease oil separator.

GEORGE BRINKWART: Have you chosen a design for your grinder pump?

MR. SUDOL: Yes. We're working on exactly which one we're going to use, but it will be one of the E-1 models.

GEORGE BRINKWART: Have you provided calcs for that to our Town --

MR. SUDOL: We have provided usage calcs, as far as how much, what our demand will be. We haven't shown them the actual pump curve yet, but those are pretty standard canned systems. They put a manhole in and drop them in.

GEORGE BRINKWART: You're pumping it quite a ways, so you're going to have to show some head loss.

The original gravity sewer, there was one section I had asked you about, that crossed the -- the 100 -- the 100-foot buffer area. Were you able to modify your easement to avoid that encroachment?

MR. SUDOL: Oh, yes. You're right. There was one that clipped the 100-foot area up closer to our site and we did modify to go fully around it.

GEORGE BRINKWART: Okay. I guess my next question, what plans did you submit to us in your recent submittal? That was -- this was the only plan (indicating)?

MR. SUDOL: That was -- I believe it had a utility plan with it. I know I submitted the revised utility plan, at the very least, to the Town Engineer and to Mr. Lindsay.

GEORGE BRINKWART: I didn't get that. Did the rest of the Board get the utility plan?

JAMES MARTIN: I did not get a utility plan.

GEORGE BRINKWART: I guess I don't want to be flip, but you're asking for preliminary approval on some things that I haven't seen, and that's probably not going to work for me. I don't know how the rest of the Board feels about that.

Also, I had some questions on the gravity sewer portion. In your original submittal, the last portion of the sanitary sewer indicated that you bumped it up to 12 inches. I guess before the Town takes dedication -- or accepts the easement for that sanitary sewer, that proposed gravity sanitary sewer, I want to make sure that this is going to work. Now you know you can't bump up, just because you're running out of grade.

MR. SUDOL: No. It is actually a 12-inch pipe that comes across the railroad tracks, and when we met with -- again, Mr. Lindsay, and members of GCO, they said, "Well, it is good to see that it works with an 8-inch" because that is the way we showed them. But they said we also could end up going with a 12-inch. The reality of it is, it has shown us enough that we're

confident in the fact it will work in the future. Whether it ends up being an 8-inch or 12-inch has a lot to do with what development opportunities present themselves on Paul Road and King Road and how far, you know, Developer X in the future needs that sewer to go. Since we have the 12-inch, we have the ability to run it flatter if we need that cover, but if we don't need it, we would probably go with the 8. But it's a little premature at this point to say definitely if it is going to be 8 or 12. We just know both work.

GEORGE BRINKWART: That first section, manhole nine, the reason that is 12 inches, again, is -- it is not existing. That is something you're proposing.

MR. SUDOL: With our original submission, the reason it was 12 inches, it picked us up about 6 inches of cover, which improved our situation when we got to our site.

GEORGE BRINKWART: I guess I have a question for the side table. Are you comfortable that the proposed easement they're offering will work for a gravity sewer?

DAVID LINDSAY: I don't think Ken (Hurley) has seen the plans yet.

KEN HURLEY: No. They just came in this week.

DAVID LINDSAY: I just started looking at them today. So we'll be taking a look at that. I do have a couple questions on the easement. Would you like me to ask those now?

JAMES MARTIN: Um --

GEORGE BRINKWART: That's up to Chairman.

JAMES MARTIN: Why don't you hold off until we get the rest of the Board done. Then we'll go.

GEORGE BRINKWART: I guess that is all I have.

JOHN NOWICKI: I was just going to ask the question, the letter we got from Dave Lindsay, his comments, Number 6, you had asked for a 30-foot easement. And it looks like a 20 foot.

DAVID LINDSAY: That was one of the questions. I don't know if it is a typo. The arrows aren't matching up with the dimensions on the plans. Is it a 30?

MR. SUDOL: It was originally shown as 20 feet, and then the comment that we received back from GCO actually was they asked us to make it 30 feet. The reason for that was they didn't like to go with the 12-inch sewer, and if it was deeper, they required the wider easement and we have no problem with providing the 30-foot easement. So it will be 30.

JOHN NOWICKI: That takes care of that question.

DAVID LINDSAY: Yes.

JOHN NOWICKI: That will be changed on the drawing?

MR. SUDOL: Yes.

JOHN NOWICKI: The other two areas I just had some questions on is security issues on site for protection of the owner's property, and protection for the community. I am assuming that is going to be taken care of by the proposed --

MR. SUDOL: One of the main security measures we have implemented is because there is such a long access road to get back, there is a gate up front. We haven't put the gate right at the road. We actually moved it in a little. If anyone, a couple cars turned in there, they wouldn't be out on King Road. There is a gate that they open during normal business hours, but closed when they shut down. They also have provided some site lighting in addition to the building-mounted lighting for additional security.

JOHN NOWICKI: Any proposed cameras or --

MR. SUDOL: I will defer that to Chip (Stevenson).

MR. STEVENSON: We currently exist with a motion and a -- I'm sorry.

JAMES MARTIN: Name, please, Chip (Stevenson).

MR. STEVENSON: I'm Herbert Stevenson. I'm the President of BVR Construction. Um, our anticipation at this point in time is to probably have a -- an entry alarm system consisting of motion or sound detectors. That is about all we have considered at this point in time.

JOHN NOWICKI: And then the lighting, the site lighting is all taken care of, too, right?

MR. SUDOL: Yes.

JOHN NOWICKI: Okay. So we have the -- the code that we have for our lighting --

MR. SUDOL: It is all down lighting, with the vertical cutoff shields, dark sky compliant.

JOHN NOWICKI: That is all I have got. Thank you.

JOHN HELLABY: I know you mentioned it, but in your photograph, items shown as Category Number 2, pretty much the same as Category 4 out there. They're noted as being stored inside the shop. I guess my question is, are we going to make every attempt to put the majority of those items inside the shop? And things that won't fit, stay outside? I guess -- I'm a little unclear, because if they're in Category 2, that says, "Well, the heck with putting them in the shop. We'll put them all out behind the building."

MR. SUDOL: The intention is, of those items that appear in Categories 2 and 4, which one of them is the crane, of the more -- I guess the way to put it, expensive equipment we're going to try to pull indoors and keep it out of the weather. But if there are, you know, a surplus one day where they have a couple more machines in there where they need a little more room, we also show it in the Category 4 so when they move it out of the building, even if temporarily they have a place to temporarily stage it without being in violation of what we're trying to set up here. So the intent is to keep all that machinery inside, but, um, you know, if it is moved outside, we have a place for it.

JOHN HELLABY: Now, is minor maintenance work done on this machinery inside that building?

MR. SUDOL: Yes.

JOHN HELLABY: Floor drains in there?

MR. SUDOL: Yes, there is floor drains in there. That was actually alluded to earlier, one of the reasons we had to put the grease oil separator in.

JOHN HELLABY: You guys aren't in the snow removal business so there is no salt storage or anything like that?

MR. STEVENSON: No.

JOHN HELLABY: Just a couple of the notes that came down last time from the Building Department. The wetland limit on the entire property should be shown on the overall subdivision plan?

MR. SUDOL: Yes, and they are.

JOHN HELLABY: Fuel dispensing island shown on the plans. We'll need the permits from New York State DEC and the Fire Marshal's office. There is also a note here that if the Board decides to grant any approval to the project, request a condition be placed on the approval stating all DEC standards for fuel storage and distribution be met on the project and recommendation of storm sewer collection and filler system for the surface water is on those. Which I tend to agree with, should there be an incidental spill of some sort there.

The only other note I have got is that there is a hot box or vault at the street for the water meter or backflow stuff; is that correct?

MR. SUDOL: Currently we're not proposing a hot box. We would have a concrete vault, which is actually covered with topsoil and plantings. The benefits to that is not an eyesore, and unless you're really familiar with the project, you don't really know it is there.

KAREN COX: Looking at the covering here, where on the site would be that located?

MR. SUDOL: Those would be in the yellow portion, which we call a Category 5, so in the back northeast corner.

KAREN COX: How tall are those?

MR. SUDOL: They actually come in a pretty wide variety. We would just, um -- you know, he doesn't have -- I'm sorry, Mr. Stevenson doesn't have any big front end loaders like snow storage. We wouldn't need them 20 feet high. They would probably be in the 10 to 12 feet high.

KAREN COX: That will just be the -- the concrete stand will be underneath that.

MR. STEVENSON: That is the only thing we really need as far as bulk material stored on site, for Shock-Crete. If it is a project out of town somewhere or even a larger project close by, we normally have the stockpile facility on the project.

KAREN COX: Makes sense. Okay. That was all I had.

STEVE HENDERSHOTT: Can you tell me what the -- generally the type of construction that BVR performs?

MR. SUDOL: They're actually a specialty construction company that, um -- I had the pleasure of going over their operations and Chip (Stevenson) took me to a lot of different jobs they did, but one of their real specialties is doing a lot of the Shock-Crete work and dam repair, and also bridge repair. And they have a lot of innovative ways where they go into old bridges where the concrete might maybe falling away from the rebar where they can clean up the rebar, repair the concrete. They are also do things like install handrails, um, put decks down for bridges at times. But it is really a specialty, niche job that when you have -- you have to get under a bridge and no one else knows how to do it, BVR is typically the one that figures it out and puts a plan in place for it.

STEVE HENDERSHOTT: Can you give me an example of what might be fabricated on site? You mentioned there would be times that stuff would be fabricated.

MR. SUDOL: Sure. A lot of times of coming up with the innovative ways of getting under a bridge they might have to fabricate what -- the example I'm thinking of where they actually hang something off the bridge where it can go down and under where the guys can get under to work on some of the abutments.

STEVE HENDERSHOTT: Under bridge inspection unit of some type?

MR. SUDOL: Sure. Yep.

STEVE HENDERSHOTT: And how many jobs are going to be out there?

MR. SUDOL: How many jobs? Chip (Stevenson), can probably speak to that a little better than I can.

MR. STEVENSON: Just to give you an example, our -- our primary work area is from like Route 81 west of -- in New York. We have had projects on the canal east of there. And in a year's time we may work on as many as 50 different projects from small to large. Most projects don't require specialized fabrications and so forth. It is standard equipment, labor, the type of equipment -- the type of machinery we have.

When we get into a specialized access or bridge support job or something similar, that's when we will do some fabricating of -- of a support system or an access system, and you know, it is hard to say every year how many there will be, but in this past year, we probably had six.

STEVE HENDERSHOTT: Thank you.

I can't tell from this plan -- I just may be missing it. Can you point out where the pump station is located?

MR. SUDOL: It's right at the end. Do you see where we have a separate parking lot for the office building?

STEVE HENDERSHOTT: Yep.

MR. SUDOL: Right at the end of that, and then off to the right a little bit. So in between that parking area, and then the gravel exit from the shop building.

STEVE HENDERSHOTT: Okay. Thank you.

And you stated that along the Category 3 items, there was going to be a 6 foot high board-on-board fence?

MR. SUDOL: Yes.

STEVE HENDERSHOTT: Does that fence go and stop at the corner of that Category 3 area, or is it going to turn the corner?

MR. SUDOL: It stops at the corner.

STEVE HENDERSHOTT: You might provide a little bit more visual protection from 490, since that seems to be the intent of it, if it turned one section on the corner.

MR. SUDOL: Yes. We would have no problem putting another 8 feet, just heading north.

STEVE HENDERSHOTT: That's all I have.

JAMES MARTIN: I want to go back to the fence for a minute. You have got a lot of experience with fence, fences, on this Board.

And I believe if this project were to go forward, the standard treated lumber board-on-board fence looks good for a year or so, but then after a while, it begins to weather and deteriorate. And a lot of fencing that has been done recently in the Town has been more along the lines of the resin materials, whatever the materials are, and it also gives the applicant the ability to perhaps choose something, that of a more earth tone nature than stark white or Kelly green or whatever.

And we have requested in some instances that the fencing be of that nature, and be of an earth tone quality so it just blends in much nicer with the background of where the actual construction is taking place.

So I would --

KAREN COX: Do you mean a material like TREX, are you talking about?

JAMES MARTIN: I'm talking about -- I'm not sure what all is commercially available. There is resin fence material that is available that is used quite commonly, and, um, so I would certainly look at that as potential requirement if this were to go forward. We just -- I -- the board-on-board starts to warp, it starts to crack, it starts to do all kinds of things and just doesn't look good after a couple years of sitting in the weather. That stuff doesn't change. From a maintenance perspective, it is probably money ahead down the road.

I know when we get to Mr. Lindsay, that in his comments there are several here that would potentially become conditions of approval if this were to go forward, so I'm not going to go into that. I will let Mr. Lindsay comment on those.

That's all I have got.

KEITH O'TOOLE: Couple issues. One, if the ability is there, it would be better to pull that sewer easement away from the wetland to a greater degree than it already is, I would think.

I do know that wetlands have been remapped over time and have a tendency to migrate in some instances. I don't know if that applies here, but it would certainly give us an extra margin of error. Make it easier to put that sewer through should it ever arise that we want to do that.

With regard to the -- the code issue, the code does prohibit outside storage, and primarily, that is for visual impacts. And the Board should be comfortable that the level of buffering, berming, landscaping does the trick. And maybe it's appropriate to use a combination of those, and perhaps not only some trees along the right-of-way. Or close to the right-of-way, but perhaps adding that extra level of landscaping near the fencing, so if the fencing does deteriorate, hopefully we won't be able to see that either.

