

A meeting of the Chili Planning Board was held on February 10, 2004 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 Don Faso.

PRESENT: Ray Bleier, John Hellaby, Dario Marchioni, Karen Cox, James Martin, John Nowicki and Don Faso.

ALSO PRESENT: Keith O'Toole, Assistant Counsel for the Town; Daniel Kress, Director of Planning, Zoning and Development; Larry Nissen, Town Engineer; Charles Robinson, Conservation Board member; Dave Sauer, Fire Department Liaison; Fred Trott, Traffic & Safety Committee.

Chairperson Don Faso 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.

DON FASO: Due to extenuating circumstances, I'm going to change the agenda just a little bit.

Number 2, under Informal, a situation has been explained to me and I'm calling up Wegmans Food Markets first. With that, Art (Pires)?

INFORMAL:

2. The Planning Board will reaffirm its previous SEQR determination regarding the application of Wegmans Food Markets for site plan approval for possible future private road improvements (break in access to NYS right-of-way) which was granted by the Planning Board of 4/8/03.

Art Pires was present to represent the application.

MR. PIRES: Art Pires. Thank you, Mr. Chairman. I appreciate the opportunity to be back before the Board, the purpose of which is to have a re-vote on the break-in-access application that the Planning Board heard back in April of 2003. The reason for that, at that time it was an uncoordinated review. It was an uncoordinated review at that time, and there was a neg dec and a positive vote. Subsequent to that we found that the New York State D.O.T. had asked that a coordinated review be done, although they recognized it was proper when the Planning Board did the uncoordinated, but they prefer a coordinated review. With that said, that is why we're here for this application seeking a reaffirmation of the neg dec with one qualification. We had asked for a 500-foot break in access on the northern line which I can --

DON FASO: Are you increasing or decreasing?

MR. PIRES: Actually, the State has asked that it -- initially we had discussions with the State and they were asking for a 50 foot. Then in consultation with the Town and their requirements they were saying if and when it ever became a dedicated driveway out to Chili Avenue, it be a 66 1/2 foot right-of-way which would be in accordance with Town standards. With that said and done, we're asking for 66 1/2 foot right-of-way or break in access which would be located along the initial 500-foot opening that we had presented back in April '03 and the Planning Board had approved. So it is a clarification of a 66 1/2 foot right-of-way to --

DON FASO: Inside the 500 break. You're not changing the 500 feet?

MR. PIRES: Correct. Exactly. That location of the 66 1/2 foot right-of-way would be determined at some point that we made application with an allocation of the new driveway from our internal complex to Chili Avenue as approved by the Town as well as the New York State Department of Transportation. So it is just actually a narrowing and clarification of the actual width of that break.

DON FASO: For the Board and for record, if you remember, we did redeclare ourselves lead agency. We did conclude that a coordinated review would be required as per State D.O.T.

All the proper notifications went out. New York State D.O.T. was notified and as we predicted, no comment. So there was a coordinated review with no review provided to the Planning Board. So with that, we need to just neg dec it again.

MR. PIRES: That is my understanding and then a vote once again.

DON FASO: I move we declare ourselves lead agency under SEQR. Based on testimony provided at this public hearing, we find that application will have no significant environmental impact on the environment. With that --

RAY BLEIER: I was absent for that hearing back in April, so since I didn't hear it, I will abstain.

KAREN COX: Yes.

JOHN HELLABY: You caught me a little off guard. I would have stepped down, but I also have to abstain as I'm employed by Wegmans.

DON FASO: That is right. You're excused.

JOHN NOWICKI: Yes.

JAMES MARTIN: Yes.

DARIO MARCHIONI: Yes.

DON FASO: Yes.

MR. PIRES: That's a neg dec and approval, site plan approval?

DON FASO: The approval stands. It was just the neg dec.

MR. PIRES: Thank you very much.

DON FASO: Yes. Dan (Kress), if the application, if anywhere on there a 50-foot right-of-way appears, let's just change it to 66 1/2 as per Town code?

DANIEL KRESS: Sure. I think we have adequate documentation from Wegmans at this point. That is their intention. I also had a conversation with Bob Shraver at D.O.T. He understands that is the intention and finds that to be acceptable.

DON FASO: Minor change, 50 to 66 1/2 per Town code?

KEITH O'TOOLE: Yes.

MR. PIRES: Thank you once again.

DECISION: Previous SEQR determination regarding site plan approval for possible future private road improvements (break in access to NYS right-of-way) granted by the Planning Board on April 8, 2003 reaffirmed, with the following condition:

1. The right-of-way along the north property shall be changed to 66.5' along the 500 foot length indicated by the applicant (specific location to be determined).

OLD BUSINESS:

1. Application of Glenn Schneider, owner; 236 Old Chili Scottsville Road, Churchville, New York 14428 for preliminary subdivision approval of two lots to be known as Schneider-Old Chili Scottsville Subdivision at property located at 236 Old Chili Scottsville Road in PRD & FPO zone.

Rob Fitzgerald and Jason Moore were present to represent the application.

MR. FITZGERALD: Thank you. Rob Fitzgerald, Project Engineer with Avery Engineering. We were tabled I think it was three months ago now. The Board was looking for some more information on the project, just to see if the mechanics of the site would work. So since then we have gotten at least preliminary or written approval both from the New York State D.O.T. as well as Monroe County Health Department, and I believe the Board should all have a copy of that.

There are a couple minor items. We did a little jockeying around. We did extend our northern property line to the north a little bit to add a little bit of frontage for our southern lot and in doing so we could slide the house to the north, as well. We increased the side tie to 35 feet.

DON FASO: And everybody has a copy of the tax map that we asked him to supply?

The Board indicated they did.

DON FASO: Rob (Fitzgerald), what was the D.O.T.'s comments on this one?

MR. FITZGERALD: They approved it with the condition that we change on -- they had some revised notes, just some new leadership roles, if you will, so contact people, we had to revise those notes. Those were the only conditions.

JOHN NOWICKI: Is this the one-sheet transmittal?

MR. FITZGERALD: Yes.

JOHN NOWICKI: That is all they're giving us?

MR. FITZGERALD: Yes. It took me about two months to get that, as well.

DON FASO: "I have reviewed the plans and I'm satisfied with them. Just revise the standard general plan notes. Thanks."

That's what you got?

MR. FITZGERALD: Two months.

JOHN HELLABY: No signature.

DON FASO: And Health Department is no better.

Well, he did what we asked. We asked him to get the comments from these agencies, and he has. We have asked him to supply a tax map showing the surrounding area, and he has. I basically don't have a problem with the application. The only thing against it is the zoning. It just doesn't fit the current zoning, but it is in keeping with the general neighborhood.

JOHN NOWICKI: I can't believe the State didn't make any comments on this at all. I can't believe they didn't go take a look at this thing.

DON FASO: Well, there it is, black and white.

RAY BLEIER: Rob (Fitzgerald), one of the questions there was, oh, about feasibility of using a common driveway. You say it is not feasible. Why isn't it feasible? You mentioned, well, possible future problems. Can you get into that a little bit more?

MR. FITZGERALD: I think the question was asked is it feasible. I don't want to make it sound like it is a monetary issue. Just maybe a safety issue. We just think this would be a safer location for several reasons, just because you're mixing a commercial access with a residence. It could be a conflict in the future, possibly if they sell off either the business -- right now it is family-related so it is not a big deal, but it could be a sticky issue. I think two months ago with the Gonyo Subdivision, the Board requested us to make those separate. Cross easements, it is cleaner. We thought in our office, and I believe Mr. Nissen made the comment when we were before the Board last, if we were making a left-hand turn going in here (indicating), we're crossing essentially three lanes of traffic, and I remember your comment, too. I thought about that quite a bit, for slowing down, people might think we're pulling into Old Scottsville Road which could be the case, but in addition, if we pull into old Scottsville Road, they may think we'll continue on at a speed of 30 miles per hour when essentially we could be pulling into this drive (indicating). We felt this would be a safer route. And it is also what the client is wishing for, so it is just our opinion.

DON FASO: That is the plan that D.O.T. looked at and approved?

MR. FITZGERALD: Yes.

KAREN COX: I wasn't at the November meeting, so I am coming into this cold. I'm not sure I really should even comment on it.

DON FASO: All right. Anybody else have any comments?

JOHN HELLABY: Rob (Fitzgerald), if I can jump in here, I know you attached this map highlighting all of the undersized lots in that area, but I think my general statement at the November meeting was to be able to highlight the pre-existing, non-conforming. I do believe the majority of those houses that are down there that do not sit on five-acre parcels have been there for 40, 50 years or more. I know there are a couple new ones down there, but I'm not sure which lots those are. Do you recall, or can you tell from this map which ones they are?

MR. FITZGERALD: Are you speaking more particularly which ones have received variances?

JOHN HELLABY: Correct.

DON FASO: For the audience's benefit, Mr. Hellaby is referring to a reduction of a tax map.

MR. FITZGERALD: I guess I'm not prepared to answer that. All I could probably add is any ones that we see with a recent Liber and page, because I have just been doing it recently, are recent

subdivisions possibly, and I'm not ready to give a clearance on that.

DON FASO: But based on personal observation, they have been there for a long time.

JOHN HELLABY: Personal observation would lead me to believe the majority of the homes on that lot are pre-existing, non-conforming and the ones that are there, the newer ones, which I believe off the top of my head there might be two or three of them, do not sit on one-acre lots.

DON FASO: My guess would be that it was probably rezoned at a time when there was a big push on to conserve farmland and have large minimum lot sizes down in South Chili, south of the creek.

JOHN NOWICKI: I still think you're going to have people out there looking at that, from what decision you make on some of these lots, especially when they're looking at the zoning on it. They're supposed to have five-acre lots and you go down to .9 acres, and you're going to set a precedent. I think when you start setting precedents like that, you open up --

DON FASO: I don't think there would be an influx of people wanting to subdivide their land down there. I really don't.

JOHN NOWICKI: I don't know.

DON FASO: The property in question is well maintained. The business is well maintained. It is not out of character with the general neighborhood. It is not out of keeping with it. It would blend in. It is going to remain in the family.

JOHN NOWICKI: The other question I have is what happened to the barn and the businesses? What do you do with that? What does that become down the road?

MR. MOORE: Jason Moore, Glenn Schneider's son-in-law. It is actually set up now where it could be converted to an apartment if needed to. It has a fully functional bathroom. So I don't know if -- I don't know if -- what his plans are long-term, but it is set up that way right now.

DARIO MARCHIONI: You still have to go to the Zoning Board, right?

MR. MOORE: That's correct.

DON FASO: What I would like to do -- the Zoning Board realized the constraints on this were basically Planning Board issues. Therefore, they tabled it and asked it go before the Planning Board first. What I would like to do personally would be to -- if the Board is so inclined, if we approve it, to put a good findings of fact on it that the Zoning Board could hang their hat on. I have given this a lot of thought.

DARIO MARCHIONI: It is really close really to a subdivision just up the street. You can throw a stone up to Belacqua. Those are pretty small lots, too.

DON FASO: Well, remember that when and if we do findings.

DARIO MARCHIONI: There has been improvement in this layout from the last layout. The last layout was crowding things. Now you have made --

MR. MOORE: We tried to push it away from -- tried to get more room between us and the other neighbor, the neighbor on the other side of the house.

DARIO MARCHIONI: You had the 35 foot.

MR. FITZGERALD: We actually chopped a little off the house as well, 4 feet. We angled the front porch, the garage and the northeast side, if you will.

DARIO MARCHIONI: You have plenty of room for the Health Department, for the septic system. You still have a lot of vacant land way in the back here. So I --

JOHN NOWICKI: Was that part of the federal wetlands?

MR. FITZGERALD: On our parcel? Federal wetlands is south of the parcel.

JOHN NOWICKI: South of the parcel?

MR. FITZGERALD: Yes. Southeast, if you will.

DON FASO: Just for the Board, Mr. Schneider did call me and apologized for not being here. The last time he had a conflict he was at a trade show. This time he had a family wedding, out of state?

MR. MOORE: That's correct.

DON FASO: What are you doing here?

MR. MOORE: It is kind of complicated. Son-in-law, it's military, and --

DON FASO: This is the one in the Air Force?

MR. MOORE: The real wedding is later. It is complicated.

DON FASO: All right. Never mind.

MR. MOORE: I could go all night.

JOHN HELLABY: It seems like an awful lot in a small space. Like I say, I think maybe it

doesn't look like you're setting a precedent, but over the course of the next ten years I think it is going to come back to haunt somebody.

DON FASO: Maybe over the course of the next ten years it won't be RA-10.

JOHN HELLABY: True, but let them come in and do it legally.

DARIO MARCHIONI: I just have one more comment. Is this going to be your house?

MR. MOORE: Correct. You got it.

DARIO MARCHIONI: Okay.

JOHN NOWICKI: Again, I can't believe what the State did here, but that driveway entrance is going to present a safety hazard. Just be aware of that, because you have a speed zone through there with people doing 55 miles an hour in there.

MR. MOORE: Yes.

DON FASO: When does it reduce down?

JOHN NOWICKI: After the bridge. You have to come into the bridge, past the bridge before you come down.

JOHN NOWICKI: You need to be very careful in there. Not a good idea.

DON FASO: Yes, but, John (Nowicki), there are other driveways on that 55-mile-an-hour speed limit.

JOHN NOWICKI: Not on the curve. I know. He has one right past. He is getting close to that real bad part of the curve.

DARIO MARCHIONI: You have more than 500 feet of sight, right?

MR. FITZGERALD: Yes.

DARIO MARCHIONI: Will you dig out all of the shrubs along that so you have a better sight?

MR. FITZGERALD: There are some. As you're aware of the projects, there are some pines that would have to be at least cut back. They will have to be removed, some of them --

MR. MOORE: It will be a long driveway, too. That is nice. We can have the end of the driveway be completely clear and still have -- when you get back in, you still have room if you wanted to have trees and shrubs around, but we can have them all away from the road so they don't block the line of sight.

KAREN COX: 500 feet sight distance is a whole lot better than other places in Town.

JOHN NOWICKI: Yes. It is not the sight distance. It is the nut cases out on the road. They don't think of the 500 feet. They just have a heavy foot.

KAREN COX: I agree, but we can't start doing approvals on other people's behaviors.

JOHN NOWICKI: I just want him aware of what he is getting into.

KAREN COX: The owner will have to be aware of people's speed.

LARRY NISSEN: We have some regrading shown on the adjacent parcel to the north. I'm wondering if there is an agreement in place there.

MR. FITZGERALD: Presently it is the same applicant that owns both parcels. We're proposing a subdivision.

LARRY NISSEN: Okay.

JOHN NOWICKI: One more question. The applicant was to submit plans to the Traffic & Safety Committee for review.

DON FASO: I'm going down the line now.

Charlie (Robinson), Conservation had their comments, right?

CHARLES ROBINSON: Yes. We just reserve the comment until such time as they actually go to a structure.

FRED TROTT: As like your Board said, we kind of would like to see them move the driveway to the adjoining one just because we have had the neighbors in that area come to our committee about the speed in the area and trying to get out of their driveway.

DON FASO: Are you recommending that the speed limit be reduced or it may be time to revisit that because of the Belacqua Subdivision?

FRED TROTT: I think -- isn't it 40?

DON FASO: Yes. But there is no reason you couldn't ask the State to reduce it.

JOHN NOWICKI: Belacqua is not coming into new Chili Scottsville Road. They're going to Beaver. They did come in originally with Beaver, but not anymore.

KAREN COX: There is not any reason the Traffic & Safety Committee couldn't ask the State

to revisit the speed limit, if it is being -- there are more cars on it than there used to be.

Don Faso made a motion to declare the Board lead agency for SEQR, made a determination of no significant environmental impact, based on the testimony and the material presented at this hearing. The vote on the motion was 6 yes with 1 abstention. (Karen Cox abstained.)

DON FASO: I will move that we grant preliminary subdivision approval.

RAY BLEIER: Waive final? Yes.

DON FASO: Any problem waiving final?

LARRY NISSEN: No.

RAY BLEIER: I will vote yes. I'm not happy with the road cut, but in light of the fact the State has not even made any comments, I feel that we should go ahead with it.

KAREN COX: Abstained.

JOHN HELLABY: I will vote no. I don't think it is in keeping with the intent.

JOHN NOWICKI: I have two factors. I have the safety issue and the precedence that we will be setting, so I will vote no.

JAMES MARTIN: I'm worried about the precedent also. I will vote no.

DARIO MARCHIONI: I'm voting yes. I don't think he has much of a choice if he wants to subdivide a lot next to his parents.

DON FASO: I vote yes also. That leaves it three, three with one abstention. There is no action. Counselor, what are the options?

KEITH O'TOOLE: I think I would like to retrieve a copy of the Town law. I haven't looked at this in a while -- because I know that has changed.

DON FASO: We're done.

KEITH O'TOOLE: We're done right now?

DON FASO: It fails. There is no action. The vote is three yes, three no and one abstention. The abstention is because the person that abstained was not here for the original application and the Board discussion.

Is that a factor that could be revisited?

KEITH O'TOOLE: The State just changed the law. I haven't looked at the session law recently, so I would like to do that. In fact, I'm going to go retrieve that.

DON FASO: Do you want to stick around? We'll get back to his comment later.

KAREN COX: Is this something I could vote on if I reviewed the minutes?

DON FASO: Yes. There is actually no reason why you had to abstain. You could have just stated for the record you had all of the information and reviewed it.

DON FASO: We'll wait for Keith (O'Toole) to get back.

PUBLIC HEARINGS:

1. Application of Stephanie LeVan, owner; 83 Percy Road, Churchville, New York 14428 for conditional use permit to convert single-family dwelling to two-family dwelling at property located at 2343 Westside Drive in R-1-15 zone.

Stephanie LeVan was present to represent the application.

MS. LeVAN: Good evening. I'm Stephanie LeVan. My husband and I and my sister and her husband own this property jointly, and my husband and I own one other piece of rental property on 58 Sunny Side Lane, so just two totally. And our application is to change it to a double-family. Having never been to one of these, I don't know exactly what to say.

DON FASO: Okay. We have a couple of questions for you. According to Mr. Kress, who did some research on this, the owner of record on this property is not you. When did this change hands?

MS. LeVAN: This was December 30th of 1999. It closed. It closed -- we bought it at an auction, Harris Wilcox auction in November, and it closed December 30th of 1999.

MR. LeVAN: 2003.

MS. LeVAN: I'm sorry, 2003. 1999 was Sunny Side. I'm sorry. So this last December.

KAREN COX: The real property database lags real time.

MS. LeVAN: I think I understand a couple of the concerns, but I'm not sure. Whether it is in keeping with the character of the neighborhood and parking issues, and, um, I have prepared a rationale, copies for everyone, but I don't know if it is appropriate to hand those out.

DON FASO: Certainly. Who did you buy the property from?

MS. LeVAN: It was an auction.

DON FASO: Richard Hill. He is still actually listed on the rolls; is that correct, Mr. Kress?

DANIEL KRESS: That's correct.

MS. LeVAN: The paper you have in front of you, for the audience's sake, it says simply is it in keeping with the character of the neighborhood. The Reddick (phonetic) Acres Subdivision has many double family houses today which serve the community at large and our intention is to advertise first to the Roberts Wesleyan community, particularly graduate education programs, to serve these campuses' growing need for adult student housing.

The two ladies that rent our house currently at Sunny Side Lane are both Roberts students, Master of Social Work and a Bachelor student.

The parking I understood to be a possible question. The driveway is 90 foot by 20 foot and you have on the second page my sorry attempt -- I believe it is as close to scale as I can get it. It illustrates four cars that would be approximately 15 to 17 feet in length by 6 feet in length -- or in width, parked on the driveway, and the garage is at the top of the page. The house is not to scale, but the house is adjacent to it. So there should be adequate parking.

And I mentioned we do have that other rental property. We hire snow removal and lawn care through Ultra Lawn Care. We keep the property tidy and make regular improvements and repairs including driveway, gravel, furnace and dishwasher at our place at Sunny Side this year and our tenants are happy to be references for us, and their numbers are listed here regarding our responsibility as a landlord.

DON FASO: Question, did this Mr. Richard Hill, was this a rental property for him?

MS. LeVAN: It has been vacant for some time. He tried to sell it through a realtor and was unsuccessful. Then it went to auction.

DON FASO: Have you talked to Mr. Kress about what would be required to convert this to a two-family rental unit?