Nothing further.

JAMES MARTIN: Thank you.

DAVID LINDSAY: Along the lines of the easement, I do have a question for the applicant on why the easement that is proposed wasn't brought closer to 490. It appears as -- he is bisecting the parcel there and perhaps limiting himself to future development. One of the conditions I would like to ask for is that the alignment of the easement be subject to the DPW approval. That there be a letter of credit established for coverage of the installation and monitoring of the site. Installation of the storm water management site as well as monitoring during -- of the site during construction.

Condition that pre-construction meeting be held. Um, I think -- I had a question also for you Jess (Sudol). Just on the overall site plan here, might just be a typo, but we were talking at the side table, up in the top right-hand corner there is a triangular piece of property that is highlighted. Is that still part of --

MR. SUDOL: Yes.

DAVID LINDSAY: It is actually part of this larger piece?

MR. SUDOL: Yes.

DAVID LINDSAY: Is this perhaps an opportunity to resolve that?

MR. SUDOL: Um, we could resolve it. We don't plan on using it for anything, so it is not an issue in our eyes.

DAVID LINDSAY: What does it abut to? Residential?

MR. SUDOL: It is a -- residentially zoned. I don't think it is an actual residence. I don't know if we can tell from this overall aerial here. If you can see where the subdivision is between 490 and King Road, it is right above about where that pond is. There is a small couple thousand square foot area.

DAVID LINDSAY: Is it a Homeowners' Association over there? Is that part of that? What would be -- I would defer to Counsel.

KEITH O'TOOLE: It is simple. You offer a quitclaim deed to the neighbor, to the

residential neighbor.

STEVE HENDERSHOTT: Can you point out where this piece that you're talking about is?

DAVID LINDSAY: I only bring it up, because it might be useful to approach them, if the property owner is desiring to resolve this and clean up this issue, contact whoever it is and see --

MR. SUDOL: Sure. We wouldn't be -- object to that at all. It is very little benefit to our development.

DAVID LINDSAY: Just seems like it was something lopped there when they did 490 and maybe now is the time to resolve it.

I don't know if you have any insight on why the alignment of the easement is where it is shown.

MR. SUDOL: The easement is where it is shown, probably was a coverage issue in trying to reduce the overall length of it. Being thousand feet from the manhole to the King Road, we were trying to put it on a -- in a position where we could still have a pad site and, you know, have the easement out in the parking lot, rather than put it all of the way up against 490 where we would have two coverage issues working against us -- really one, the length. More that we would run out of cover at the end.

DAVID LINDSAY: Anything else I have, I can work through with Ken (Hurley).

KEN HURLEY: I didn't get the benefit of getting the new drawings, but looking at the drawings right here quickly, it looks like most of my technical comments were addressed. Since I haven't seen those, and I know that we do need to see a pump design and pump calculation, I would recommend that if you do vote on it, that is contingent on Town Engineer approval.

JAMES MARTIN: I didn't hear that.

KEN HURLEY: Place a condition for Town Engineer's approval if you vote on it.

DAVID LINDSAY: Also, Jim (Martin), if I could back up, I think I mentioned it in a previous letter, and I'm sure you're aware of this, with the new Phase II storm water requirements, we're required to enter into a maintenance agreement with the owner. Also supposed to be providing an access easement all of the way to and around the storm water management facility, so we'll be looking for that, as well.

MR. SUDOL: That's not a problem.

JAMES MARTIN: That's in your comments. I will pick those up, all right, as conditions, if this goes forward.

DAVID LINDSAY: Sure.

PAT TINDALE: I thought it was going to be simple, but I would like our Board to look at the area that is visible from 490, after seeing your print here, just to see if maybe we want evergreens in place of the Lindens. I would like to talk it over with them. We meet in January.

MR. SUDOL: We would have no problem going either way.

JAMES MARTIN: There was also some comments in your letter about species.

PAT TINDALE: Yes. There is invasive species in there -- just one actually. But it's very difficult to come up with something to replace it that looks decent and is of the same caliber. We'll discuss that also at the same time, because -- we'll be looking into it.

JAMES MARTIN: Basically, what I have tried to capture, "The applicant shall work with the Conservation Board to finalize any landscaping plans." Is that acceptable?

PAT TINDALE: It's pretty good overall. Just a couple things I want to --

JAMES MARTIN: Okay.

GEORGE BARTNETT: Our Committee was not aware of any safety issues.

JAMES MARTIN: Thank you.

GEORGE BRINKWART: Clarify for me why we didn't get the latest drawings on this?

JAMES MARTIN: I don't know. Why haven't we been provided with the --

MR. SUDOL: We sent them to the Town. I'm not sure why they didn't reach every Board member. I know our biggest concern at the time was when we left off at last meeting was to make sure we were whole with Gates-Chili Ogden Sewer District and the Highway Department with the sanitary sewer issue, and I apologize for not getting them to you also.

JAMES MARTIN: Did they get to the Building Department?

MR. SUDOL: Yes.

DAVID LINDSAY: When did you send them?

MR. SUDOL: Um, a week and a half ago.

JOHN NOWICKI: You haven't seen them?

DAVID LINDSAY: I got mine today. It was probably in the box earlier than today, but I can look at --

MR. SUDOL: They were also sent to Mr. Hurley.

JAMES MARTIN: The last submittal I got was your pictures and -- that was the last thing --

MR. SUDOL: The plans I sent with the sewer revisions, I sent before those pictures.

JAMES MARTIN: Okay. If it got to the Building Department in time, I don't know what to say. Obviously something failed.

GEORGE BRINKWART: Can you ask Counsel if we're asked to vote on prelim, what are we voting on?

KEITH O'TOOLE: Preliminary is a approval subject to the conditions of that approval. Should they satisfy those conditions, then they're done, and so are you.

GEORGE BRINKWART: So if we're asked to vote -- if we're asked to not vote on the plan that was submitted to us as preliminary --

KEITH O'TOOLE: The question really is, are you making an informed decision? And if

you're not able to make an informed decision at this point, I know some plans just modify detail items. If the concern is that we're going beyond detail, then it would be inappropriate to grant any approval.

GEORGE BRINKWART: I guess that is a judgment call for us to make, isn't it?

KEITH O'TOOLE: Yes.

GEORGE BRINKWART: We have some wetland adjacent areas that haven't been indicated. The easement, for the proposed future sanitary sewer has changed. Um, the gravity sewer is out. The pump station is in. We don't have any design for a pump station. I don't know.

KAREN COX: Well, but I mean the -- the problem that I have is, the applicant has said he submitted this stuff, this -- this -- this information in plenty of time for the Board -- for it to get to us. I understand what you're saying, George (Brinkwart), but how can we hold them up from preliminary approval if it's -- the fault lies somewhere out of their control?

MR. SUDOL: Again, a lot of these issues -- I'm sorry to cut you off, but in order for us to move forward at all, with these issues, we have to get the Town Engineer, the Highway Department and everyone to sign off on the plans. And so far all of the issues that have come up, I'm happy to make them conditions of our preliminary approval. Even if you want to stipulate a separation requirement for -- from the buffer area to the edge of the easement line, something like that.

KAREN COX: Is there a way we can move along with preliminary by putting conditions down?

JAMES MARTIN: We have a ton of conditions already here. You know, we have got --

KAREN COX: Just that, would you be comfortable with it, George (Brinkwart)?

GEORGE BRINKWART: Well, yes. I think I can. I think we have covered a lot of ground here that covers that, but I guess I would be comfortable doing that. But I think we have to point out we need some good detailed, at least plans when they come for final and not any of this "we're going to take care of that" and so on and so forth. We need to have some plans that we can sink our teeth into, and this is how the project is going to be built. I guess I can work with that.

JAMES MARTIN: We don't have to waive final on this, George (Brinkwart). We can have another crack on it with the detailed plans. If this goes forward, at this point.

KAREN COX: I guess on a separate issue, you know, before the next meeting, we're going to have to make sure that we have everything in our box, have everything in place. I don't know. I don't know how you do that except calling ahead and making sure we have it all. It seems kind of silly to ask you to do that.

MR. SUDOL: Whatever the best way, I would be more than happy to go about that way.

STEVE HENDERSHOTT: That's the Town's responsibility. If they submit it.

MR. SUDOL: Most of these items that have been brought up we can address very easily to get plans well in advance of the next meeting.

KAREN COX: I would hate to be in this position at final. So that is --

JAMES MARTIN: Yes.

JOHN NOWICKI: We want to get this out of the way now before you get to final.

MR. SUDOL: Sure.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: I would like to point out I at least am having a hard time hearing some of the conversation from the Board. Probably other people in the audience are, too. If so, if you could speak up or use your mikes, please get closer to them. I know you like to sit back in the chair, but that doesn't help us out here.

I don't know how Sandy (Hewlett) is getting some of this. She a little closer. Maybe it works for her.

I was here in November when the -- this application first came up and was tabled. I was un -- was under the impression after I heard the give and take that night, which went on for a considerable time, that this is not a project for an LI zone. This is a GI project. I -- would you be able to read for my edification, and those of the others in the audience, what is allowed in a Limited Industrial?

JAMES MARTIN: Bear with me for a minute. I will get the specific chapter.

KAREN COX: Page 500 --

JAMES MARTIN: Okay. Limited Industrial. "The purpose -- the purpose of this district is to provide for research or development of materials, methods or products and compatible light manufacturing in a park-like environment. Permitted uses are the following uses and accessory uses are permitted outright: Scientific research or experimentation, experimental development of materials or methods or products including engineering and laboratory research. Administrative, educational and other related activities and facilities in conjunction with the permitted use. Manufacture of electric, electronic or optical instruments or devices. Light manufacturing, assembling, fabricating or packaging of products from previously prepared materials such as cloth, plastic, paper, leather, precious or semi-precious metals or stones. Manufacture of food products, pharmaceuticals and the like, but not including the production of fish or fermented foods such as sauerkraut, vinegar or the like of the rendering of fats and oils. Warehousing and distribution facilities provided that they are located within the Airport Development Transportation Overlay District.

All such facilities shall be subject to site plan approval by the Planning Board. Motor vehicle sales, parts, distribution, repair and service stations intended to serve primarily large trucks, including tractor-trailers and recreational vehicles provided that they are located again in ADATOD District and that all vehicle maintenance shall be within an enclosed building. All such facilities shall be subject to site plan approval by the Planning Board.

Special permit uses. The following uses and their accessory uses are permitted when authorized in accordance with Article 4. Public utility buildings, uses of a similar character, but not specifically listed in this subsection and Subsection B must apply to the Planning Board for a special use permit. Such permit shall be granted upon a finding by the Board that said use is indeed of some same general character as well above permitted use and in accordance with stated.

Private animal kennels, provided that no structure or area used for such purpose including pens and exercise yards shall be located within 200 feet of any residential property. Convenience type grocery stores having a total floor area of 2500 square feet or less. Recreation uses such as parks, play grounds, golf courses, driving ranges, country clubs, swimming clubs and tennis clubs but not including such intensive recreation uses as a racetrack or amusement park."

That's Limited Industrial.

MS. BORGUS: And none of those things, in my opinion, come close to what this gentleman wants to put in there, unless they're in an Overlay District. I don't know how you can even consider this. It just doesn't fit. Why do we have a code if we're going to allow this? It just doesn't fit. Period.

Just because it's a remote area, as was brought out when this group was here before, doesn't mean that anything goes.

I'm very uncomfortable with the zones they have laid out. They may have a good story for you tonight, and maybe they have good intentions, but I don't know how the Town is going to police that. You going to send somebody over there every month to make sure they're complying? We don't have the staff. That's not our job. It's not the Building Department's work to go and make sure these people do what they say they're doing to do. You're starting something that you cannot control. You can't control this.

Our code has -- clearly states that, as the attorney has said, the code does not allow for outside storage, and here, most of this is outside storage. I don't know how you can even think about this. This is outside storage in capital letters. It is the very thing our code says they can't do.

I haven't heard how many employees are proposed to work on this site.

JAMES MARTIN: You can answer that question.

MR. SUDOL: There's about eight to a dozen, maximum. Typically it's more like four or five.

MS. BORGUS: I haven't heard about noise. Noise levels from what they're going to do there. They're going to obviously be moving equipment in and out, fabricating, maybe, hopefully inside the building. But how much noise are we going to have here? You got to remember that there is a residential area very, very close to this. So how much noise is predicted to be here?

JAMES MARTIN: Mr. Stevenson, can you answer that question with any kind of technical data?

MR. STEVENSON: Other than my own judgment, which, you know, we do run trucks, but everything is properly muffled and so forth. I would say there is very minimal noise.

MS. BORGUS: That's what they said about Union Processing, too, Union Street. And look at the problems you have had over there with noise. And that's buffered with trees, too.

I think -- I think -- I would hope that -- that people in that residential area have realized that these people are in here tonight for this application. And I know it's not the Town's obligation at that distance to let them know, but they should know, because they're going to be affected by this, like it or not.

Now, I -- I have heard about moving equipment to this site. What would the planned route be for this -- for these trucks and cranes? How would they get to that site from let's say Chili Avenue?