MS. LeVAN: We have had a brief conversation and he has given me a detailed outline regarding basement habitability. The basement is only a small part. If the basement fails in terms of habitability, we would go to studio rental rather than one bedroom rental as the second apartment.

KAREN COX: Can you explain -- I looked at this for a while and I can't quite figure out --

DON FASO: Yes. I had trouble grasping that, too.

KAREN COX: -- how the -- you will break the house up into two apartments. I mean I understand it is a split level, but the drawings are a little --

MS. LeVAN: Yes, I agree. Sorry.

KAREN COX: No offense to you.

MS. LeVAN: The house, if I can explain, is four tiers in total. The first apartment would be the upper two tiers which include three bedrooms, one full bath and then the next slightly lowered tier is the kitchen. The kitchenette area, dinette area and living room area. It has a small, maybe five, six -- or five stairs down to the third tier which is ground level, so you walk right out of the door, right onto the sidewalk. That level includes a bath and a family room area, and what we'll do is put either a wall, depending on what Mr. Kress recommends -- we'll have either a door or a wall at the bottom of the stairs between the --

DON FASO: Stephanie (LeVan), step up to the board and take one of these drawings and for the Board, just point. Okay?

MS. LeVAN: This is the top layer of the house (indicating). This is the next layer (indicating). These two layers here (indicating) would be one apartment.

JOHN NOWICKI: Which two?

MS. LeVAN: The very upper and the next upper.

JOHN NOWICKI: What would you do with the three bedrooms up there, leave them three bedrooms?

MS. LeVAN: Correct, with the full bath.

Then this is the next level of the house. This --

JOHN NOWICKI: So you would rent that as a three-bedroom apartment?

MS. LeVAN: Correct. And this is an open door (indicating). This -- this --

DON FASO: It is a standard split-level house?

MS. LeVAN: We would create a door here (indicating), and then this would be the entry for the second apartment (indicating), and this person, we're putting in a kitchenette right along the back here (indicating) and this wall, putting in a shower unit and moving this sink to this wall (indicating).

KAREN COX: Where is the bedroom going to be?

MS. LeVAN: Either a studio apartment if habitability is not found possible. Or, this is a finished basement with windows that are in compliance with the window requirements for the basement, so we're hoping that the basement will be the bedroom because we hope that habitability requirements will be successful there.

JAMES MARTIN: Compliance, fire code compliance?

MS. LeVAN: Yes. The windows are sufficiently large.

KAREN COX: So those windows, those basement windows aren't ones like I have on my house which are -- (indicating).

MS. LeVAN: No.

KAREN COX: They're bigger?

MS. LeVAN: Yes. I can't remember. Maybe 20 by 30 inches.

DON FASO: You have -- are they Anderson or double-hung?

MS. LeVAN: It is an awning type of window. The type of the window may need to change.

MS. LeVAN: If there is -- I don't see a picture of the basement.

DON FASO: Here is a front shot with the -- is that a bay or not?

MS. LeVAN: Yes. This is a bay here (indicating).

This would be the entrance of the second apartment (indicating).

These two levels are the first apartment (indicating). And then this is the second apartment. The studio or the one-bedroom.

JOHN NOWICKI: The top is from here (indicating) into --

MS. LeVAN: I'm sorry. This is the door through the garage for the upper apartment. The lower apartment is through the front.

JOHN NOWICKI: Three-bedroom apartment to the left and studio is to the right?

MS. LeVAN: Correct.

JOHN NOWICKI: You're looking to have the studio down in the basement possibly?

MS. LeVAN: Possibly.

DON FASO: Well, as Mr. Hellaby pointed out, there are no windows in the front on that lower level.

MS. LeVAN: There are. You can't see it. There is a well right here, and there is a window --

JOHN HELLABY: They're in a well type situation?

MS. LeVAN: Yes. It does, by inches. This side as well as the other side are larger than a standard basement window. Right there is the other window on the basement (indicating).

DARIO MARCHIONI: How many square feet in this smaller apartment? Because we do have minimum amounts of square footages.

MS. LeVAN: There is a plan -- I don't have a calculator with me. But it does -- so the third level is calculated according to the sketch addendum provided by the bank assessor, 576 -- if I am reading this right, 576 feet on -- pardon me. This would be on the -- okay, sorry. The first level, 576 feet, and then if you were to include the basement, which is unsure, 500 -- an additional 504.

JAMES MARTIN: How much? On the basement?

MS. LeVAN: The basement is 504. Pardon me, just the finished portion is 297. I would say the finished portion is 297, and that's this page on your packet (indicating).

DARIO MARCHIONI: Mr. Kress, could we have a three-bedroom with the minimum square footage?

DANIEL KRESS: There is no minimum square footage. They're required according to both some of the local requirements and more importantly the State requirements for residential construction

--

DON FASO: Does it meet?

DANIEL KRESS: I don't have enough information at this point to know if this building can be convertible or not.

DON FASO: You realize you will have to work closely with Mr. Kress and he has the final say on that?

MS. LeVAN: We do.

DARIO MARCHIONI: Mr. Kress, I was looking at this site. Next-door to this building, to this particular property, 2345, I counted ten vehicles in that driveway. One van, one trailer, one motor lift, one trolley, gas cans and three snowmobiles.

DON FASO: Sounds like an apartment dwelling, doesn't it?

DARIO MARCHIONI: Just for your information.

DANIEL KRESS: Are you making a complaint?

JOHN NOWICKI: I would like to get an answer on that also because I'm seeing that pop up more and more around the Town of Chili.

DANIEL KRESS: Let me be clear. I don't go out looking for these things. I don't have the resources to go out looking for these things. As we get complaints -- I'm not attempting to be facetious -- we pursue them.

JOHN NOWICKI: Do we have anything in our zoning code currently to limit the number of vehicles that are being parked on these properties?

DANIEL KRESS: If they're unregistered, certainly.

JOHN NOWICKI: If they're registered vehicles, we have no control? If they're registered, they can have as many as they want?

DANIEL KRESS: That's correct.

JOHN NOWICKI: It is about time we revisit the zoning code that we have asked for the last ten years and the master plan to update it.

DON FASO: Master plan and zoning are two different issues.

JOHN NOWICKI: We better get going on some of this stuff or we'll lose ground quickly.

DON FASO: With the Court's definition of a family, John (Nowicki), it is any number of related or unrelated adults and children living as a family unit, and if they all have driver's licenses, then it becomes a County Health issue.

DARIO MARCHIONI: I notice some of these vehicles have been there for a long time.

RAY BLEIER: They have snow on them.

DARIO MARCHIONI: Not only that, but it looks like it is a mechanic's shop.

JOHN NOWICKI: It doesn't --

DARIO MARCHIONI: If you have a motor lift, that means you're lifting motors.

DON FASO: However, let me point out that is a separate issue from what we're going through now.

JOHN NOWICKI: Can we restrict the number of vehicles that this property has on it?

DON FASO: Probably not.

MS. LeVAN: I will say I do believe from my observations that your assessment is correct. I think it is a mechanic's shop, which is separate from a double-family.

DARIO MARCHIONI: I had the opportunity to speak --

JAMES MARTIN: I just have a concern about the parking situation in the wintertime. We had 62 inches of snow and the driveways tend to get narrower and narrower as it piles up.

DON FASO: I can speak from experience. Being a driver with a car and my wife and two children that had cars living at home for a number of years while they attended college, this is exactly how we parked; exactly how we parked and it worked well for ten years.

JAMES MARTIN: I mean I just want to be sure that there is adequate parking under very restrictive conditions of heavy snowfall and that, again, we don't have tenants fighting each other because somebody parked and they can't back out or they are late for our class.

DON FASO: When the kids were in school, we put in a turn-around, they lived there a couple years and moved out.

MS. LeVAN: We lived on the bottom portion of our home on Sunny Side up until six years ago and that is how we parked. We hired the same snow removal gentleman, company, and it seemed to be adequate.

JAMES MARTIN: How did he handle it if there are our four cars in the driveway?

MS. LeVAN: We asked if he would give a call before he comes. We asked him to do evening removal rather than morning removal and so he gives us a call on the cell phone when he is outside the driveway. We all run out to the cars, he plows them, we run back in.

DON FASO: So did we.

KAREN COX: Are the neighbors aware you want to change this to a double?

MS. LeVAN: We put the sign. I didn't knock on any doors.

KAREN COX: Nobody called you or came over?

MS. LeVAN: Well, I'm not living there right now. So they -- I have been over there quite a bit the last month making some repairs and cleaning and painting, but I haven't talked with anyone.

RAY BLEIER: In your letter you mentioned snow removal. Is that from the driveway you mean? You're not talking physically loading it on trucks and removing it, are you?

MS. LeVAN: No. Snow sloshing over. Whatever terms you would like to use.

RAY BLEIER: Same type service?

JAMES MARTIN: I am finished with that. As long as you can handle it and you don't have problems with limited parking, then I'm okay with that. That is all I have.

RAY BLEIER: Kind of have the same type service you had on Sunny Side?

MS. LeVAN: Yes. He has already been hired. I already have a contract with him.

JOHN HELLABY: Which tenant gets use of the tree house? That's the first time I have ever seen that on a tape location map, ever.

KAREN COX: Must be a pretty good one.

JOHN NOWICKI: Where do you folks live?

MS. LeVAN: 83 Percy Road, Churchville.

DON FASO: But you lived on Sunny Side until six months ago?

MS. LeVAN: Yes. We moved in July.

JOHN NOWICKI: Other than the parking issue, and doing something about that on a bigger scale --

DON FASO: Pardon?

JOHN NOWICKI: Can your neighbors -- have you not talked to your neighbors?

MS. LeVAN: I have not.

JOHN NOWICKI: I will wait to hear from the audience.

DARIO MARCHIONI: You mentioned that there are other homes in the neighborhood that are doubles.

MS. LeVAN: Yes.

DARIO MARCHIONI: Is there any way we can get an inventory of homes --

DANIEL KRESS: That is extremely problematic because there are numerous doubles in the area, but they're illegal. I can't tell you why, a whole bunch of them were converted years ago without permission from the Town.

DON FASO: The only way some are being caught now is through bank mortgages.

DANIEL KRESS: Exactly. We're trying to get people to come into compliance. The raw number I would give you would be extremely misrepresented.

JOHN NOWICKI: This property is not in Drainage District according to the --

DANIEL KRESS: Not yet. If they have not already made an application to join, they will have to do that.

JOHN NOWICKI: That will be a condition. The other property that you say you have -- you have another property over there in the Drainage District. Did you check that out?

DON FASO: That is not relevant to this application.

JOHN NOWICKI: It is worthwhile checking it out.

MS. LeVAN: It is a legal multi-family.

JOHN NOWICKI: It should be in a drainage district.

MS. LeVAN: Can you tell me what a drainage district is?

JOHN NOWICKI: Yes. You pay so many dollars per assessed valuation to take care of drainage in the Town of Chili like we all do. If you're not paying it, you should be.

MS. LeVAN: When I bought the house, would that have been indicated --

JOHN NOWICKI: Probably not.

MS. LeVAN: So I --

DON FASO: How well do you scrutinize your annual tax bill? It would be on your tax bill.

MS. LeVAN: Okay.

JOHN NOWICKI: This house is not in it. So we have to make that a condition.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

ELAINE WELCH, 2341 Westside Drive

MS. WELCH: Elaine Welch, 2341 Westside Drive, which is the house exactly next-door so I have some knowledge of the history of that house and also the one that has all of the cars, which is -- could be a problem. So I suspect many of those, even though they may have license plates on them, may not be current and I would hope somebody will look into that.

I personally oppose putting this into a two-family house. The person who had lived there lived there up until I believe it was last June, moved out. I believe it started as a bank foreclosure. Then the house eventually went through a realtor and then went through an auction.

It was sold that way. I have been in the house. I personally feel it would be very difficult to convert it to an adequate two-family situation. I feel it is out of character with the neighborhood. I know across the street there was one that was made into like a mother-in-law thing, but that has now gone back to a single-family residence. The one on other side of me is a single-family residence. I don't know of any two-family residence homes that are in the very near adjacent area.

My yard is very, very close to where the driveway would be, so I am also concerned about numerous cars going in and out of the driveway.

It just doesn't appear to be the type of home that I can foresee being a two-family home. If you have any questions, I would be glad to answer. I have lived and owned the house since about '65, so I have been there a while.

DON FASO: Thank you.

Don Faso made a motion to declare the Board lead agency for SEQR, made a determination of no significant environmental impact, found this to be an unlisted action, based on the testimony and the material presented at this hearing. The Board all voted yes on the motion.

DARIO MARCHIONI: I would like more information on the square footage for the one bedroom, number of homes in that area that are legally two families. In order to make a good decision, we should have this information.

DON FASO: Define the area. You're talking from Miller to Westside to Union to Buffalo?

DARIO MARCHIONI: I would say within ten homes all the way around this home. A circle of ten homes.

JOHN NOWICKI: How about looking into the house with all of the cars and trucks there?

RAY BLEIER: That is a separate issue, but I certainly would be willing to sign a complaint.

JOHN NOWICKI: We'll all sign a complaint.

DON FASO: I think Dan (Kress) has it duly noted. The other side of the street is in another town.

DARIO MARCHIONI: If they're two-family all of the way around --

RAY BLEIER: I think we had one a few months ago that we okayed.

KAREN COX: That was on Berry Lane.

RAY BLEIER: Over the years we have.

DON FASO: Over the years we have usually one every three or four months.

RAY BLEIER: Maybe not that frequency, but we have quite a few. I don't believe it is not out of character with some of previous situations that have been going on there.

DON FASO: We all concede there are a lot of illegal two-family dwellings.

JAMES MARTIN: The North Chili area surrounding Roberts Wesleyan, there are certainly a number of these two-families.

KAREN COX: There have been problems associated with those as -- I haven't heard any complaints of loud parties or anything like the neighborhood I lived in when I went to U.B. The college itself doesn't condone that type of behavior, I don't think.

JOHN HELLABY: Can I just ask one other thing? Where do you plan on going with this if for

some chance Mr. Kress finds out this does not meet building codes and square footages and whatnot? What is your intent at that point?

MS. LeVAN: We'll rent it as a single-family.

DARIO MARCHIONI: Shouldn't we know this first?

JOHN NOWICKI: We should know these things.

JAMES MARTIN: Couldn't we table this until we have all this information?

JOHN NOWICKI: I would like it tabled.

JOHN HELLABY: It is a shame. She is sort of spinning her wheels in here, spending money for absolutely -- something she can't do anyhow, I guess is where I am going with this thing. I don't --

DON FASO: Is that the Board's prerogative?

JOHN NOWICKI: I make a motion to table it until we get the --

DARIO MARCHIONI: I make a motion we table this until we get satisfied information.

JOHN NOWICKI: He is making it and I will second it.

DECISION: Tabled by a vote of 4 yes to 3 no (Karen Cox, Ray Bleier, Don Faso) to table until the March 9, 2004 meeting for the following reason:

1. Applicant shall meet with Mr. Dan Kress, Director of Planning, Zoning & Development to discuss all items needed to meet the NYS Building Code.

DON FASO: Our next meeting would be March 9th. I think what the Board is asking for is that you meet with Mr. Kress to discuss what New York State Building Code requirements you would have to comply with to convert this to a two-family. And you would have to be satisfied and Mr. Kress would have to be satisfied that it could be done. And then Mr. Kress would report to the Planning Board he has met with you, and he has gone over everything that would be required of you per the New York State Building Code. Then you would have to tell the Planning Board that you would be willing to comply with that, and you would have to comply before Mr. Kress issues a C of O.

MS. LeVAN: Yes. I understand that to be the case. So my documentation then is simply that we have met together and he has viewed the property and here is the documentation that that is true; is that correct?

DON FASO: Right.

MS. LeVAN: Okay.

DON FASO: And Dan (Kress) could you go through or have Kathy (Reed) go through in the immediate area what kind of legal two-families we have?

DANIEL KRESS: Sure.

DON FASO: Shouldn't take her too long. We're tabled.

The Board took a standing recess for five minutes.

KEITH O'TOOLE: You may recall the tall trees case in the Court of Appeals that dealt with the no action.

DON FASO: Yes, tall trees.

KEITH O'TOOLE: Then the State Legislature in 2002 adopted session law to deal with that which went into effect mid last year. I have looked at it from a zoning point of view, but never digested the Planning Board aspect of it. And under Town Law 271, sub 16, it is as you would expect it to be. If you don't have a majority vote, then that is the end of it. No action. That is the bottom line. So they have a problem right now. Absent a re-vote by the Planning Board this evening, to the contrary, they're done.

DON FASO: Absence of?

KEITH O'TOOLE: A re-vote by the Planning Board.

DON FASO: What would be the procedure for a re-vote?

KEITH O'TOOLE: Move to reconsider.

DON FASO: Okay. What would Karen (Cox) have to do to change the abstention?

KEITH O'TOOLE: I believe she would have to be satisfied that she has digested enough of the application at this point to vote on it. I don't think she has to go through any procedural aspects beyond

that.

DON FASO: Okay. So then a motion to rehear would be in order?

MR. O'TOOLE: Yes.

DON FASO: I will make the motion to rehear Application Number 1 under old business. Is there a second?

RAY BLEIER: I second it.

DON FASO: All in favor of the re-vote?

JOHN HELLABY: No.

JOHN NOWICKI: No.

The vote on the motion to re-vote the application was 5 yes to 2 no (John Hellaby and John Nowicki voted no.).

DON FASO: Therefore, on the application number one -- Karen (Cox), you needed to do a declaration. Does she need to do a declaration she has reviewed and digested it?

KEITH O'TOOLE: It is not required. It is just if she is comfortable voting, she should vote.

KAREN COX: Could we do it now or could we do it after a recess? Then I could look at the minutes.

DON FASO: You want to look through it again?

KAREN COX: If I can.

DON FASO: That would be up to the Chair when he calls the vote then, wouldn't it? So I will not call the vote right now.

KAREN COX: If the applicant doesn't mind sticking around.

MR. MOORE: Not at all.

KAREN COX: I apologize.

2. Application of Muirfield Development, LLC, 3313 Chili Avenue, Rochester, New York 14624, property owner: Joseph Klee; for conditional use permit to erect two duplexes at property located at 2948 Chili Avenue in N.B. zone.
3. Application of Muirfield Development, LLC, 3313 Chili Avenue, Rochester, New York 14624, property owner: Joseph Klee; for preliminary subdivision approval of two lots to be known as 2948 Chili Avenue Subdivision at property located at 2948 Chili Avenue in N.B. zone.

John Caruso and Bill Howard were present to represent the applications.

MR. CARUSO: Mr. Chairman, Board, this is what we call 2948 Chili Avenue. I'm John Caruso with Passero Associates and with me tonight is Bill Howard. The 2948 Chili Avenue site is the infamous car wash site. This parcel was rezoned back in, I believe it was 2000 to Neighborhood Business. I don't know what the prior zoning was, but the intent was to construct a self-serve car wash on this site. They were successful through the Town Board. However, when it came to Planning Board, the neighborhood really opposed the construction of this car wash and the use. They did not think it was compatible with their surroundings and, hence, from several neighborhood meetings and hearings before the Planning Board, the applicant decided not to go any further with the design and construction of the car wash site.

Since then they have marketed this project, this parcel for use under the NB zone unsuccessfully, and after sitting three, going on four years, now they decided that probably the most smoothest development they could go in there with is something residential, something that would be more in kind with the adjacent neighborhood and acceptable to what the neighbors were asking for from previous meetings.

Now, some of the other businesses immediately adjacent to this area include the -- I think it is Number 11 Fenton is the little red -- little red building there that is -- was used as an accounting office, I believe?

MR. HOWARD: Correct.

MR. CARUSO: Across the street is Spitz Florist, and both of those businesses you know are vacant -- I don't know if Spitz is vacant, but they're out of business, and although the red building at Number 11 did have a business in it at one time, I know that there is no business in there now. So the point I am trying to make is, to review this site for Neighborhood Business when those other two in the immediate vicinity are vacant doesn't seem to be, well, in making some business sense, you know, to try to prosper from.

We also know that that may not be welcomed to the neighborhood from what we know of the neighbors, you know, wanting from this parcel last time. So what we did is we proposed something that was residential in nature. It is immediately adjacent to the parcel to the north. This is all residential in this area here (indicating) and here and here (indicating). And actually, it allows, creates -- by mistake, we came up with this, but it really does transition and buffer from Chili Avenue and the businesses here, this sort of multi-family residential use. It is a two-family, what we call the courtyard villas.