JAMES MARTIN: I suppose there are several options in how they can get to that site.

MS. BORGUS: Through King Road?

JAMES MARTIN: Certainly that's an option.

MS. BORGUS: What are -- you know, you're planning on moving cranes and heavy equipment down King Road, through a residential area? I'm glad I don't live there, if you're planning on that.

When I was here before, we talked about moving like concrete barriers. Does that still hold?

KAREN COX: It's on a flatbed.

MS. BORGUS: They're still flatbed trucks. And -- and hauling big signs, like overhead signs, I -- I remember hearing about signs like go over 490 and the Thruway, those big signs. Are they still in this mix for what is going to be stored here and hauled up and down King Road?

JAMES MARTIN: According to the testimony at the last hearing, the potential for that is yes, on a very temporary base until they're installed at the work site.

MS. BORGUS: Temporary or not, it is more flatbed tractor-trailers. It's lowboys. This is big stuff. You're going to haul this right past -- down King Road, right past a brand new subdivision right off King Road. What are the weight limits on King Road?

KAREN COX: It's a County highway. There are no weight limits.

MS. BORGUS: This just is a very unsatisfactory thing to be putting on that property, and this Board should realize that. And I agree with Mr. Brinkwart, if this Board hasn't had all these plans and these drawings, for whatever reason, then -- then they ought to not -- not vote on it tonight, or certainly they ought to vote it down. It's not the applicant's fault. I will give them that. That's true. But in the final analysis, it doesn't matter why. You haven't seen them. You haven't seen what you need to see.

Again, I will say this is not a project for an LI zone. It is not a project that belongs next to a residential area, and it's not a project that is going to require all that heavy equipment and -- and moving of cranes and huge pieces of equipment like that down through a residential area on King Road. It just doesn't work.

TOM SWAIN, 1140 Paul Road.

MR. SWAIN: My wife Sheryl and I live at 1140 Paul Road, which is directly across the expressway from the building site, but more importantly, we own -- my brothers and I own ten acres which butts between their land and the railroad track, which is -- which is essentially woodland right now. The big concern is drainage. Okay. If we look at the site plan there, they have 85 acres and there is probably a third of it at least which is something other than green. So I am concerned about where that water will be draining. If you're putting in impermeable materials like roadways and buildings and parking in that area, where is the -- where is the water going to go? Is it going down toward the expressway? Is it draining back to the pond in the back? Or is it draining on my land?

The history of my land, it has been in our family since the 1890s, and my -- my grandfather, Arthur Bailey used to take the cows over there to -- to -- there was a small pond there to actually, you know, drink the water. Then in the 1960s there was a train wreck and when they cleaned up the train wreck, they turned a lot of that into wetlands. So originally, most of it was not wetlands, and now most of it is wetland because it doesn't drain correctly.

And there is a pipe that goes underneath the railroad tracks, toward that new housing development, but it doesn't drain well there. So if we get any additional water draining from the proposed site onto my land, my land will be totally worth nothing. That is one of the concerns.

Another concern is we have an easement to get on our land, and I talked to the Passero surveyors -- I think it is right beside the roadway coming in is what they told me. Okay? So I'm a little concerned where we're going to get back to our land. At this point we have no reason to think that we're going to develop the land, but eventually you never know what will happen. So I'm concerned about that.

And as Ms. Borgus said, we're a little concerned about traffic. Because with, you know, Boon & Sons up there now and with Union Processing, we have definitely seen an increase in truck traffic up that road. I'm not saying I'm against this project, but -- maybe Chili needs some projects, but, you know, that is a nice residential area that we live in. We don't want these great big trucks up and down there making noise. I don't know if this is true or not, but I heard some rumblings about FedEx developing up by Union Processing also. If that happens, that would put additional trucks up the road.

So as I said, Chili has a nice -- nice farmland. We own 10 acres on one side and 30 acres on the other side and that's the way we kind of like it. I'm not saying Mr. Stevenson doesn't have the option of buying the land and putting something in there, but it needs to, um, look, you know, what Chili should look like.

When we bought our land from our family, we put up, you know, a row of Evergreen trees so from our house we will not be able to see his development. That is probably what he wants to do, put the trees up and nobody will see anything. But as I said, my biggest concern is drainage tonight. I really couldn't tell what the dark green area, in this map over here, what is the dark green area to the west of the site by the roadway coming in? I guess that is what I am asking.

JAMES MARTIN: Hang on a second. Your biggest concern is drainage, all right. And Jess (Sudol), you can address that. Obviously you cannot allow water to run off of the property to affect, you know, a neighboring piece of property.

MR. SWAIN: You see, the problem is the water runs down towards the railroad tracks and then from there I'm not sure if it going towards their pond. Is that pond enlarged or is that the size it is now?

MR. SUDOL: If I can address that, we're actually proposing a new storm water management area, which the intent of those is to actually reduce the amount of runoff from existing conditions. So from our site, it will actually be less water coming off it than what there is today.

And also, where our access road is currently, the water sheet drains north of the tracks. We're actually installing a private storm sewer system that will intercept some of the water, taking it away from what I believe is your parcel to the north and bringing it to our pond where it is actually retained for a period of time, reducing the amount of water that leaves the site. It is actually a requirement of us at the State and local level.

JAMES MARTIN: I think your concerns about drainage will certainly be addressed as part of the engineering aspects of this project.

The other comment you had, I don't know if we can really address it at this point. Certainly there will be some traffic. And there will be those issues. But I think drainage will be managed quite effectively.

MR. SWAIN: As far as the easement goes, I have to take that up with Mr. Stevenson or their attorney.

MR. SUDOL: I can touch on that. That access easement doesn't run on our parcel. It runs immediately adjacent to it. The easement actually runs right here (indicating), along our parcel and then back to your piece. It doesn't really have anything to do with our portion of land.

These green areas are existing vegetation.

MRS. SWAIN: Is he going to put up a gate up across there, but our -- we were under the impression that where he is putting his road is where our road was to get in -- into there, and he is putting gates up, so how are we going to --

MR. SWAIN: He said it is to the left of.

KAREN COX: It's to the west.

MRS. SWAIN: To the left of it? So we can still --

JAMES MARTIN: Do you want to address that?

MR. SUDOL: Yes. Again, the easement to the land in the back is not on our parcel. It's on the parcel immediately adjacent to us, to the west. There is a 60 foot easement in there which we're not impacting with our development.

MR. SWAIN: The only other concern would be if you put in a security system with motion sensors and we walk back there, will we set it off? That will be another issue.

KAREN COX: That will be on the building, though.

MR. SUDOL: That's far enough away with the existing vegetation. Even if it were there, which it is not currently planned, you wouldn't set it off walking along your easement.

JOE DeLORENZO, 38 Red Bud Road

MR. DeLORENZO: My property is adjacent to the proposed site. I am at 2 King Road, and -- I will just show the Board where my property is here.

It is an 8,000 square foot building that I built in 19 -- oh, let's see, '92. So it is 17 years it has been there. And, of course, I have been through all this, and I know what Mr. Stevenson is going through.

I have some concerns, some of them have already been brought up tonight, so, um, because of the location of my building, I guess I'm most directly concerned with this, because of the roadway to the west and to the north of my building, to get back to Mr. Stevenson's property.

Um, drainage is one of my concerns. Um, the elevation of King Road at the front of my property, and the elevation back here, is about 8 feet difference. So water tends to run north, okay? Even off of King Road here, water tends to keep going north. So obviously this roadway is going to restrict that natural flow of water. There is -- the State property is right here (indicating). Water will drain along there. I keep that open, so that the water keeps going north. Water from my property continues to go north.

Right now I have to cut in this area with Mr. Duggan, who is the owner, so that the water continues to move.

Um, my concern is that if this road does go in, and I think it is an easy solution here, you can use just a 1 foot diameter drain and you would probably need one here (indicating) and one here (indicating), so that the water can keep moving. I know Mr. Swain would probably be concerned about that, but that's the natural flow of the water. If you look at the elevation here (indicating), and the elevation here (indicating), that's the way the water wants to flow. So one of my concerns would be that this roadway doesn't restrict that natural flow of water, and have all this water start building up on my property.

But I think that's an easy thing to resolve.

Another thing would be -- I think this has already been addressed, that this road be macadam. Since it's going to be around my building, which is here, if this was not macadam, obviously there would be a lot of dust and so forth. But I believe this has been addressed, this will be macadam. So that is another a major concern.

Another concern I had was lighting. This is all a very natural area. It has been nice for 17 years. It has been quiet, and I was hoping it was going to stay that way forever, but I knew this time there would be a project. And Mr. Stevenson and I have talked a couple times. I know he will be a fine neighbor.

However, obviously I'm concerned. But I guess from what I understand, there is not going to be any lighting along this roadway, so that this should stay pretty much the way it is. Okay.

Um, I am concerned about the fact that when I built my building, I went through a lot of aggravation, because it kept being stressed to me that it had to be Light Industrial. And my building is basically storage. Everything is self-contained. And that was stressed to me over and over again. That there could be nothing outside. And so if you ever been to my property on 2 King Road, it's been all landscaped. There is nothing outside. There is no manufacturing. There isn't anything. That was one of the reasons why I really liked that.

Now, of course, Mr. Stevenson will be doing something different and he will be back in this area (indicating) so that's up to the Board to decide. It is not a decision to recommend "yes" or "no." Certainly you have a lot more knowledge than I do whether or not you want this type of thing back here.

I think it was brought up that basically this is more of a General Industrial type of activity, and, you know, my site here is basically a very self-contained, no noise, no pollution, no nothing. So I mean that is something that you have to decide. Obviously I'm concerned about the trucks and the equipment that will be moving in and out of here, but again, I think that's not my decision. It would be the Department of Transportation, because coming out on this road, I can only tell you, my driveway is here (indicating), and I only go in and out once or twice a day at the most, and there is a tremendous amount of traffic on than road. And every time I have somebody

leave my property, I always tell them, "Be very, very careful, because you can get hit because of the bridge. There is a curve here (indicating). You cannot see the traffic coming around that curve."

He is going to have a little better sight here than I probably do here (indicating), but it is a real concern.

If the Department of Transportation approves it, that's up to them, but I mean when I put my driveway in here (indicating), they were very concerned that it was not in alignment with Paul Road Extension. They wanted me to put my driveway here (indicating) because they were concerned about having all of these exits not adjacent -- or not perpendicular to each other. So you are going to have a road here (indicating), my driveway and a road here (indicating), but I think that's again something that the Department of Transportation has to decide, do they want that.

Let's see. Another thing I did have down here is the sign. I'm not exactly sure where they're planning to put the sign. I was told no signs, but if he has to have a sign, I can understand that, because of his business. However, I would be concerned about the placement of the sign, because coming out of my driveway, looking to the west, it's really very hard, and I have to be very careful, and I don't know exactly where the placement of that sign would go, if the -- if the Board approves that, but certainly I wouldn't want that in any line of sight that would restrict anybody coming in and out of my driveway.

I guess those are my main concerns. I think it is up to the Board to decide whether or not you want something this large with outdoor storage back there. I think Mr. Stevenson would be a very good neighbor. We have talked a couple times. On the other hand, it is up to the Town to decide do you want something that visible back there, versus Light Industrial with just my building sitting up there.

Wildlife, I don't know if you have taken that in consideration or anything like that, but I still get plenty of deer through there. I don't know how that is going affect the wildlife in the area.

Landscaping. I think Mr. Stevenson and I did talk a little bit about this. Um, I think he has done some work in this area with a berm and some trees, and I was wondering -- I think he did mention to me that it would be agreeable to him to continue that berm on the back side, on the north side of my property, and continue the berm, probably a 4 or 5-foot high berm with Evergreens maybe every 20 feet or so, just to restrict visibility of that road from my building. Something perhaps the Town could consider. The only thing I wouldn't want to do is block that -- that flow of water. So maybe I'm kind of saying one thing, but the main thing is that the water keep going. The berm would be basically just aesthetics, you know, to -- not terribly critical, but just something to mention that maybe he would be willing to do. I think those would be my main concerns.

JAMES MARTIN: Thank you for your comments.

A couple points he made obviously need to be taken into consideration, if this were to go forward.

MR. SWAIN: You know, just one clarification. For your knowledge, the water drains towards the railroad tracks, as Mr. DeLorenzo said. The railroad tracks on our side of it, toward the site, have a small drainage, very small. When that fills, then what it does, it goes back on my land. So I just want to make sure that even though he may be pushing water towards his pond, if any of it gets up along the railroad track and doesn't get into the pond, will run back towards, I believe, my land and flood my land. As I said, there is a drainage pipe that goes under the railroad track just adjacent to my land, but it doesn't work very well. It is filled with railroad tracks. The railroad should really come through and clean that out some, but like I said, I just don't want any more additional water draining on my land and making it more wetlands. Originally it was a small amount of wetlands and then the DEC came through about five years ago and took another half of it as wetlands, so it is has just been an ongoing problem where more and more water seems to be getting drained in that area. I'm not sure where it is all coming from, but I don't want any more.

James Martin made a motion to close the Public Hearing portion of this application, and Steven Hendershott 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? Obviously, there is a lot of conditions, issues, concerns on this particular project. Anybody have discussion, comments at this time?

Okay.

JOHN HELLABY: Is the property to the west of this also zoned LI?