This is the next generation of drawings (indicating) that we showed you from the informal meeting. This is the building that we're really -- was really developed for the next application coming before you on 3360 Chili Avenue, but it made sense to carry that over here. It was something that was developed a little bit smaller footage than the buildings you saw that were used up at the Villas, the Links at Black Creek, a little smaller, but these are for sale, a two-family unit. If you want, you can take a look at that.

JOHN NOWICKI: The front elevation, John (Caruso), doesn't match this plan. Why is that?

MR. CARUSO: Well, because the building was developed after the plan. The driveway will be just adjusted.

What you have adjacent to this property is Carpenters' is here (indicating). There is a little strip where the old Shortstop used to go up through there. This is now Town of Chili property.

It has grown over now. At one time they used to have a garden club that maintained it, but it has grown over now.

However, when we were able to do the design of the site, it was done so that it didn't impact if the Town of Chili wanted to use that piece of land.

I guess the only thing I can offer at this point is if you need Bill (Howard) to talk about any testimonial experience he has had with opportunities to sell the property, I know they had the same problem prior to them getting it rezoned, was that there really was no use for this thing, this property that anybody was interested in. So it is sort of a difficult site.

DON FASO: What is the square footage on each unit?

MR. HOWARD: This is the larger unit. 1500 each side. 3,000 square foot building.

MR. CARUSO: Right at the bottom of the drawing, 1500.

DON FASO: Oh, okay. One story, right?

MR. HOWARD: Correct. Ranch.

DARIO MARCHIONI: John (Caruso), you mentioned you -- the Town Board, I think what you meant is you went to the Zoning Board for an area variance here. This property went to the Zoning Board for an area variance in the past?

MR. HOWARD: Change of use I thought it was.

MR. CARUSO: I thought it was zoned.

DARIO MARCHIONI: It was rezoned?

MR. HOWARD: Yes.

MR. CARUSO: It's zoned Neighborhood Business, and I thought it would be -- Dario (Marchioni), I'm sorry, I didn't take it through the process at the time. I didn't. I thought it was rezoned.

DARIO MARCHIONI: Because there used to be a bar here (indicating).

MR. HOWARD: It was rezoned.

DON FASO: From what to what?

MR. HOWARD: Neighborhood Business to -- it was rezoned for a self-serve car wash.

MR. CARUSO: What was it prior to Neighborhood Business?

MR. HOWARD: The old Bugaloo (phonetic) Grocery Store that burnt down and became a bar, The Short Stop, and then prior to that --

MR. CARUSO: Do you know what the zoning was?

MR. HOWARD: Neighborhood Business?

MR. CARUSO: Prior?

MR. HOWARD: Yes. Then we had it rezoned for a car wash.

KEITH O'TOOLE: They had a use variance for the car wash. It was not rezoned.

DARIO MARCHIONI: That is what I remember. You went before the Zoning Board for an area variance.

MR. CARUSO: I stand corrected for the record. I thought it was rezoned.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

MIKE BOYCHUCK, 32 Sunset Hill

MR. BOYCHUCK: John, north of the property is not residential. It is a farm. And there are 30 acres of undeveloped land there that my daughter and her boyfriend just purchased. Their intent is to keep that the way it is. It has been vacant. A lot of it is wetland, a lot unusable. I don't think this project would necessarily look good with what is there now.

And I also question where the driveways are, bad part of Chili Avenue where it is bending and very bad part of Fenton Road. I also have another daughter off Fenton Road and grandchildren. I just don't like the traffic it would bring and the danger of the driveways coming off the curves there. And if it is still for sale, Bill (Howard), tell me how much you want. I would guarantee you it would stay vacant for a while.

MR. HOWARD: I could talk to Joe Klee. If you wanted to offer him 75,000 I think is what they have into it.

MR. BOYCHUCK: I don't care what he has into it. It is what is it worth.

LISA MINDANCER, 139 Fenton Road

MS. MINDANCER: I have grandchildren also very, very close to their family and there is nothing but families mainly around the Fenton Road area, and I am very concerned how close it will be and how much traffic will be there, and how they have planned to make it in harmony with the rest of the homes there, including this land that has been vacant.

DON FASO: There is a rendering on the board of what it may look like.

MR. MINDANCER: I'm talking about how much space between the actual road and these homes and the visibility to those homes on Fenton Road so that -- and most definitely the traffic without a doubt. It is at a curve.

DON FASO: Hang on a second. When a train is going by, we can't hear the audience up here. I didn't hear the last part of your comments.

MS. MINDANCER: The traffic. We have been there a thousand times. You know it. That is a curve that it doesn't matter what time of day almost when you go by that curve, you have to slow down and I have to admit I'm much more pleased with seeing that than a car wash, but if it's at all possible to keep it vacant and looking good and peaceful and quiet, that is what I am all for.

DON FASO: Okay. Well, chances of keeping it vacant are slim to nil.

KAREN COX: We can't force an applicant to keep it vacant.

DON FASO: When we're talking about uses, ladies and gentlemen, I want to read something to you out of our code. These are permitted uses in a Neighborhood Business Zone. It is zoned Neighborhood Business. Anything I'm about to read can go in there. "Grocery store, barber shop or beauty shop, clothes cleaning pickup agency including self-serving cleaning establishment, drugstore including soda fountains, dog grooming establishment excluding boarding facilities or kennels.

Don Faso read the permitted uses.

DON FASO: Now, grocery stores, barber shops, beauty parlors would generate a lot more traffic than this.

MS. MINDANCER: I think I understood that. I would much rather see this go up than the car wash. Again, now I understand that a piece of that property where the walkway is, onto Chili Avenue is part of the Town; is that correct?

DON FASO: Correct.

MS. MINDANCER: That will stay that same way?

DON FASO: Correct.

MS. MINDANCER: Again, my concern is, as well, how much coverage or how visible is that going to be towards Fenton Road? Or is there going to be some shrubbery or tall trees or anything?

DON FASO: That would probably be landscaping required by the Town.

MS. MINDANCER: Well, that is what I am interested in, as well.

MS. BOYCHUCK, 140 Fenton Road.

MS. BOYCHUCK: I am the owner of 140 Fenton and 2914 Chili Avenue, the 30 acres of land right now, and the home that is directly behind where they're proposing to have these. I guess my issue is going to be this fitting in with the neighborhood. My house is so old it is not on record anywhere. We can't figure out how old the house is. And all of the homes, correct me if I am wrong, if I'm wrong, neighbors, are on 1-acre parcels at least, and we're going to fit four families on something that is 1 acre, I believe? That's not fitting in. All of the homes are spread out. They have large yards. It looks nice. That is the feel of the neighborhood and then you throw something like this in there.

I also agree that turn is just awful to have a driveway there. And I guess you're setting a precedence. I don't think anyone here wants to see me turn my 30 acres into 60 duplexes for the Town of Chili. I currently own three pieces of property here. I hope that is not what the Town is about. That would be my position.

COLLEEN STENLON, 16 Old Ivy Circle

MS. STENLON: My neighbors and I are vigorously opposed to the car wash. I think this is the best possible use for the property, short of keeping it vacant. I'm sure everyone would like to see that, but that is not really practical. I have seen the plans. It is not a group home. It is not an apartment building. It's not commercial. So -- and the neighbors I talked to, we think it is the best possible use.

DON FASO: I think, judging by the turn-out, that is probably true because when it was the car wash, it was standing room only.

DARIO MARCHIONI: This is the best possible use that has come before us before. As far as -- I'm all set.

JAMES MARTIN: Assuming that the architectural rendering is close to what it will look like, I don't see it being a significant detriment to that area, compared to what could go in there under zoning. That is kind of where I am at at this point.

JOHN NOWICKI: I want to explore a couple of areas. Which one is it going to be? Which elevation are we looking at that you will put on the property?

MR. HOWARD: Courtyard villas, the color renderings of the architecturals.

MR. CARUSO: Those are both the same, John (Nowicki).

JOHN NOWICKI: The two porches in the back, are they separated somehow from one another?

MR. HOWARD: A firewall to give you privacy.

JOHN NOWICKI: Is there a builder of record on this yet for who is going to build these?

MR. HOWARD: Fallone. He has mentioned that he would like to build them.

JOHN NOWICKI: Junior or Senior?

MR. HOWARD: Nory and Joe, Fallone Brothers.

JOHN NOWICKI: There is a requirement -- maybe it has been filed and I haven't seen it -- for a disclosure statement on these projects. Did you guys give us a disclosure statement?

MR. HOWARD: We have not done that yet.

JOHN NOWICKI: We should get these on these applications, and I would like to see it complied with on the codes.

MR. HOWARD: The Vistas?

JOHN NOWICKI: This application.

MR. HOWARD: This was.

JOHN NOWICKI: We have a disclosure statement on record?

MR. CARUSO: Application signed and notarized.

JOHN NOWICKI: Disclosure, owners, corporations, individuals involved in this project. Based on Section 115-29, we are required to have a disclosure statement on all projects.

MR. CARUSO: Well, the application to the Planning Board has either the owner or the

representative or both, are signed and notarized on that.

JOHN NOWICKI: Does it tell us who are the individuals involved in the corporation? Does it tell us who is involved?

MR. CARUSO: It has one of the owners and if it is not --

DON FASO: What are you saying?

MR. CARUSO: If it is not the same, then two people sign.

JOHN NOWICKI: 115-29 --

DON FASO: Preliminary site plan procedure.

JOHN NOWICKI: -- or 115-65. That also shows the requirement for the disclosure statement.

MR. CARUSO: It is our understanding that we complied with that in the application. However, if you would like for us to do that, we can.

JOHN NOWICKI: I think it is time that we got to start seeing who is involved in these projects, who owns what and who is going to build what and how is that going to go. I think that is important in these presentations.

JOHN NOWICKI: The landscaping issue we haven't got to, Charlie (Robinson). You have not been before the Conservation Board yet?

MR. HOWARD: We have not.

JOHN NOWICKI: I think that is going to be rather important on the Fenton Road side and also how you treat it along the Town property there, and again, the buffer.

Now, if you can get an offer from the gentleman in the back and sell it --

MR. HOWARD: I would be more than happy to take that.

JOHN NOWICKI: Those are any comments at this point. I would like to see probably a lot of that done before I would give it preliminary, but I'm not sure I would go for final yet.

DON FASO: 115-69?

KAREN COX: 29.

DON FASO: Oh, 29.

No, 29 is site plan. What is the other one you cited?

JOHN NOWICKI: 65.

DON FASO: 115-65.

JOHN NOWICKI: Read down the bottom half of that, "And each applicant shall submit a full disclosure statement to include names and addresses..."

John Nowicki read Section 115-65.

JOHN HELLABY: Color schemes are close to the site rendering or still up in the air?

MR. HOWARD: Garages look too pink, but the earth tones is what we're looking for, yes.

JOHN HELLABY: Timing, what do you think the timing issues are?

MR. HOWARD: As soon as we can do them. There is a huge market for this, which I will get into in the next application, to talk about.

JOHN HELLABY: That is all I have.

DON FASO: Type of siding? What are you going to go with?

MR. HOWARD: These are vinyl.

KAREN COX: John (Caruso), is the reason you're showing the entrance onto Fenton Road because the area you had indicated as asphalt parking, does that belong to the Town?

MR. CARUSO: The D.O.T. right-of-way is right through here (indicating). This is the D.O.T. right-of-way line (indicating). So all this is right-of-way to D.O.T. This is the Town's property here (indicating). So this really -- what they did is they turned it into a -- like a little landscaping area that people used to work on. It is sort of overgrown and hasn't been used, but I just think they didn't take this asphalt out because they used to park in here and work. But we certainly didn't want to try to make access off Chili Avenue, so we -- and --

MR. HOWARD: We wanted it private, too.

MR. CARUSO: We did not want access off Chili Avenue. I met with Joe Carr to see the best way to do this. Everybody who lives in this area knows what the curves are like in Fenton Road, but if you think about the best place to put a driveway on Fenton Road, is to see where you could see best

this way (indicating) and this way (indicating) coming out. You do slow down through this area. I'm not worried about traffic or speed. If there was more going on in here, the answer would be yes. But with some of our thoughts and how we developed this plan, we took it. We met with Joe Carr. There is some guide rail in that area that protects the houses in that property. We didn't say that, but there are. We'll just take a section down and make a break for the driveway to end.

DON FASO: And landscaping?

MR. CARUSO: Landscaping, we want to landscape as much as we can. Hopefully, you know -- I heard that this is going to be -- I'm not quite sure of the name of the committee that --

DARIO MARCHIONI: Garden club.

MR. CARUSO: I heard the garden club is redoing it this year.

DON FASO: I can verify that.

COUNCILWOMAN SPERR: I don't know anything about it.

DON FASO: She is a member of the Chili Garden Club.

COUNCILWOMAN SPERR: It is the Hubbard Springs Garden Club. The Chili Garden Club disbanded. They used to take care of that.

MR. CARUSO: I heard they wanted to get going again this year and this property came up. Nonetheless, the landscaping that we're going to do for this is just a residential package that we put in and around it.

MR. HOWARD: It will be tastefully done. Again, you have to remember these units are selling for \$210,000 to \$250,000. They're not --

MR. CARUSO: We definitely want to screen the border here.

DON FASO: You will not put up half-inch-caliper poor Charlie Brown Christmas trees?

MR. HOWARD: No.

JOHN NOWICKI: You are going to the Conservation Board with a landscaping plan, aren't you?

MR. HOWARD: Oh, yes.

DON FASO: John (Caruso), the setback, Fenton, what is the front setback?

MR. CARUSO: Front setback?

DON FASO: Do you meet it?

MR. CARUSO: No. We need some variances from the Zoning Board to -- 75 feet here (indicating). We did not use this as a front setback. The front setback was from Chili Avenue.

DON FASO: I think when it fronts on two roads -- what would be the address? The address is Chili Avenue?

MR. CARUSO: Yes. So we used this right-of-way (indicating) for the 75-foot setback.

KEITH O'TOOLE: The code is pretty clear. If you have two frontages, you have two front setbacks.

DON FASO: I think there would be a variance from the Zoning Board.

MR. CARUSO: We need a variance in any event.

DON FASO: A front setback, not a side setback.

MR. CARUSO: Two fronts you're saying?

RAY BLEIER: I just want to make a comment that I feel the proposed use, based on architectural drawings and that would be a nice transitional type development going there from Chili Avenue and the single-family residential units behind.

DANIEL KRESS: Just two things. One is that the number -- note Number 11 under "Site data, All proposed signs must be in accordance with Town of Chili standards," why do we need signs for a couple duplexes?

MR. CARUSO: Standard note we put on the plans.

DANIEL KRESS: No signs proposed?

MR. CARUSO: No.

DANIEL KRESS: Other thing is, just so we're clear, the Board needs to make a finding that this use is sufficiently similar in character to the other permitted uses to be eligible for the conditional use, because the alternative is these folks get to ask for another variance from the Zoning Board.

LARRY NISSEN: Has the sight distance been determined at the driveway, the old sight distance?

MR. CARUSO: Yes. You can see it all of the way. Put them on the plan for you?

LARRY NISSEN: Yes. And also apparently you've spoken with Joe Carr about the guide rail. What kind of guide rail? Box beam?

MR. CARUSO: Ribbon. Corrugated.

LARRY NISSEN: Okay. Any discussion with regard to transitions?

MR. CARUSO: Yes. We're going to transition them and he made sure that I tell Bill (Howard) that he doesn't want -- that he wants a professional guide rail contractor to do that work, which was a pretty easy request.

LARRY NISSEN: Thank you.

CHARLES ROBINSON: The Conservation Board reserves all comments until we see the detailed landscaping plans.

FRED TROTT: Traffic & Safety Committee just wondered if the applicant considered moving the driveway to the north side.

MR. CARUSO: With the driveway on the north side, there is a big drainage culvert that comes under the road there and it would be right in the middle of the swale. That is why we didn't.

DON FASO: That is probably the best sight distance from both directions?

MR. CARUSO: The sight distance isn't a problem there.

DON FASO: Let's do the resub first to make it cleaner. Application Number 3.

Don Faso made a motion to declare the Board lead agency for SEQR, found this to be an unlisted action and made a determination of no significant environmental impact, based on the testimony and the material presented at this hearing. The Board all voted yes on the motion.

The Board discussed the proposed conditions.

KEITH O'TOOLE: While we're at it, if we can request that they provide a print of the courtyard villa rendering. I don't think they're submitting that today, but something we can stuff in the file.

MR. CARUSO: Sure.

JOHN NOWICKI: I wouldn't mind if they file with the Building Department a disclosure statement.

DON FASO: We should probably state for the record that this is a lesser use than the original application that was before the Planning Board for the car wash. That it is in keeping with the residential character of the neighborhood. Anything else?

MR. CARUSO: Transition.

DON FASO: Oh, the -- that it would be a nice transition from the current businesses to residential.

KEITH O'TOOLE: What is the term of the permit, by the way?

DON FASO: We're not there. We're doing subdivision.

KEITH O'TOOLE: I'm sorry.

DON FASO: We have to have a subdivision before we can do a conditional use.

KEITH O'TOOLE: That is true.

DECISION ON APPLICATION #3: Unanimously approved by a vote of 7 yes with the following conditions:

1. Landscaping plan be submitted to and approved by the Chili Conservation Board.
2. Petition the Town Board (through the Town Clerk's Office) to include this parcel in the Chili Consolidated Drainage District. This is to be done within 30 days of the date of this letter.
3. Pending approval of the Zoning Board of Appeals for the required variances. Variances should be obtained before returning to the Planning Board for final approval.

4. Provide building elevations for the proposed units with submittal for final approval.

The Planning Board's approval of this application is based on the following findings of fact:

1. This is a lesser use than the original application that was before the Planning Board for the car wash.
2. It is in keeping with the residential character of the neighborhood.

On the conditional use permit, Don Faso made a motion to declare the Board lead agency for SEQR, found this to be an unlisted action and made a determination of no significant environmental impact, based on the testimony and the material presented at this hearing. The Board all voted yes on the motion.

The Board discussed the proposed conditions.

DON FASO: Let the record state that the findings of facts for preliminary subdivision approval are the same findings of fact for granting the conditional use. Thank you.

DECISION ON APPLICATION #2: Unanimously approved by a vote of 7 yes with the following conditions:

1. Landscaping plan be submitted to and approved by the Chili Conservation Board.
2. Petition the Town Board (through the Town Clerk's Office) to include this parcel in the Chili Consolidated Drainage District. This is to be done within 30 days of the date of this letter.
3. Pending approval of the Zoning Board of Appeals for the required variances. Variances should be obtained before returning to the Planning Board for final approval.
4. Provide building elevations for the proposed units with submittal for final approval.
5. This conditional use permit is considered permanent with no expiration date.

The Planning Board's approval of this application is based on the following findings of fact:

1. This is a lesser use than the original application that was before the Planning Board for the car wash.
 2. It is in keeping with the residential character of the neighborhood.
4. Application of Muirfield Development, LLC, 3313 Chili Avenue, Rochester, New York 14624, property owner: M/M Richard Sylvester; for conditional use permit to erect 16 duplexes at property located at 3360 Chili Avenue in R-1-20 zone.
 5. Application of Muirfield Development, LLC, 3313 Chili Avenue, Rochester, New York 14624, property owner: M/M Richard Sylvester; for preliminary subdivision approval of 16 lots to be known as 3360 Chili Avenue Subdivision at property located at 3360 Chili Avenue

in R-1-20 zone.

Bill Howard and John Caruso were present to represent the application.

DON FASO: Are these all the same?

MR. CARUSO: Keep the plans folded.

DON FASO: Before I unfold the bed sheet here.

(Laughter.)

MR. CARUSO: If you're ready, Mr. Chairman, I will begin?

DON FASO: I'm ready.

MR. CARUSO: We'll try to move you along here. We tried to give you a couple sheets of drawings, a little bit of background on this project to try to lead you to where we are today. That is our development proposal. I will show it in a minute.