JAMES MARTIN: To the west, yes, I believe it is all zoned LI, all of the way over to Union Street, if I remember the map correctly.

MR. SUDOL: It follows the 490 corridor all of the way down.

JAMES MARTIN: Don't quote me on it, but if I remember the map, it is.

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: Before moving forward with any votes, I have picked up and written down as many comments as I can here. Maybe one or two that I will have to get to Dave Lindsay or somebody, assuming this does go forward, to be sure that we have incorporated all of his conditions into this letter, if it does go forward.

I have picked up certainly pending Town Engineer approval and Commissioner of Public Works, that there is to be no demolition material stored on the site, ever.

Any new material such as concrete sand shall be stored in a covered -- any raw material such as concrete sand shall be stored in a covered structure that meets Town Code specifications.

"Applicant shall comply with all Monroe County DRC review comments," and there were several in there. You have to be in compliance with all those. "The applicant should work with the Conservation Board to finalize the landscaping plan. The site is to be maintained in an orderly manner at all times."

We talked about the fence being earth tone in color and made of some more permanent material than pressure-treated lumber.

Um --

JOHN NOWICKI: Extended around.

JAMES MARTIN: Okay. And shall be extended. That would be to the north, wouldn't it?

MR. SUDOL: Yes. We agreed on one section.

JAMES MARTIN: County DOT may require truck entrance sign. That's up to them. We can't impose that as a condition, but I just wanted to be sure that you noted that.

KAREN COX: Can you note that -- well, I was going to say can you note that the entrance is pending County approval? But that's -- they will have to issue a permit, so... You know.

JAMES MARTIN: Obviously without a permit, they won't go anywhere.

KAREN COX: So --

JAMES MARTIN: I think we -- Karen (Cox), I think we covered that pretty well. Obviously they need a permit.

I have got -- there -- there is, "No building permits shall be issued until all permanent permits have been obtained."

"All easements shall be approved by the Assistant Town Counsel. The sanitary sewer easement shall be modified from 20 feet to 30 feet and shall be routed in a way so as to avoid any delineated wetland."

STEVE HENDERSHOTT: Can I ask a clarification on that? When Jess (Sudol) was presenting that, he said that the easement was going to be dedicated to the Town of Chili. I think you just misspoke. It would be dedicated to GCO, correct?

MR. SUDOL: GCO asked that I put it being dedicated to the Town of Chili, in their comments back to me. Um, it makes no difference to us. We originally labeled it as being dedicated to GCO because it would be a dedicated sewer, but their comment was to replace it with the Town of Chili.

STEVE HENDERSHOTT: Okay.

JAMES MARTIN: You okay?

STEVE HENDERSHOTT: Uh-huh.

JAMES MARTIN: At the Assistant Town Counsel's suggestion, a quitclaim deed should be offered to the residential neighbor, that small piece of property.

MR. STEVENSON: Excuse me, you're talking about that triangle there on the south side of 490? It is of no use to us.

JAMES MARTIN: Pardon?

MR. SUDOL: That's not a problem.

JAMES MARTIN: Mr. Lindsay's comments, certainly will have to be a storm water control maintenance agreement put in place between the applicant and the Town, to be reviewed by the Department of Public Works and the Planning Board Attorney.

And that will be filed with the County Clerk's Office prior to the signing of any mylars. Letter of credit probably would be required for the project to cover all Phase II storm water requirements. Preconstruction meeting with the Town of Chili is required. Approval from the Department of Public Works is necessary prior to commencement of any site improvements.

The applicant should be aware that they're responsible for completing yearly inspections of the storm water maintenance facility and providing a report of those findings to the Town in a format and time acceptable to the Department of Public Works.

And then there was one that was listed here that -- Department of Public Works requests that the applicant copy the Department and the Town Engineer in any correspondences with any other approving agency.

I think I have caught all of them.

JOHN NOWICKI: I would just say -- take into consideration the drainage across that road, if that does present a problem, that they look into that situation.

JAMES MARTIN: I'm just going to say drainage flow from King Road north shall not be impeded by any construction of this project.

MR. SUDOL: No, it's not. It actually collected in our new storm system.

JAMES MARTIN: Well, Mr. DeLorenzo's concern.

JOHN NOWICKI: We have to look at that.

JAMES MARTIN: I have written drainage flowing north from King Road, um, from across -- well, we can add it. Across the DeLorenzo property shall not be impeded, okay? Anything else? We're -- there is no waiving of any final at this point, assuming this goes forward.

We have the three applications. And what I am going to do, we'll vote on each of the applications independently. The first application is for the primary subdivision, noting all of the conditions that I have read on the preliminary subdivision.

DECISION ON APPLICATION #3: Unanimously approved by a vote of 6 yes with the following conditions:

1. Pending approval of the Commissioner of Public Works and Town Engineer.
2. There shall be no construction or demolition material stored on the site.
3. Any raw material utilized by the applicant in their operation shall be stored in a covered structure that is in accordance with Town Code.
4. The applicant shall comply with all Monroe County DRC comments.
5. The applicant shall work with the Conservation Board to finalize all landscape plan details. Emphasis should be placed on proper screening of the site from King Road and the 490 Expressway.
6. The staging areas are to be maintained in a neat and orderly manner.
7. The proposed fence along the south side of staging yard shall be constructed of material such as PVC or other vinyl type material. It shall be earth tone in color or a color similar to the exterior color of the shop building. The fence should be extended from the southeast corner northward for eight feet.
8. The applicant shall comply with all conditions imposed by MCDOT in their permitting process.
9. No building permits shall be issued until all pertinent permits have been obtained.
10. The sanitary sewer easement shall be modified from 20 feet to 30 feet. The routing of the proposed easement shall be modified to avoid crossing Any delineated wetlands.
11. All easements shall be approved by the Assistant Town Counsel and the Commissioner of Public Works prior to the mylars being signed.
12. Any drainage flowing north from King Road across the DeLorenzo property shall not be impeded by any construction activity associated with this project.
13. A quit claim deed shall be offered to the adjacent property owner for the small triangular piece of property south of I-490 that was included in the subdivision approval.
14. The proposed storm water ponds within the development will be privately owned and maintained. The Town will require that the property owner enter into a Storm Water Control Facility maintenance Agreement (SWCFMA) with the Town and that proper access easements are provided. The access easement(s) and the SWCFMA need to be reviewed and approved of by the Department of Public Works and the Planning Board attorney and then filed with the County Clerk's office prior to the signing of the mylars.
15. A Letter of Credit (LOC) may be required for this project to cover all Phase II storm water requirements. If necessary the LOC will need to be reviewed by the Town Engineer and the Department of Public Works and approved of by the Town Board prior to commencement of the project.
16. A pre-construction meeting with the Town of Chili is required and approval from the Department of Public Works (DPW) is necessary prior to commencement of any site improvements.
17. As a point of clarification in regards to Comment #3 from the Town Engineer. While approval from the NYSDEC is an option, in areas under the jurisdiction of a regulated, traditional land use control MS4 the applicant may also seek approval from the MS4 which in this case is the

Town of Chili. The applicant would need to submit any such request to the Department of Public Works for approval prior to commencing any land disturbance activities. As part of the approval the applicant will need to demonstrate that the requirements of GP-0-08-001 related to disturbance of more than 5 acres will be satisfied.

18. The applicant should be aware that the property owner is responsible for completing yearly inspections of the storm water management facility and providing a report of those findings to the Town in a format and at a time acceptable to the Department of Public Works.
19. DPW requests that the applicant copy the Department and the Town Engineer in on any correspondences with any other approving agency.
20. Per Section 500-32 (D) of Town Code, the special use permit shall become void one year after approval, unless prior to the expiration of one year, a building permit is issued.

STEVE HENDERSHOTT: Can I ask a question about that? I'm sorry -- being my first time here, the special use permit, do we grant that for a specific period of time to come back in for renewal to see how they're doing?

JAMES MARTIN: This issue has come up, and we have now gotten an interpretation from the Building Department that a special use permit granted by this Board, once a building permit has been issued, essentially becomes permanent to some degree.

However, since we are conditioning the special use permit, granting if it does go forward, the applicant is subject to all of the conditions associated with the special use permit, and if in the future it is determined that there are significant violations of those conditions, then there are proceedings that can go forward based on that, Steve (Hendershott).

So to answer your question, I know in the past they have put two-year, five-year requirements on some of these things. Based on interpretation from the Building Department, and I also believe, having attended a course, the State Department up in -- that -- that offered training on special use permits, the Department of State indicated that you really cannot do that. You can put temporary special use permits in place if you have the legislation in place to do that and we do not. So I have given you the long answer to your question, but essentially the conditions of the approval are what regulate eventual outcomes on special use permits.

STEVE HENDERSHOTT: My concern would be if they didn't live up to those conditions, then what I hear you saying is that the Town would have recourse should that happen?

JAMES MARTIN: That's correct.

STEVE HENDERSHOTT: Okay.

JOHN NOWICKI: Can I ask a question along those lines? Is there any way, Legal Counsel, that we can somehow put a condition in here stating the legality that you just discussed as far as protecting ourselves somewhat that these conditions are met? Is there any way we can do that?

KEITH O'TOOLE: Condition that they comply with the conditions?

JOHN NOWICKI: Yes.

He's good. I like that lawyer.

(Laughter.)

KEITH O'TOOLE: I'm not comfortable with that.

JOHN NOWICKI: I got the legal answer.

JAMES MARTIN: I already got that this afternoon, okay? I asked the same question.

All right. Okay. Let's proceed then. On the special use permit, given that we have the protection of the conditions.

STEVE HENDERSHOTT: Yes.

KAREN COX: Yes.

JOHN HELLABY: Before I vote, I would like to make a statement to the applicant. It is the outside storage, in my mind, that will make or break this project, and I would hope that given what Ms. Borgus said, that you would really take to heart that we don't end up with a disaster out there, and I will vote yes.

JOHN NOWICKI: I will second that, and I will vote yes.

GEORGE BRINKWART: Yes.

JAMES MARTIN: I will vote yes also. Approved 6 to 0.

DECISION ON APPLICATION #4: Unanimously approved by a vote of 6 yes with the following conditions:

1. Pending approval of the Commissioner of Public Works and Town Engineer.
2. There shall be no construction or demolition material stored on the site.
3. Any raw material utilized by the applicant in their operation shall be stored in a covered structure that is in accordance with Town Code.

4. The applicant shall comply with all Monroe County DRC comments.
5. The applicant shall work with the Conservation Board to finalize all landscape plan details. Emphasis should be placed on proper screening of the site from King Road and the 490 Expressway.
6. The staging areas are to be maintained in a neat and orderly manner.
7. The proposed fence along the south side of staging yard shall be constructed of material such as PVC or other vinyl type material. It shall be earth tone in color or a color similar to the exterior color of the shop building. The fence should be extended from the southeast corner northward for eight feet.
8. The applicant shall comply with all conditions imposed by MCDOT in their permitting process.
9. No building permits shall be issued until all pertinent permits have been obtained.
10. The sanitary sewer easement shall be modified from 20 feet to 30 feet. The routing of the proposed easement shall be modified to avoid crossing Any delineated wetlands.
11. All easements shall be approved by the Assistant Town Counsel and the Commissioner of Public Works prior to the mylars being signed.
12. Any drainage flowing north from King Road across the DeLorenzo property shall not be impeded by any construction activity associated with this project.
13. A quit claim deed shall be offered to the adjacent property owner for the small triangular piece of property south of I-490 that was included in the subdivision approval.
14. The proposed storm water ponds within the development will be privately owned and maintained. The Town will require that the property owner enter into a Storm Water Control Facility maintenance Agreement (SWCFMA) with the Town and that proper access easements are provided. The access easement(s) and the SWCFMA need to be reviewed and approved of by the Department of Public Works and the Planning Board attorney and then filed with the County Clerk's office prior to the signing of the mylars.
15. A Letter of Credit (LOC) may be required for this project to cover all Phase II storm water requirements. If necessary the LOC will need to be reviewed by the Town Engineer and the Department of Public Works and approved of by the Town Board prior to commencement of the project.
16. A pre-construction meeting with the Town of Chili is required and approval from the Department of Public Works (DPW) is necessary prior to commencement of any site improvements.
17. As a point of clarification in regards to Comment #3 from the Town Engineer. While approval from the NYSDEC is an option, in areas under the jurisdiction of a regulated, traditional land use control MS4 the applicant may also seek approval from the MS4 which in this case is the Town of Chili. The applicant would need to submit any such request to the Department of Public Works for approval prior to commencing any land disturbance activities. As part of the approval the applicant will need to demonstrate that the requirements of GP-0-08-001 related to disturbance of more than 5 acres will be satisfied.
18. The applicant should be aware that the property owner is responsible for completing yearly inspections of the storm water management facility and providing a report of those findings to the Town in a format and at a time acceptable to the Department of Public Works.
19. DPW requests that the applicant copy the Department and the Town Engineer in on any correspondences with any other approving agency.

20. Per Section 500-32 (D) of Town Code, the special use permit shall become void one year after approval, unless prior to the expiration of one year, a building permit is issued.