What I wanted to show you in the audience tonight is we tried to find a use for this piece of land. It is sort of a difficult layout. We looked at several different types of uses, and that is what we're showing you on some of the smaller drawings. Here is one that shows about 48 townhome units with different points of access to the project (indicating). When you start to get over a certain number of units, we like to have a couple means of access in and out of the property. With this development, even though it is multi-family use, it creates transitional zoning from the uses in and around the -- and the railroad tracks out to Chili Avenue. We thought it might be too much for this area. There are a lot of townhome projects being considered, especially one that we have up on the hill at the Vistas. We certainly didn't want to be in competition with ourselves, and we just don't know if this area is ready for more townhomes of this level, but we wanted to show you we have gone through the exercise of looking at what could this project be used for. And was townhomes really a -- another good compatible use with the people that already have homes along here. In doing this review, we said no, so we moved on to another review, and that is the second sheet.

Again, we're trying to look to find a good use for this site. That is a difficult site to develop on, and here is approximately 100 apartments. 12 buildings, 8 units each, 96 units. Very similar to the development layout that we have. A little bit more dense, a lot more impact. We have traffic that would be coming out on a misaligned intersection, cars in and out. These aren't people who own their property, okay? This would be rental. Again, we didn't think with some of the other apartment projects in the area it was a compatible use. Certainly the developer would want to have something like this as far as profit and density, but we really didn't think it was compatible and for that reason we eliminated this development option for the property.

The proposed development we have talked with the Board last time -- the proposed development is really sort of a unique alternative to housing in the area. We are looking at a two-family upscale house, duplex, if you will, which we call courtyard villas. 1500 square feet per side as we discussed earlier, and the economics is something that is very interesting on this. They help sell why the market will bear something like this. I will have Bill (Howard) speak about that in just a minute.

But what we're looking to attract here is young professionals who will come in and buy something like this that could live in one side and rent out the other. Families that wanted to have in-law quarters could live comfortable in something like this, or seniors who want to move into something like this and rent out the other side to subsidize their income who also go to Florida in the winter, and I know that I personally have done some work for somebody in the adjacent town who actually likes to do that.

So at a range of \$200,000 plus, this is certainly not an investors-type duplex project that you or I may have invested in our lives in the city. I did that myself. This is not this type of project. You certainly could not afford to do that unless you were -- fit into one these categories.

What I would like to do is get -- we're talking about use now and we're trying to show you how we tried to use the property, why we think this is the best use, how this unit helps us fit that style. I would like to have Bill (Howard) take you through the piece of information we dropped off that talks about how someone could be able to afford this.

MR. HOWARD: Again, what I did, I represent six different builders locally. I have seen a huge market swing towards these in-laws. All the downsizing of the companies, looking at what it costs to get

into a new home in Chili, it is very hard to do.

Because I represent a lot of these builders -- people can't even get into a new home in Chili for less than \$145,000. 145 is the lowest market that we offer right new with Ryan currently. And to buy something like that, you're talking about a 15 to \$1600 minimum payment down. Through Rochester Area Mortgage Services a higher rate, currently we did 5.75. I am taking you through the units at the \$210,000, \$230,000, \$250,000 purchase price. What it is showing at the bottom, the needed combined income to qualify for a \$210,000 home is \$38,800. Again, \$250,000 and so on. You can see how this works out. They don't need much cash out of the pocket. They're coming up with \$11,000, \$11,500 and \$12,000 downpayments. What this is enabling you to do is to get into these places that will make it real affordable, for one. It is cost effective. We have all these apartment situations that are going on here in Chili with Blueberry Hill, up at Union Street where they're paying 1,000 to \$1,200 for these units, but they can't own. This they most certainly could own. And again, it's an owner-occupied situation. It's an in-law situation. Your parents can have one side, you can live on the other. They can go to Florida. It's a way to get in a new home. There is a huge market for it.

We built them in King Forest Estates and West Whittier Estates. In Brockport, Dun Hibs, Campbell Road. I see that coming back, too. That I see a lot of market for it. So again, these are \$210,000 to \$250,000 units. You will not get the investors. These will be definitely owner-occupied units. Everywhere in the country it is working. Scottsdale, California, Florida, this is what they're doing. We are not doing it here.

DON FASO: \$210,000 for a building?

MR. HOWARD: For one building. 13 --

JOHN NOWICKI: How many square feet?

MR. HOWARD: We maximized to show you the top end to make sure we could fit these on those units, so you're showing a 3,000-square-foot building. That would be your \$250,000 market.

DON FASO: What is the \$210,000?

MR. HOWARD: \$210,000 would probably be 1350 to 1400 square feet. So you're only going down 50 to 75 feet per unit.

JOHN NOWICKI: Each half is less than \$100,000?

MR. HOWARD: Correct. Not less than. It is \$100,000 and -- \$105,000 is the cheapest.

JOHN NOWICKI: But 1300 square feet.

DON FASO: The top end would be \$125,000 per side?

MR. HOWARD: Correct. I'm not saying they can't add more in there. Those are flexible designs.

JOHN NOWICKI: You will build these for \$75, \$85 square foot?

MR. HOWARD: It is more like \$85. There is a market for it. We have seen it. And I know everywhere else in the country it is working. So again, there is a need for it. I have had a lot of people come in our office right here at Prudential and ask for it.

MR. CARUSO: Thank you.

With respect to site plan and things design, I have a few things to offer the Board. When we designed the project, we took the setbacks, the front setbacks and we have reduced them down to 50 feet from 60. So we want the Board to consider that in their approval. We did that because we wanted to maximize the distance from these units here from these backyards. With a 60-foot front setback, that is plenty room, plus 17 feet to the right-of-way. Even at 50 plus 16 feet to the right-of-way, there is a 67-foot driveway with plenty of room to park extra cars in here. That was our thought in here.

The plans include a significant drainage improvement to the area which will stop the flow of water that right now comes across to these people's properties. We'll be intercepting that and bringing it over a storm water management area. We are proposing to have some buffer along the northwest side of these people's properties, if you will. The woods that you see when you drive out there right now sort of end in the back, but there is a strip in here that we wanted just to leave solid. We did have a neighborhood meeting where we invited the neighbors to come down to Bill (Howard)'s office. It was a very good meeting. We were able to see and talk with each of them about their concerns, and some of the interesting things that we heard from these people here and Dr. Kuntz is that they're interested in maybe purchasing these pieces of land so that they have control of them. We could give some easements back for the storm water management area, but this area here (indicating), by selling off this

piece of land to him, we could control -- somebody like who occupied a lot from having to bring a driveway in and trying to create some funky lot in here some day. That would just eliminate that issue.

Somehow, somewhere between Mr. Kuntz and Bill (Howard) they came up with the idea that the money that they would use to sell these two pieces of land they would use to put back in screening along this rear property line so that these inner lot owners would also benefit from this, which is what I thought was a great idea.

So with that, we see that there are some benefits working out with the neighborhood meeting that we had. We have got comments back from Monroe County Planning. They were typical comments. I didn't see anything in there that was glaring. We also have made application for a Drainage District to be created. We do need to go to the Zoning Board of Appeals for a lot variance for Lot Number 1, for the setback. I'm sorry, a setback variance for Lot Number 1 where 75 feet is required. We moved this building here to be 50 feet so it matched up with all of the rest of the setbacks along the frontage. For the rest of the lots, is it our understanding that the Planning Board can grant the front setbacks to be reduced?

DON FASO: Yes.

MR. CARUSO: And Lots 1, 9 and 16, we ask for the setback to be less than 60 in these areas. We ask for them to be set at 40. This was Lot 1, Lot 16, and Lot 9 right here (indicating).

DON FASO: John (Caruso), you have reviewed County Comments?

MR. CARUSO: Yes.

DON FASO: Number 2, this site may be a good candidate for cluster development. By clustering the duplexes more closely, common space areas could be open and enjoyed, a tree buffer could be presented on each side of the development at the entrance and be widened. Storm water management area could be increased to create a park-like setting and cost of infrastructure improvements would be reduced.

I think that's a great comment coming from the County.

MR. CARUSO: It is a great comment. Like we had showed you with some of the other development proposals we had looked at, clustering this project is really not far from what we're proposing. But I don't think you could cluster with a dedicated road, and if you look at the open space that we have created around this project, there is a lot of open space. We actually pulled this cul-de-sac back to try to achieve the same -- but I don't think with the two-family units we could do that. If we were doing apartments, a cluster development would be more inclined, but I would probably bring the road in off of Chili Avenue next to the Chili Animal Hospital and we really didn't find that to be compatible with what the neighbors were looking to do.

But it is a decent comment.

DON FASO: I think with that, you said you had a neighborhood meeting. I think I would like to go to the audience and hear their comments before we proceed with the Board.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

PAT JONRO, 3378 Chili Avenue

MS. JONRO: If I understood you correctly, you said you were going to leave some of the woods at the back of the properties? And if so, will you still be able to accomplish the improvement in the drainage and still leave the woods?

MR. CARUSO: Through you, Mr. Chairman, the answer to that is there -- we want to leave a 10-foot strip of land that isn't going to be impacted by construction equipment. We don't want them to -- I have tried to set a 10-foot area next to your property where they won't come in and clear anything out. But that drainage improvement is just beyond that. And the woods actually is back past that area, so what we wanted to do is, after the drainage improvements are in, is try to put back some sort of buffer in addition to what we already left to remain natural.

MS. JONRO: You will leave 10 foot?

MR. CARUSO: Yes. We designed the improvements to be 10-foot further. I know some people have some personal things there and that one gentleman has a garden in there he told me, but -- yes. The intent is to try to put back some screening in here.

MS. JONRO: The concept of improving the drainage is a very positive one because it is very wet.

The right-of-way next to the animal hospital, can you elaborate on that? I missed your meeting.

MR. CARUSO: That is okay. We are talking about -- with selling this to the animal hospital, this little piece of land, so it would protect this rear area from never being developed (indicating). Even though it is not being proposed this way, who knows what happens in years to come. So that would sort of clean up this corner.

MS. JONRO: Has that sale already taken place?

MR. CARUSO: No.

ROGER KUNTZ

MR. KUNTZ: Roger Kuntz, and I speak for the partners of Chili Animal Care at 3388 Chili Avenue. We're cognizant of the fact that these fellows representing Muirfield Development invested a lot of time and energy in looking for the potential best use for this piece of property. We think they have done a commendable job in this regard and they certainly convinced us of the merits of this proposal. They have already met with the neighbors and demonstrated a willingness to make reasonable accommodation in the interest of aesthetics and the value of the adjacent properties. We're very grateful that they chose such an enlightened course of action. In these circumstances, we feel both obligated and pleased to endorse their project and offer them our best wishes for its success.