DECISION ON APPLICATION #5: Unanimously approved by a vote of 6 yes with the following conditions:

1. Pending approval of the Commissioner of Public Works and Town Engineer.
2. There shall be no construction or demolition material stored on the site.
3. Any raw material utilized by the applicant in their operation shall be stored in a covered structure that is in accordance with Town Code.
4. The applicant shall comply with all Monroe County DRC comments.
5. The applicant shall work with the Conservation Board to finalize all landscape plan details. Emphasis should be placed on proper screening of the site from King Road and the 490 Expressway.
6. The staging areas are to be maintained in a neat and orderly manner.
7. The proposed fence along the south side of staging yard shall be constructed of material such as PVC or other vinyl type material. It shall be earth tone in color or a color similar to the exterior color of the shop building. The fence should be extended from the southeast corner northward for eight feet.
8. The applicant shall comply with all conditions imposed by MCDOT in their permitting process.
9. No building permits shall be issued until all pertinent permits have been obtained.
10. The sanitary sewer easement shall be modified from 20 feet to 30 feet. The routing of the proposed easement shall be modified to avoid crossing Any delineated wetlands.
11. All easements shall be approved by the Assistant Town Counsel and the Commissioner of Public Works prior to the mylars being signed.
12. Any drainage flowing north from King Road across the DeLorenzo property shall not be impeded by any construction activity associated with this project.
13. A quit claim deed shall be offered to the adjacent property owner for the small triangular piece of property south of I-490 that was included in the subdivision approval.
14. The proposed storm water ponds within the development will be privately owned and maintained. The Town will require that the property owner enter into a Storm Water Control Facility maintenance Agreement (SWCFMA) with the Town and that proper access easements are provided. The access easement(s) and the SWCFMA need to be reviewed and approved of by the Department of Public Works and the Planning Board attorney and then filed with the County Clerk's office prior to the signing of the mylars.
15. A Letter of Credit (LOC) may be required for this project to cover all Phase II storm water requirements. If necessary the LOC will need to be reviewed by the Town Engineer and the Department of Public Works and approved of by the Town Board prior to commencement of the project.
16. A pre-construction meeting with the Town of Chili is required and approval from the Department of Public Works (DPW) is necessary prior to commencement of any site improvements.
17. As a point of clarification in regards to Comment #3 from the Town Engineer. While approval from the NYSDEC is an option, in areas under the jurisdiction of a regulated, traditional land use control MS4 the applicant may also seek approval from the MS4 which in this case is the

Town of Chili. The applicant would need to submit any such request to the Department of Public Works for approval prior to commencing any land disturbance activities. As part of the approval the applicant will need to demonstrate that the requirements of GP-0-08-001 related to disturbance of more than 5 acres will be satisfied.

18. The applicant should be aware that the property owner is responsible for completing yearly inspections of the storm water management facility and providing a report of those findings to the Town in a format and at a time acceptable to the Department of Public Works.
19. DPW requests that the applicant copy the Department and the Town Engineer in on any correspondences with any other approving agency.
20. Per Section 500-32 (D) of Town Code, the special use permit shall become void one year after approval, unless prior to the expiration of one year, a building permit is issued.

JAMES MARTIN: Final is not waived. There is work to do on that. You can decide when you want to come back for final approval on this project. And I will second what Mr. Hellaby and Mr. Nowicki have said. We don't want disaster over there.

And I believe Mr. Stevenson is a very up front and ethical business person, and has made a commitment to the Town.

MR. STEVENSON: Thank you very much.

JAMES MARTIN: Certainly we welcome you to Chili from that perspective, and we hope that you will stay in compliance with all of the conditions that we have imposed.

MR. STEVENSON: I think you will be very happy with us, and we'll work hard to make that happen.

JAMES MARTIN: Thank you.

I will declare about a ten-minute recess at this point.

The meeting recessed from 9:04 p.m. to 9:15 p.m.

6. Application of Midlakes Development, 758 South Avenue, Rochester, New York 14620, property owner: Howitt-Paul Road, LLC for preliminary subdivision approval of 117 lots to be known as Greenwood Townhomes at property located at 741 Paul Road in RB w/PNOD zone.
7. Application of Midlakes Development, 758 South Avenue, Rochester, New York 14620, property owner: Howitt-Paul Road, LLC for preliminary site plan approval to erect 116 townhome units with a 3,500 sq. ft. community building at property located at 741 Paul Road in RB w/PNOD zone.
8. Application of Midlakes Development, 758 South Avenue, Rochester, New York 14620, property owner: Howitt-Paul Road, LLC for preliminary site plan approval to erect 9 commercial pad sites totaling 52,050 sq. ft. (no pad sites with more than 10,000 sq. ft.) for retail/commercial space at property located at 741 Paul Road in RB w/PNOD zone.

John Caruso, Betsy Brugg, Jess Sudol, Jack Howitt, Ange Ingrassia, Frank Imburgia were present to represent the applications.

MR. CARUSO: Mr. Chairman, good evening. I'm John Caruso with Passero Associates. With me tonight is the collective partnership of Howitt Paul Road, LLC with me, and so Jack Howitt is here, Ange Ingrassia and Frank Imburgia.

Thank you gentlemen for accompanying us.

Also with me is Jess Sudol, my Project Manager on the project, and our attorney, Betsy Brugg from Fix, Spindelman & Brovitz.

I have put in front of you -- as many as I could go around, so I'm sorry for anybody who doesn't have a copy but -- our presentation in hard copy tonight and we'll go through a Power Point recitation. We have other illustrations around the room. I will point to them, give you time to look at them. Our presentation is sort of broken down into three categories tonight. One is I wanted to spend a few minutes up front, showing you where we have been, the headway we have made as it relates to the preliminary design plans, how we got there. I think it might help Mr. Hendershott as a new Board member.

Then I want to talk about the preliminary design plans and where we stand tonight, some of the issues that we have been dealing with in trying to take that plan to a new level, and then finally I will close out with the last set of comments that we received from the Town's consultant, and I won't spend a lot of time on that, I promise. It is just to show you how they fit into the categories in the aforementioned design, all in keeping with what we have been talking about, and what our approaches are to resolving that.

So with that, I'm going to begin with Item Number 1. This is where we have been. We

came in in July of 2009. Having been through a concept review meeting of our initial concept plan, and we have since then attended four DRC meetings, and during our initial contact with the Board, we decided we would set a process that the Board wanted us to come back for concept plan, prepare the preliminary design plans, submit to the Zoning Board, go to the Zoning Board and then come back, so we're on that track. So that is why you will see the Zoning Board meeting in November. We have been to two Conservation Board meetings, and then the results of all that work together over the last six months has been multiple modifications to our plan, trying to get all of the issues out, resolved and back in before the Board.

The first concept plan that we have prepared was a 120 residential unit project. It was reviewed by DRC. We have received comments from you, and then we prepared a 116-unit concept plan, so that was the second concept plan. But that was the first concept plan that went to the Board. So this was the first one that you had seen.

From this plan came a bunch of comments, and those comments were very numerous, and this is where the Board had asked us to do a traffic study, look at the cut-through issues. We identified the wetland boundaries. We showed you how we had to minimize disturbance. We looked at utilities. We made decisions on dedicating infrastructure, whether we would dedicate roadways. We added sidewalks to the plans. We dealt with the issue of 30 percent maximum allowable seniors. We made a decision that we were going to not use interpretations, but we were going to take that to the Zoning Board.

We also talked about the attachment of units and whether that should be a variance or not. We decided that we weren't going to look at an interpretation there. We were going to take that to the Zoning Board. We talked about town homes versus apartments and whether we were going to look at fee simple arrangements for the town homes. Dedication of roadway. We talked about a marketing study. We did a cultural resource investigation, Phase I and Phase A and 1B.

We reduced the units to 116 from 120, and then we established our process in -- which we were going to go through. So all that occurred between Concept 1, Concept 2, and Concept 3.

So at our second Planning Board meeting, we were asked to return and go through our concept plans. Now, this plan here that you're looking at, this is Concept Plan Number 2.

And this is where we integrated some of the ideas that came out of DRC and the Planning Board meeting, and I'm just going to point with my -- my laser pointer, but you can see we still had the road alignment, but we have already accounted for the new boulevard. We were asked to put in a second means of access to the commercial area. And this plan still incorporates the -- what do you call it?

JOHN NOWICKI: Community Center.

MR. CARUSO: Community Center, I'm sorry. I need to put my glasses on.

Over in that corner. But this is where there was still some work to be done, and you wanted us to come back to the Board and show you the work that we had done with the County, Wegmans, access and all of that.

So finally, we submitted for -- in September for an October meeting. We came back in October, and we showed you the results of all that work together, and we came up with Concept Plan Number 3.

This is the concept plan that we reviewed heavily. It addressed a lot of the issues. It had been -- reduced the density down.

The significant change to this plan is we changed the alignment, so we don't align with Grenell Road any more. We were aligning -- we were offsetting and not aligning. That is one of the ways we resolved the cut-through potential.

We added sidewalks to the front of the property, along Paul Road, in this area here (indicating). You can see that -- this is a full sidewalk along the front here (indicating). We relocated the Community Center to sort of the central apex of our project. We integrated a sidewalk and trail system around the wetland perimeter to identify its boundaries.

We did all of the studies that we talked about. We did the marketing study, all of the soil testing and all of the things that were done at this stage, and at this point, here, the Planning Board felt that it was good for us to move into preliminary design.

So three concept plans, two Planning Board meetings, a concept, several DRC meetings, and then we went in October and we started to prepare the preliminary design plans and submitted those to this meeting.

So now we are at -- up to date. We're at preliminary design.

And we continue to meet with the Town, Town officials, and we continue to hear certain feedback that we wanted to take to a new level and bring out at this meeting. And Jim (Martin), you have been part of some of these, so I'm going to put up -- I put up here this list of -- these are some of the issues that are -- the bigger issues remaining, and so we thought we would come to this meeting and talk about what are we doing about them. And the first was landscaping. We had discussions and concerns about how the site was going to be landscaped, and so, if you -- our first issue tackling was we prepared numerous modifications, including overall detailed designs, looking at species; and Jess (Sudol) has done a great job working with the Conservation Board, and the result of that, I think we're putting together some landscaping plans that haven't been seen in this community or from other applicants to the level that we have sought to do that.

And with this, you can see that we're dealing with the entrances to the projects, the islands in the boulevards that we're created, some of the areas in the commercial site, in which we were looking for amenities, and I will come back to that. Some people gathering places have been dealt with in these designs.

These have been shown to the Conservation Board, and they also include not only just the

blow-ups of the -- of the site's landscaping, but also the foundation plantings along the building. So you can see at preliminary design, we're really showing you a lot of detail from not only the overall site and how we plan to landscape it, but actually down to the -- the building foundation planting level.

So the second landscaping plan, you can see, is just a -- showing you the site overall. The one prior to that was some of the site specifics.

Just to give you an example -- I know it is hard to read it all, but just to show you the level that we're going to and what have done with the Conservation Board. Landscaping Plan 3 shows the foundation plantings on the residential area.

Okay. Back to preliminary design issues. One of the things we have heard, we heard it at the Zoning Board, and I have heard it at DRC, this comment about densities. And the comment that I heard was, "The project seems to be dense." And we can't really get our arms around this comment, so I listened a little more intently about what do people mean they think the project is dense. Well, you know, in the front yards, with the car parking here, and it just seems dense. And I think what people were saying was, not that the project is dense, because if you look at the layout of the project -- and I am just going to point out over here (indicating), the buildings are separated no different than we did at Cottage Grove or at any multiple residential developments in this community. They're all 40-foot offsets. I think the -- the significance of what we're looking for is that the separations in the front yard -- and we heard it at DRC even. The Highway Superintendent made a comment. And I think what we're talking about is separation. That they wanted to see more separation in the front yards. It was a comment that George (Brinkwart) had brought up, that we were able to do in one of the concept plans where we had 18 feet, we picked up a couple more feet, and it seemed to satisfy you then, George (Brinkwart).

But we still heard this from other people, so we sought to really figure out what could we do with the separation from the units and how could we benefit from it. So we made a design change, and we adjusted some of the units, and we made some design change to the plans, and as a result of it, we have made a 25 percent increase in the separation of these units to try to address that issue. And in addition to doing that, this densities issue, we have also looked at the plan and we have eliminated 5 percent of the units across the board in the overall project. So what that means, not only did we look at densities and take it from 116 down to 110 units -- so, again, we have reduced the density, per se, but we actually opened up this area where I really think the issue was, and that was between the units. So -- and this -- in this diagram here, we're trying to show you what this looks like now. Because before the concern was, well, the front parking area was only going to be 20 feet, but now they're actually 25 feet. And the way we have made the design change, jogged the building, some of the units, and actually it is every other one, have 27 feet of separation to the street. Can you see that in your plan? We have tried to highlight it for you in these areas here (indicating).

Ironically, when we heard this thing about density, we went back and checked, "Well, what is our density?" And when you look at a -- the Town of Chili senior code, the Town of Chili senior code allows 18 units per acre. The multi-family non-seniors allows eight units per acre. Our project only has 5.4 units per acre. So the word "density" was not ringing true, because we're really not that dense. It is just in this area (indicating).

So, Jim (Martin), this is where when you guys went on the site drive, we heard you talk about another project in the community where you thought it was tight, so we really took a large move and we added 25 percent more room in that area by making this design change, and we're bringing it to you tonight. Okay? This is -- fortunately, and we didn't know at the same time that the Town's consultant was going to put it in his letter, but it actually covers one of the issues in his letter, because he came back with the same dimension, and we didn't know that, but it seemed to work out good, and I will point that out later.

But the good news is, is that we're willing to make this change and not only is it just 25, but it's 27 in the alternating unit.

Another thing that we wanted to point out here is the sidewalks that we show, we gave you a dimension there. The sidewalks are 50 feet from the far unit. So anybody living on one side of the road trying to get to the sidewalk, you can see it is only 50 feet away.

So I'm going to move on to the next one.

Commercial pedestrian and people amenities. Jim (Martin), this is one of the comments that came up at the DRC, before we wanted to see in the commercial area a little bit more pedestrian people type amenities so people have a place to gather. And so, we sought out to look at opportunities in our plan, to try to create some of those features and benefits.

And this is the type of things that we're looking to do, some of these photos, in our commercial area for a place for people to gather.

This is an example of the covered canopies or the sidewalk areas. And some of the special treatments that we wanted to do to try to bring our commercial area up to another level. This is a stamped concrete crosswalk, and we have these in our commercial area, and the areas actually in the main core collection of our commercial area.

So these crosswalks are here and here (indicating).

And that's what it would look like. This was a comment that came in from one of our meetings, what can we do to sort of spruce up our areas.

And if -- if you -- let me see what the next slide is.

If you look on the design plan -- I'm going to go back to the landscaping plan, but if you look on the landscaping plan -- I will put it up here. This -- this landscaping plan, Number 1, in the lower left corner, we have shown you how we have corrected and we put a gathering spot on

the ends of this building here, a place for people to develop, and then we have covered it with the buildings by extending that commercial building here out (indicating).

Now, one of the design changes that we made in Concept Plan Number 3 is that we tied the sidewalks through the entire project, all of the way together, from the residential area, through the commercial area, and in the commercial area, they all gather in point here (indicating). So that all of the sidewalks of the entire project are all connected, but they all come here (indicating).

I don't know if you can see over here, but there is a plan that's at the end of your package that shows the elevation of the commercial area, and you can see this area here (indicating), which is the covered section of that -- of that space. If -- I am just giving everybody a second to find it, Jim (Martin), to look at it and digest it a little bit.

Everybody get to see that? Okay.

So we're back to preliminary design issues that we heard through DRC and Planning Board that we are taking action on. The next one was commercial and residential architecture. We had an opportunity to prepare our architectural renderings, look at some colors. We would like to have you take a look at that. I'm going to bring Jess (Sudol) up, who has been working with the architect. And explain to you what you're seeing on these pages. Jess (Sudol), do you want to come up and sort of take them through this section of our presentation?

MR. SUDOL: As John (Caruso) alluded to, one of the issues that we identified during our preliminary design -- not really issue, but design elements was the architecture. We really looked to provide this Board more detail at tonight's meeting than you had previously seen at some of our other concept meetings. We had shown some examples from different buildings around the community, but our project hadn't really found its own identity at that point. We're here tonight to show you we have found its identity and we can show you a lot of things we have heard at the other concept meetings and how we incorporated them into our design.

First, if you can see it on the screen behind you, we have our commercial building, and this is what we intend on carrying throughout the commercial portion of the development. While users might change and spaces might change, we're going to carry this look, which just to work from the bottom to top, you can see where we have cultured stone along the bottom here (indicating). There is also some brick areas that mix up some of the vinyl siding, and we brought some of the samples of the type of elements that we're looking at. Here is the cultured stone (indicating). Some vinyl siding samples. We also have here a vinyl siding sample of what they call shake, which we would use up in these gabled ends which would break up, you know, what could be considered monotony if you just ran vinyl all of the way, um, to the top.

And again, these colors are really representative of what we're going to do, not just with the commercial end, but for the whole project. We intend on carrying that commercial theme throughout the development, and, you know, alternating colors here and there, but really sticking to a baseline to carry a common architectural theme throughout. That kind of transitions into our residential buildings, which when you look at these renderings here and what is in front you, we have carried on a lot of the same elements that we used in the commercial buildings. For example, the cultured stone on the bottom. I'm sorry. Some of the vinyl siding, the architectural roof shingles, the same type of gabled ends.

And one of the things that we have really tried to do in both of them also is varied our roof lines so we don't have a single roof line across the top of our commercial building or our residential buildings. In the commercial buildings, the roof line varies where you can see in the middle where it drops down a level and it also has some end caps to give it a little more flare. In the residential buildings you can see where the second story or loft of the unit would be, we have presented in the past, and where the roof drops down on both ends where it would be a single story, it really breaks the building up nicely.

MR. CARUSO: Before you move on, John Nowicki, I want to point out, on the back side of the building, if you notice how the architect broke up the siding, you know how you don't like to see that big block of siding, you can see how he paid attention to that detail here. And the other thing that was brought up, from one of our preliminary conceptual, I would say -- conceptual meetings was the view from Paul Road. And I wanted to point out the side elevation on the architectural -- if you take a look at it there, he has multiple roof lines shown -- if you look, you will see there is a roof in the background from that large dormer off to the left. Then there is the roof line to the right, in the foreground. Then there is a bull-nose roof. Then there is a false roof at the eave height.

Jess (Sudol), down just a bit on the pointer.

There is a false roof there and then just a sample gable. Look how many roofs.

JOHN NOWICKI: That's what you're seeing from Paul Road.

MR. CARUSO: From Paul Road there's five roof lines to see there and he has integrated the windows and offset. I think they have done a terrific job really trying to get to the point. Not only do we have all that going on, but we have broken the materials up from using the shakes at one side, and then we -- he crosses that little eave roof and he can put the scallop in the top area. He has used these materials on the fronts of his buildings and integrated cultured with brick and carried this element through from residential into the commercial area. So I really think that these guys -- and we thank Jack Howitt and his partners for really bringing their A game to these structures.

MR. SUDOL: One more thing to add on the residential component of it is tonight we're showing two different color samples. It is our plan, our intention to actually have four different color selections for these buildings and some variations between the cultured stone and brick so

that when you're driving down the road you won't have the monotony of the same building. It won't be that case whatsoever. You will have different buildings and each building will really have its own identity.

To just elaborate a little more what John (Caruso) said, on the Paul Road side or the portion that faces Paul Road, as you can see on our revised plan over here, our rendering, we have been really sensitive to that, and we have also increased our landscaping at the recommendation of the Conservation Board and -- actually based on some of the input from our meetings. So I just wanted to point that out, while we were talking about that side elevations, that we have increased that buffer and screening along Paul Road to break it up. Again, we're not trying to hide ourselves, but just to break it up a little bit.

John (Caruso), if you want to add anything.

MR. CARUSO: What I would like to do, Jess (Sudol), is take these down, pass them around the front of the Board, because the drawings they have are sort of small. I would like to let them -- while we're finishing up, just let them glance at -- just take one residential and the commercial, please.

In addition, we were talking a little bit about this people gathering place and this -- architectural amenities, and it is really hard for me to point it out to scale, but Jim (Martin), other than the big square, the covered, we also had a little gathering spot out here (indicating). We had -- I guess what I wanted to show, there -- so there was more than just one gather spot that we created for this area. We wanted to have a remote one. So we put one out here (indicating).

The intent was to have people be able to be out in the middle of the project and have access through the -- through the sidewalk areas, up to this area, and we had one here, here and here (indicating) and sort of this main square, and that's why we had pedestrian sidewalks and sidewalk crossings going over to one of the pad sites, and I just, you know, wanted to point that out. It is hard to see in some of the views we were showing. Okay?

All right. A couple more issues that we were looking to resolve. So we are talking about preliminary design. We're going down through issues we have been faced with at this point and how we're resolving them. Okay. There are two more left. These are probably the two biggest ones we need to speak about.

Clustering. To say that Town Law allows you to cluster, and you have -- this is a very educated Board. You guys have been together a long time, and even though Steve (Hendershott) is new to the Board, I know Steve (Hendershott) has overseen several projects from his past experience and understands what a cluster development is, so I won't define that to you.

What I do want to talk with you about is how we used cluster here. Most projects -- I will give you an example -- most projects that have a wetland or some sort of physical impairment on them that they can't develop on will do a conventional layout like this, and then try to create some sort of density and then cluster that density into a certain area. Right? That is how you're used to seeing them.

Well, that's not what we did here. We sort of backed into clustering. So this is a real important point for the Board to understand from our perspective.

The reason that we clustered is because we are trying to dedicate our infrastructure. So if -- if you can follow my line of thinking here, the whole purpose of us dealing with this clustering plan was to try to eliminate a bunch of variances that were developed in the project.

So it sort of works like this: We identified that we wanted to dedicate our sanitary pump station and our sanitary sewers and our water main.

Our clients are not public utility agencies, nor do they want to be.

So we sought out to dedicate our infrastructure.

Dedicating our infrastructure means that the town homes that we propose on the site have to be fee simple. They have to be for sale. In order for GCO and the Monroe County Water Authority to serve this site and own the infrastructure, they have to have fee simple lots. Just like your regular subdivision. Okay? But in our case, we were proposing a private project. There is no way that they would allow us to dedicate our infrastructure, unless we were to stripe down these subdivision lots over the town homes.

So we decided to do that. We put down these subdivision lines over our town homes so we can convince Monroe County Water Authority and the Gates-Chili Ogden Sewer District to take dedication. Now there is a price to pay for that. Every one of those units have to get a new lateral; whereas, if this was a private project, we would run one big pipe for sanitary and one water line for each building and be done with it. But if you want to dedicate it, each unit has to have its own lateral and you have to put a subdivision down. Okay? But when we put a subdivision down, we have a front, side and rear setback to deal with. Okay? In order to deal with that, in the Planned Neighborhood Overlay District, we have to get variances. 110 units we're at now. 110 units times three is 330 variances.

We elected not to go to the Zoning Board and get 330 variances. What we elected to do was to put together a cluster plan, because it just made so much sense. With a cluster plan, all of a sudden we can put this in front of the Planning Board and say this is no different than the project you looked back at Concept 1, Concept 2 or Concept 3. The only difference is we're proposing to put the fee simple property lines over top of the town homes.

And as a result of that, we get to dedicate our infrastructure. So we're trying to find a mechanism, and that's exactly what this is, is a zoning mechanism, this cluster, so that we can eliminate those variances and dedicate the infrastructure.

Now, that is why I precluded my conversation with this is typically not how it's done. Typically you cluster and then you go into your project. We did our project and backed into

clustering, because this was a zoning mechanism to resolve all those variances.

What we didn't know is that we were going to go into the nth degree in evaluating this, um, 278 Town Law cluster conventional plan. So the folks at the -- at the side table are doing their job, and they're bringing up the issues that are related to having to deal with a cluster project and a code, and we have gone through several different variations in which I will show you, but the bottom line is, at the end of this whole process, all we're trying to do is put in front of you a conventional plan that shows that we weren't trying to obtain more than 110 units. And so that you can approve it, so that we can move down the line, eliminate these variances and dedicate our infrastructure.

Does everybody follow me on that? Is there any questions on why we did that? Okay. So, what we -- here is our first conventional plan. We put this together, and some of the comments that came out of -- out of us preparing this plan, is, well, you put units over into the wetlands and you normally wouldn't do that.

And some -- some might say, well, I mean that is the purpose of doing a cluster plan, because you're trying to see how many units you could get, so when you cluster them, you could see how many you put into the area where you could develop.

But it was questionable as to whether it can be done this way, so we did Conventional Plan Number 2.

Conventional Plan Number 2 is showing you how we can get the patio home lots through the project, but we -- but the intent of the PNOD and the cluster is to preserve that area, so you can see here where we're -- we're preserving this open space. Um, if you look real close, you will notice none of the units are in the wetlands or in the area that we're trying to preserve. Maybe some of the lot lines were, but the intent here was to show you that we could get 116 patio lots, and more than what we needed for -- for the commercial area, just to try to meet the intent of the cluster plan.

And there was still some discussion on whether this was appropriate or not. And some of the comments that came from the Town's consultant on -- did we do a calculation correct or did they do a calculation correct, and so we did a Conventional Plan 3, and to the benefit of these gentlemen, they haven't seen this yet, but basically what this does, is it looks at all of the functional use of a patio home development, and it looks at the area that we're looking for, it shows that the area, even if we agree with their, um, developable area, that we're under the 17 acres, that we say we're looking at 21 acres, but I'm trying not to split hairs here. I guess the point I'm trying to make to the Board is, I really don't want to over-evaluate. We can meet this conventional plan several different ways. We have shown you three different versions in which we have been able to do it, and in no way did we ever take advantage of the cluster plan, trying to gain density. We never did that. We never gained any density. This shows 116 units could be achieved, three different ways. We're proposing 110 units.

So all we were trying to do in preparing all these cluster plans, these conventional plans, I should say, was trying to obtain some sort of a agreement from the Board that, okay, we're about there, and we can go on and put the subdivision lines down on the town homes, that we can dedicate our infrastructure. That is the only reason that we're doing this.

Is there any questions on that?

JAMES MARTIN: Just for clarification, John (Caruso), on Conventional Plan Number 3, did this plan meet all of the setback requirements of the PNOD zone?

MR. CARUSO: I believe so.

JAMES MARTIN: Okay. Thank you.

MR. CARUSO: So what if we didn't cluster? What if we still want to dedicate our infrastructure, but not go through a 278? Well, then we would be back to 330 variances before the Zoning Board, and we just -- we just chose not to go that route. But that is a collateral benefit I want to point out here.

One of the collateral benefits is, when we were at the Zoning Board of Appeals, remember we went to the Zoning Board to work out two issues so we didn't have to get interpretations.

One was we couldn't exceed 30 percent senior. We did a market study and we justified it, that we could get more than 30 percent. We went to the Zoning Board and we asked them to grant the variance, and they did.

Okay. The second thing we were going to do at Zoning Board was we were going to work out so we didn't have to have an interpretation from the Building Department on whether the buildings could be attached. That was the second variance we were going to get, because -- because we just weren't going to have any gray area. We won't fight with you about it. We'll just go get the variance.

When we decided to cluster, to eliminate all of the multiple variances, the fact that we were having town homes with zero property -- zero side line, because they're attached, eliminated us -- the need for us to ask the Zoning Board for a variance because the Planning Board is approving it in the cluster.

Does everybody see that?

In other words, town homes inherently have a zero side setback, so there is no reason for us to get a variance from the Zoning Board, because under the 278, we're asking for side setbacks with the town homes. So that variance request sort of went poof, because you're going to approve it under the 278.

So that was sort of a collateral benefit of using the 278 mechanism that we just didn't plan on. It just sort of worked out that way.

The other benefits that come out of this whole thing here is -- is the major point, we're

trying to dedicate our infrastructure. And by dedicating the infrastructure, we open up access to sanitary sewers to three other parcels adjacent to this property. One is the Archer Meadows Subdivision, which was approved to the south. The 16-acre piece of land owned by The Fathers House to the east, and the parcel to the southwest, which is either Glazer's land or Town land or Wegmans' land. I'm not sure who owns that right now.

But the point I'm making is, being part of the Town's Comprehensive Master Plan, one of the major impairments we found to development in the Town of Chili, there is no sanitary sewers south of the creek. So what a huge benefit, by us dedicating our infrastructure, we open three major parcels of land, right north of the creek that can't be developed because there is no sewer access and we create that here. That is a huge benefit that we're looking for.

The other benefit was that, um, we didn't realize is if we do generate these property lines and subdivide creating these tax account numbers, that they're taxed very differently than if we did this project without subdividing. They're actually taxed higher. So it is a benefit to the Town that if we do this project as a subdivision, the town home lots and subdivide it, that the tax rate is higher. But, again, it is a price that we're willing to pay, because we don't have to maintain the infrastructure. We don't do that.

And the laugh last is, it's more favorable for there to be a project that could in the future, whenever, turned over to individual ownership, than just the private rental project, and we thought -- we talked about that in some of our first two meetings, and Keith (O'Toole) is right, we will prepare a Homeowners' Association for this, and it will be tied to the lots, and Jack Howitt and his management company will manage it, but until such time that he turns it over to the HOA and it is individually owned, he will own and run and maintain everything here.

Okay. So I have spoken enough about why we propose to do cluster. I think we have beaten that to death.

Okay. The last issue that we wanted to talk with you about, and with respect to our preliminary design, and that is sidewalks. We heard from our DRC meeting that the Town is really interested in us having sidewalks on both sides of the road. And our concern about that is that we really spent a lot of time in the preliminary concept plans making connectivity through the entire project, to the extent that we agreed to build a sidewalk along the front. We have put sidewalks back into -- along the wetland adjacent areas so we didn't have encroachment and we have sidewalks going through the internal loop, so we have sidewalks going everywhere.

JAMES MARTIN: We looked at other 278 projects done in this community, and I just wanted to point out, Pumpkin Hill doesn't have sidewalks at all. The Wellington project doesn't have sidewalks. That is a 278. Whispering Winds, that's a 278 project. College Grove we did for Barbato, very similar to our project, that has one sidewalk. This is a project we did in Farmington, 300 units, we have sidewalks on one side of the road. This is a project we did in Victor, a golf course project for Mark IV. Sidewalks on one side of the road.

So we understand connectivity is important and pedestrian access. We have gone through great length to provide sidewalks through the entire project. We're just concerned about putting -- going through the expense of putting sidewalks on both sides of the road. And if you will recall, the plan that I showed you earlier, that the sidewalk is only 50 feet from the front door of any one of these units, on the far side. Okay, with that said, we still wanted to bring an improvement to the sidewalk system. So I will try to back up to this plan.

This plan here, where we show the separations, I want to show you what we have done to try to improve -- there is a sidewalk all along one side of the road. From the far -- the farthest door, it's only 50 feet, but we have entered into the plans these little returns that bring sidewalks down to the street so that if people come across, they have places to enter, and that is not something you will see on any of the sidewalk projects in the community. It was something we tried to offer. We really don't think that putting sidewalks on both sides of the road improves the benefits of the project at all, but we did want to put these little turn-ins, and just bring them that much closer, and we're willing to do this throughout the project.

Okay. Our last item to talk about.

I told you at the beginning of our meeting we were going to talk about where we have been. Then we'll go right to preliminary design and talk about the issues and how we tried to work through each of the issues. I don't think there is one issue that we haven't really resolved with you or brought you something to think about.

The last thing is we received just yesterday --

MR. SUDOL: I believe it was yesterday. Yes.

MR. CARUSO: It was a comment letter that came out of that last DRC sort of quasi meeting we had last week, and Ken Hurley from Joe Lu's office put together a letter, sort of a cumulative letter from all of the folks, and I know that Kenny (Hurley) is sometimes the spokesman for that, but it's a good thing. And it gave us an opportunity to look at his comments and -- in conjunction with what we're trying to bring here tonight. And I think the letter sort of broke down into four issues that we have dealt with. One is, it talked about comments on the cluster plan. Number 2, it had a comment in there about the sidewalks that we just talked about.

Number 3, his comment had a discussion about front yard separation, which I think we brought a change of design to you tonight to look at.

And finally, at the balance of his comments, were preliminary design comments.

And I just wanted to bring up that preliminary design comments are something that we are willing to deal with and work with the Town Engineer, in that we recognize and have modified our plans on some of those comments that he already picked up on. We have already saw them and fixed them. So without getting into the balance of his comments, which were engineering

comments, I would just like to put out there that we are willing to work with the Town Engineer and make any approvals subject to getting his preliminary comments resolved before we come back for a final approval. Okay?

So with that, Mr. Chairman, I know that we talked about it a lot, we're ready to go through any -- each and any of those issues that you would like to resolve.

JAMES MARTIN: Thank you, John (Caruso). I promised George (Brinkwart) I would let him go first tonight.

GEORGE BRINKWART: John (Caruso), that was a very nice presentation. I got to give you an A plus on those architectural. They really look nice.

JAMES MARTIN: Be sure to speak loud.

GEORGE BRINKWART: Have you gotten any input from our Architectural Review Board on that?

MR. CARUSO: No. We haven't been able to get to that Board. Our timing is off, but we absolutely wish we had been at the ARB this month, but we had a really good start. We haven't had an official meeting before them, but you have given us a lot of input. We brought you our conceptual ideas up front and I'm hoping that they will find more of the same, from them.

GEORGE BRINKWART: I will leave it up to that Board. They look very nice to me. I think you did a really nice job on those.

I know we -- the last time you were here we had a couple key points we discussed and you covered some of those in a presentation. You know when I went to get my packet of information and I opened up the plans, I initially was very disappointed because some of those key points, elements we talked about were not addressed, and one of those you spoke to a little bit was the separation from the garages to the edge of pavement.

MR. CARUSO: Right.

GEORGE BRINKWART: I see you brought that number up. I'm still concerned that that may not be enough. It is certainly an improvement. I notice you did the measurements to edge of pavement, not the gutter, and I think it's not fair to do that, because I mean the gutters -- no one parks in the gutter. So I don't know if that is a realistic measurement. I think you're moving in the right direction.

The other thing that was very key to me, and I see you didn't address that in the packet I picked up was the sidewalk. You spoke about that briefly now. But I think it's just imperative that we have sidewalk on that other side of the street, especially given the fact that you went to the great lengths to go to the Zoning Board to get your variance to have the increase in the -- for the -- for the elderly housing. It is just key to those folks to have readily available sidewalk access. I think that is a very important point.

And even though it is only 50 feet to cross the road, crossing the road for those folks can be a problem, especially with traffic and stuff. So I really think that you need to look at that.

And as far as the comments that we got from DPW and Ken (Hurley), um, kind of late in the game here. I had a brief chance to look at those, and I haven't, as I'm sure you have had a chance to fully digest those, but some of those comments I see, I have to agree with. There -- there's -- you got a ways to go on some of those issues.

That is kind of it in a nutshell. At this point I can't think of anything right off the top of my head to add right now, but -- but (inaudible).

MR. CARUSO: Okay.

JOHN NOWICKI: I think that -- the two letters you got, Dave Lindsay and Ken Hurley, be sure to address the issues in there. Architecture I don't think is going to be a problem. I like what you have done with that.

The snow removal becomes a problem. I think that is going to be adjusted accordingly as you get into some of these setback areas and stuff like that.

I assume these are rentals and -- the Homeowner's Association, is that going to be a separate fee on top of rental fees? Do you know offhand? Is that going to be incorporated into the rental fees?

MR. CARUSO: We're not going to mix the two. Right now it is a rental project. Then if it was sold, then there would be a --

JOHN NOWICKI: Homeowners' Association.

MR. CARUSO: -- Homeowners' Association and a monthly charge associated with that then.

JOHN NOWICKI: Have you addressed any with the tie into the Wegmans property for access to cross into their property?

MR. CARUSO: Um, it is still the status quo. Right now we're really waiting to see if Wegmans/Target is going to need a signal light over there, and our agreement with them is that we would participate to some level if they needed to put a light in in exchange for an easement. And that agreement remains.

JOHN NOWICKI: Okay. Overall, I think the concept is great. I don't think you will have any trouble renting them. The architecture is going to be an asset. No question about it. So good luck to you, John (Caruso) and the owners.

JOHN HELLABY: I personally agree with John (Nowicki). I like the project. I guess I have a little bit of concerns as to the extensive list in my mind that the engineers still have in regards to the questionable drainage issues and whatnot on the plans, which I'm sure can be resolved.

The other thing that sort of came to light, because I work for Wegmans, as you are well aware, I spent most of the day trying to chase down Ralph and Art (Pires) and Dan and the whole

gang basically, and in your engineering report, the EAF supplement dated October 2009, page 8, Section 7, item 5, states that, "Wegmans is currently conducting an update to their traffic study to determine the need for a signal light at the entrance to Paul Road."

There is nobody there that knows anything about that. So --

MR. CARUSO: Well, it was done -- it was done by Target. And it was submitted to the County. And they're reviewing it now, John (Hellaby).

JOHN HELLABY: It's not Wegmans doing it. It was Target -- it was actually something done by Target.

KAREN COX: They reviewed it actually in the comment letter.

JOHN HELLABY: Well, at that given point, there is no need at this point for that traffic light in their eyes, so... Just -- just a point of clarification.

MR. CARUSO: Okay. You're correct, it is Target that was doing it. I just don't know who was leading it.

KAREN COX: FRA.

MR. CARUSO: I don't know if Wegmans or Target was leading it.

JOHN HELLABY: We're not.

KAREN COX: It was Target. That was one of the requirements or conditions on the approval for Target, is that they revisit the traffic issue, um, after the build-out was done. And that report was submitted and reviewed.

JOHN HELLABY: That's all.

KAREN COX: I'm in agreement with the rest of the Board. I like what you have done, and the architecture is nice. I don't think you're going to have any trouble with the Architectural Review Committee, because you have addressed a lot of the things that are in the guidelines. It looks like a good project.

STEVE HENDERSHOTT: Um, you can add me to the last. I think it looks like a good project, John (Caruso). I was part of the Board that, um, was looking at that Overlay District down there, and this certainly is in keeping with what was -- the thought behind it.

A couple questions that I have got. And maybe these things were covered prior to me coming onto the Board. Who is going to own the sidewalks?

MR. CARUSO: They would be owned by the -- the project. They would be maintained by the -- Howitt Management. Midlakes Management.

STEVE HENDERSHOTT: The same with the roads? The roads and the sidewalks are not intended to be dedicated to the Town?

MR. CARUSO: This is one of those benefits where, I didn't put it in my presentation, but there is nothing dedicated to the Town. I see that Dave (Lindsay) was asking previous applicants to grant easements and enter into agreements and that's fine. But we agreed up front that we weren't going to dedicate the streets. We weren't dedicating any storm sewers. There is no children here, you know, for the school districts. This is -- and if we can dedicate the infrastructure and not have to maintain it, this is essentially no services from the Town.

STEVE HENDERSHOTT: I can't tell what you're looking at, I apologize, but are there streetlights?

MR. CARUSO: Yes, we have streetlights. It is sort of scattered. It is not like a residential subdivision where we have them every 125 feet, because the buildings are so close to the road, that we have light over the two-car garage doors that are on all of the time, so they create a hue, and that is sort of the effect that we'll have.

But we have major intersections and areas where there isn't lighting from a building. Because we do have a lot of dead space in some of those long roads. We have lights there, because we have sidewalks.

STEVE HENDERSHOTT: And looking at this drawing, if I'm reading this correctly. I think you mentioned there are walkways that go back through the areas around the storm management ponds and some other spots?

MR. CARUSO: Yes. One of the ways that we tried to eliminate or put up some sort of physical barrier to avoid that creep into wetlands, is we decided to put one of the walkway paths there, and that's a good point right there (indicating).

STEVE HENDERSHOTT: Yes. That is what I am looking at.

MR. CARUSO: We have one there.

STEVE HENDERSHOTT: How will they be surfaced?

MR. CARUSO: Jess (Sudol), what do we have for that surface?

MR. SUDOL: Well, all of the ones on the road were concrete. We're going to do asphalt in the back.

STEVE HENDERSHOTT: But they will be surfaced with something?

MR. CARUSO: Yes.

STEVE HENDERSHOTT: Okay. That's all I have got.

JAMES MARTIN: On the proposed cluster plan, the units that are bordering Paul Road are attached units. And I have read this code about five times in the last week, John (Caruso), just trying -- it's a very complex code, and it's difficult to interpret some of the subtleties that are in here.

But it clearly talks about, you know, the senior living facilities can be attached. I can't find anything in here that says that -- I will call it market rate, or whatever you want to call those units along Paul Road, um, can be attached units.

And, you know, at the Zoning Board meeting, you withdrew the application to address that, from a variance standpoint.

So I'm still struggling in my mind how we resolved that particular issue of attached units along Paul Road that I can't find in the code that says we can allow that to happen. That's an issue I have got.

MR. CARUSO: It's a great question. We have been prepared to answer that. I will let Betsy Brugg --

MS. BRUGG: I'm just -- I will touch on it briefly. It did come up, and actually I did discuss it with the Building Department Manager before we filed an application for an area variance.

And essentially, the difference between -- basically the language of the code is a little tricky. As you know, you combed through it, it is a little tedious to work through. But essentially what we have asked for is a deviation of the setback. Not a change of the use, but a deviation of the setback. So the Planning Board can grant that as a physical alteration to the plan. It does not alter the use of the property. The fact that the -- the way that code is written, kind of leaves things a little messy and you have to sort through it. But essentially the use hasn't changed. Instead of two separate patio homes with a 10 foot, 30 foot, 40 foot setback, we're just creating a zero lot line.

I did provide some law on that in my submission. I haven't actually formally heard back from anyone. We originally submitted this as an area variance application, because the initial proposal for the project was a single piece of property, not a subdivision.

Essentially that wasn't necessary when we chose to take the 278 route. You can parcel through some of the language of the code, and certainly the Building Department is the appropriate authority here at the Town. As I said, I did have discussions with the Building Department prior to submitting my initial area variance application, and I have submitted some law on that issue.

JAMES MARTIN: Any questions from the Board on clarification of that issue?

JOHN NOWICKI: It's a legal issue. It's an interpretation. That has to be dealt with. You have submitted data to Mr. Keith O'Toole over there. I'm sure that that is going to be worked out on the legal side.

JAMES MARTIN: I don't want to have any public discussion. If we do anything, we would go attorney/client privilege with Keith (O'Toole) on this issue. I'm just still struggling with it from my own personal perspective as to what is really allowed in that section of the development. No question about the senior area.

MS. BRUGG: The way it happens -- the way the code is written, it just happens to be written and worded a particular way. Had it been worded slightly differently, it would have been perhaps a little more clear and not have created this question. It could have just as easily been addressed with a setback requirement a little further down.

Even the setback requirements in the PNOD section are sort of difficult to work through. They don't contemplate certain things, and, um, you -- it does leave some room to address that issue. But I think that the law clearly supports the position we have taken, so I feel very comfortable moving forward with that.

JAMES MARTIN: There has already been some comments brought forward about the letters that have been submitted by Dave Lindsay and by Ken Hurley regarding a lot of technical design issues on the site. Some fairly strongly worded letters, all right, that came to us from Mr. Lindsay, that concern a lot of the design issues associated with this project.

Now, I know you indicated that it's your position that you will continue to work with Department of Public Works and with the Town Engineer to resolve a lot of these issues, but one of the comments that caught my eye was that if you work through a lot of these issues, is that going to cause any kind of significant design change to the site? And I don't know what the answer to that is right now.

So I think that, again, that is something that, as I read through these, kind of stuck in my mind, is it going to have an impact on what -- you know, what you have proposed for this plan, that could be some changes, some significant changes. And I guess I just have a concern about that issue not being resolved, moving forward at this point, and then with, you know, a vote on preliminary, given that we have got all these issues to deal with, all right, from an engineering standpoint. That's my own -- my feeling, but I will -- I will go to the rest of the Board here.

JOHN NOWICKI: You have to address the comments.

JAMES MARTIN: There is certainly Monroe County comments, which I think are relatively straightforward. I didn't see anything there that bothered me too much. It was more the specifics of the -- the David (Lindsay) and Ken (Hurley)'s letter. So John (Caruso), I will let you go back on -- I mean -- what is your feeling about addressing these issues and what impact is it going to have on the design?

MR. CARUSO: Well, I guess what I offered earlier, something that put you at a no risk. We came tonight, and it took me 30 minutes to get to the point where here is the issues of preliminary design, and then I showed you for the next hour how we fixed it.

And that seems to be a pattern with us. That you give us things to do, and we go back and do them. And we have done that through three concept plans, four Planning Board meetings, five DRCs now. Why would that change? And all I am saying is let's move on with this. Because that side table is looking for this Planning Board to make some decisions so this project can move to the next level. And I'm asking you to grant us approval, subject to -- subject to fixing that. And if we don't fix it, then we don't have preliminary approval. And this is nothing different than we have done before. It wasn't anything you did with the -- with Jess (Sudol) two hours ago.

And here is the worst that could happen. On your part -- if you notice, the -- I addressed it in the last slide. Sort of broke it down in four categories. It was design issues, cluster, sidewalks and the separation. And I addressed all of the other ones. I left the last category to design issues. If we can't make the design work, what is the worse that will happen? We might lose some units. Density will decrease. But we don't want to take the loop out. You like the loop in the design. It made it very different than the PNOD that Steve (Hendershott) reviewed when he was Supervisor.

And some of the amenities we built in this, we're trying to maintain. But really what we'll lose if we have to make our ponds bigger or put, you know, maintenance berms around them, um, it would be -- we would lose some units. But I don't think I want -- I don't want to hash out with the Planning Board on whether we need to have a 10-foot road, access road around the rim of our ponds. I would like to work that out with those guys (indicating). Because these are guidelines for storm water management that we're dealing with. They're not Town regulations. They're not in your code. They're really not here for that level. So I'm asking you to give us a chance to work it out with them. We have done it with every other issue.

Even though George (Brinkwart) wants me to measure one thing from that, we have addressed the same issue for him twice, and came back with the best plan yet tonight.

And along those things, you know, I'm -- I think we're moving in the right direction.

GEORGE BRINKWART: I think -- I very much appreciate you bumped those parking spaces up to get a little more setback, but for me, again, I will restate myself, for those senior housing areas to have sidewalks on both sides.

And this site is -- you alluded to this earlier. We have this general phrase going around, "dense." Let me rephrase that. Things are very close together. And some of the things, you may not -- may not become evident right away. For example, the side slopes on the ponds, they're three on one with a safety bench. That will eat up more room. If you accommodate me and put more sidewalks on the other side of the road to accommodate the senior citizens, which again you went to great lengths to get that variance so you could have additional senior housing -- and I think it is key for the senior housing folks to have accessible sidewalks. I have to compliment you. Really, the sidewalk infrastructure in this project is outstanding, but again, that doesn't take away from the fact that I believe that the senior people need sidewalks on their side of the street. They shouldn't have to cross the street to get to sidewalks. Now you will put sidewalks in there. Now you're going -- again, decrease the distance from the sidewalk to the parking area on that side of the road.

It's very tight. And I think that is what we're asking you here, is to put together a plan that maybe takes some of that in account and -- I mean you said you may lose some units in trying to accomplish some of those goals, and that will change the design of this project. And actually, I was very impressed -- I had not seen your second concept -- your second conventional layout. I got to tell you, I was impressed, given a little bit of work, that would look like a nice project. And that would eliminate a lot of the problems that we're talking about right now, the tightness, the setback distance from the front houses to the road. This project could work. A conventional layout could work. I think your issue as far as the dedication of the sewers, you could put dedicated roads in there and you wouldn't have that issue, too. That's my two cents.

JAMES MARTIN: Anything else from the Board?

STEVE HENDERSHOTT: I would just say that I can appreciate your position on that, George (Brinkwart), but I don't think the Town would want to take dedicated roads in there, based on the experience that we had in other places, especially Pumpkin Hill. And I'm torn on the sidewalk issue, because there probably isn't that much traffic in that subdivision that having somebody cross the street is going to be that big of a problem, although it certainly would be a convenience for seniors.

GEORGE BRINKWART: On those other projects, I can't really speak to those. They're kind of pre my time.

JAMES MARTIN: That is before this Board.

GEORGE BRINKWART: Dedicated roads are always an issue. Do we want that extra dedication? They're built to standards. I mean -- like I said, I just threw that out there.

JOHN NOWICKI: I assume they're built to Town standards, right?

JAMES MARTIN: That's --

MR. CARUSO: Our roads are built -- are proposed to Town standards, but they're not proposed to be dedicated.

JOHN NOWICKI: Right.

KEITH O'TOOLE: I continue to have legal concerns. I will withhold further comment at this point.

JOHN NOWICKI: In regards to the interpretation?

JAMES MARTIN: Um -- it's your pleasure to adjourn for a few minutes and share that, or...

KEITH O'TOOLE: We can do that.

JAMES MARTIN: I am going to temporarily adjourn the meeting for consultation with our attorney at this point.

STEVE HENDERSHOTT: Do we have to -- do we have to make a motion to go into Executive Session to discuss a legal thing?

KEITH O'TOOLE: Technically, this would not be Executive Session. So long as the Board does not discuss the merits and so long as I am advising them, it is just attorney/client privilege.

STEVE HENDERSHOTT: Thanks for that clarification.
JAMES MARTIN: Okay.

The proceeding recessed at 10:35 p.m. The proceeding reconvened at 11:04 p.m.

JAMES MARTIN: I guess at this point, I think you have heard enough comments from the Board tonight, that the overall plan is something that we feel quite positive about from the standpoint of what we're proposing from a PNOD perspective. I have heard several comments from the Board members tonight that gives me pause at this point to move forward with any kind of SEQR determination or vote on this issue.

What I would like to do is propose that we collect thoughts from the Board on an independent basis. It will not be done at a meeting with the Board. I'm going to ask David Lindsay to essentially be the keeper of those comments and collate them into some sort of a punch list that we would then provide to you on this particular project, outlining the various concerns of the individual members of the Board on this particular project, and that at this point in time, given that, I would make a motion that we table this to a future meeting. January would be the next earliest available date, and that that is what I'm going to do at this point, is make a motion to table these applications until the meeting in January.

JOHN HELLABY: I will second that.

JAMES MARTIN: The motion has been seconded. On the motion to table the applications until January or subsequent meeting?

The Board was unanimously in favor of the motion.

DECISION: Unanimously tabled until January 12, 2010 by a vote of 6 yes to table. The Board members stated several times during the discussion that there is very favorable sentiment for the proposed project. The Board looks forward to continuing to work with the applicant to arrive at a successful conclusion.

MR. CARUSO: So Mr. Chairman, you're going to table the application, but you're going to collect the reasonings why you're going to do that and send it to us?

JAMES MARTIN: That is essentially the plan, John (Caruso). People will input -- I will have them all go to David Lindsay. We'll collate that and make a decision on what we would do with that, you know.

MR. CARUSO: Is that an official document from the Planning Board? What if I take that list and meet all of the requirements and come back, or what if I meet nine out of ten of them? I just -- this is sort of different than -- usually when you table an applicant, you say these are the reasons why we're tabling you, and we have something to work from. But this sort of seems like it -- there is going to sort of get these ideas. I'm looking for something a little more concrete. I guess we're trying to figure out what -- what are the issues.

JAMES MARTIN: Well, I think --

KEITH O'TOOLE: Mr. Chairman, if I may. I understand Mr. Caruso's concern, but what -- I believe the Board is trying to defer to Mr. Caruso and his clients' concern to move forward expeditiously. Certainly if Mr. Caruso would prefer to delay the design phase until he discusses that punch list with the Board at the next monthly meeting, that may be something that is appropriate and certainly he can discuss that with his client.

Yet, I would point out respectfully, that a PNOD project is a planned development. We don't do too many of those in these parts. It's a mixture of commercial and residential, and I can't think of any other planned project of this nature that has gone down, maybe one in the last 20 years. This is the first project of this particular zoning district, so it -- it may be that things aren't moving quite as fast as some would hope, yet it is a fairly complex project, so we need to be cautious now. We need to protect not only the interest of the applicant, but of the taxpayers, as well. Thank you.

JAMES MARTIN: I think it would be fair to say, John (Caruso), we would get that to you ASAP, and then we can make some determination on how we proceed from that point.

But I think that's where we stand at this juncture.

MR. CARUSO: Okay.

Do you have any questions?

JAMES MARTIN: Meeting is adjourned.

MR. CARUSO: Thank you.

The meeting ended at 11:09 p.m.