Let me say one more thing, to answer this lady's question. The little piece of green land that we're looking at next to the animal hospital, that is really appropriate, it is green, because we have used it for the past 32 years. It is where everyone walks their dogs. We have never had a chance to really make that legal before this. Previous owner was unwilling to sell it to us. Nonetheless, we have maintained it.

DON FASO: You have no intent in paving it over for additional parking?

DR. KUNTZ: Where would we walk the dogs? Quite honestly, we have maintained it for the last 39 years. And we just haven't had an opportunity before now to actually say, oh, we now actually own a piece of land that people are walking their dogs on.

DON FASO: I have had the honor and privilege of sitting next to Skip for probably six years and I think he would be pleased with it, too.

RIE RAGUE, 3390 Chili Avenue

MS. RAGUE: My only comment was the drainage of our property that is adjacent to this, in the back, and they have assured me that it will probably be dryer than it ever has been, because apparently the water that is making the area they're going to build on so wet is coming from the west, and the north, and the south possibly. So if that's carried through the way they say, then I would be very pleased.

DON FASO: On the drainage, what year storm are you designing for?

MR. CARUSO: We designed for 10 and 25 and all that goes into this. I had a chance to meet with Joe Carr and show him our design. Joe (Carr) was pleased with what he is seeing.

DON FASO: You meet all of the Phase 2 regs?

MR. CARUSO: Yes. That is why the pond -- it has room to flow, and this and that. Rie (Rague) did a good job remembering how the drainage flows out here. She is concerned. They have a little duck pond over here. She didn't want this impacted, but until we got a chance to look at it and -- we see it is really the source, one of the sources of water that comes onto this property. This areas gets a bit wet. We didn't want to take all that water and bring it into a pond because the pond would need to be this big (indicating). We wanted to take it in and around. Very expensive to do that, but we did it because it needed to be done.

DON FASO: Explain to me, what do you mean "take it around"?

MR. CARUSO: We don't have all this water, all this off-site contribution doesn't have to go through this pond. It doesn't now. Right now it goes right through and underneath the culvert underneath Chili Avenue.

DON FASO: This would be dumping into the swale and creek that is going through Town Hall property?

MR. CARUSO: We wound up putting a 24-inch pipe in here, burying it all the way, and at this point here (indicating) we put in a gutter and bring a gutter all of the way around and discharge it.

The site is attenuated through the pond following the storm water regs and then it discharges to the same point.

DON FASO: What is slowing the water down before it hits Town property?

MR. CARUSO: What slows the water down?

DON FASO: Yes.

MR. CARUSO: Nothing.

DON FASO: 24-inch pipe is a good sized pipe.

MR. CARUSO: There is a lot of water that comes through there. If you ever see how it comes through there now, what we want is a handle on it before.

DON FASO: Have you done calcs yet?

MR. CARUSO: Yes.

DON FASO: Larry (Nissen), have you looked at them?

LARRY NISSEN: Haven't seen them.

JOHN NOWICKI: You're going from a 24-inch pipe in the back of the houses to a concrete swale?

MR. CARUSO: Yes.

JOHN NOWICKI: Boy.

DON FASO: 24 wide?

MR. CARUSO: 24-inch circular pipe.

JOHN NOWICKI: What are you doing on the corner?

MR. CARUSO: 48 inches, the gutter.

JOHN NOWICKI: How are you handling the corners where they turn 90 degrees?

MR. CARUSO: Corners are long radius deep concrete swales. Concrete.

JOHN NOWICKI: What are you discharging into across Chili Avenue?

MR. CARUSO: An existing culvert. It is all riprapped and all of the erosion control to slow it down is right here (indicating).

KAREN COX: 24-inch, John (Nowicki).

JOHN NOWICKI: Thank you.

MR. CARUSO: Essentially you have to take care of what is there first.

JOHN NOWICKI: Are you proposing downspouts to the surface of the ground or enclosed storm sewers?

MR. CARUSO: All enclosed.

JOHN NOWICKI: Downspouts will be tied to an enclosed --

MR. CARUSO: Yep.

RAY BLEIER: Well, I'm glad that the applicant did get to meet with the residents there, and it seems to have addressed a lot of their concerns. So we're still anxious to find out from Larry (Nissen) the final determination on the drainage here, whether that is going to work for this area or not.

I guess basically one of the issues here is the issue of a conditional use permit, namely you're asking for 16 conditional uses then, aren't you, because you have 16 separate units?

MR. CARUSO: I guess however you want to break it up, we have looked at it after the whole entire project. I imagine that every other project, that it is applied sort of globally when you request a use permit on an R-1-20.

RAY BLEIER: Right. Well, it is a little different, the previous application, the 2 versus the 16. I guess my concern is whether or not that is consistent with the proper zoning, whether or not we should be granting conditional use for 16 units, you know, rather than having a zoning -- change of zoning applied for where -- I realize conditional uses are specifically indicated for this R-1-20 zoning and that is there still. That's a lot of conditional uses.

MR. CARUSO: According to the code, Ray (Bleier), it is pretty clear that the conditional use allows two-family dwellings in an R-1-20 zone.

DON FASO: Per legal lot.

MR. CARUSO: I understand that the Town is a bit, you know, uncertain about that.

DON FASO: Apprehensive.

MR. CARUSO: Apprehensive about a prior event, but I think in this particular project we have support of the neighborhood. We have a pretty decent reason why, we have investigated other uses of the property. All those things coupled together is the reason why we decided to go forward. We certainly did not want to come here at risk, so we sought to reduce our risk so that if we were to seek approval, that we know that that is minimized, that concern.

RAY BLEIER: Some of those other schemes that you have for apartments and townhouses, you would have to probably require a change in zoning.

MR. CARUSO: For sure they would have required rezoning. They would have, yes. But I think our point on showing those different uses is that nobody has been able to find a use for this piece of land and it may have had to go that drastic and we're showing we have taken a less intensive approach.

RAY BLEIER: I'm in favor of the reduction in density of what could possibly go there. That was a concern I had. I just wanted to make sure we're going in the right direction.

KAREN COX: John (Caruso), are you going to plan any streetlighting on this parcel?

MR. CARUSO: No, not at this time.

DON FASO: I think it would be a good idea.

KAREN COX: Would the neighbors like that? It just seems like an awful large area to not have streetlighting.

DON FASO: Karen (Cox), we're actually talking about having that added to the code. Every subdivision that has been approved by the Planning Board over the last number of years has required streetlighting.

KEITH O'TOOLE: Since this is a conditional use, you could impose that condition.

DON FASO: Under the conditional use, you could actually impose that as a condition.

KAREN COX: The concern, I guess the question I have then is to the neighbors, how would the neighbors feel about having that area --

DON FASO: Normal streetlights would probably not affect them at all.

Having gone from a subdivision with no streetlights to a subdivision with streetlights, it is a great improvement.

KAREN COX: Because I could envision people walking along the road, you know, in the summertime or at night. We have runners even when it has been as cold as it is. And we have streetlights in our subdivision and it is hard to even see people then, so without them, it would be a safety concern, I think.

RAY BLEIER: I think that used to be one of John Cross' first conditions imposed.

DON FASO: It was John (Cross)'s baby and you guys just kept on going.

KAREN COX: I would like to see that, especially if we're talking about having in-laws or one of the possible uses being in-law apartments.

MR. CARUSO: Okay.

DON FASO: And just FYI, I'm in discussions with the Assessor in establishing a Town-wide sidewalk district.

JOHN NOWICKI: This is the perfect opportunity to put sidewalks in there and have --

DON FASO: Has Linda (Leach) forwarded a letter to the Town Board yet?

COUNCILWOMAN SPERR: About sidewalks?

DON FASO: Yes.

COUNCILWOMAN SPERR: I don't recall reading it, but I have heard of it. I just talked to her at the end of last week. She probably hasn't gotten down to it. I know of it, Don (Faso). That is why I am unsure if I have it or just heard it. That is why I am uncertain.

JOHN HELLABY: Is it your intent to phase this, or will you do it all and get out?

MR. CARUSO: My understanding is we'll do it all in one shot.

JOHN HELLABY: Timing? You will do it again sometime next year?

MR. CARUSO: Yes. We are hoping to start in late spring.

JOHN NOWICKI: I like the idea of streetlighting as a condition. I think the sidewalks should be a condition. These are all individual marketable units for sale; is that correct?

MR. CARUSO: Yes.

JOHN NOWICKI: The application is made for the Drainage District filing; is that correct?

MR. CARUSO: Yes.

JOHN NOWICKI: I still would like a disclosure statement on this project, as well.

The builder, again, will that be Fallone?

MR. HOWARD: Yes.

JOHN NOWICKI: Nory, Joe, the father?

MR. HOWARD: Yes.

JOHN NOWICKI: Variances from the Zoning Board. I was wondering if it is possible to get some architectural diversity on the building instead of just one footprint after another? I think that would be something that could be achieved here.

And can you suggest where the Board members and the audience could look at something that would be similar to this in what you're saying is an \$85 per square foot price range? Are there any projects around this west side --

MR. HOWARD: The reason that is, and I didn't want to get into it, but for what they paid for the land, it works out to over \$100 a square foot for the price because of the land cost, the development cost and all that put in has -- that is blended in with that price. That is why you're able to do it for that. Not that I wanted to share all that, but that is why.

JOHN NOWICKI: Do they have some projects similar to this on the west side?

MR. HOWARD: Fallon has been building here 40 years.

JOHN NOWICKI: Similar to this?

MR. HOWARD: There is nothing like this around here. That is why it is unique. That is why there is a market for it. People will not be going to these apartments. They will be gravitating to these.

JOHN NOWICKI: You will come back to us then, and we'll do prelim. again with all of the details showing diversity on the architecture. That is all I would like to see.

MR. HOWARD: They already have orders for them.

DON FASO: Really?

MR. HOWARD: Yes.

KAREN COX: What do you mean?

MR. HOWARD: People that want to put contracts on these to build.

DON FASO: Jim Barbato was telling me he has people lined up for the apartment complex in North Chili.

JAMES MARTIN: Just a trivial issue. Will there be any physical barrier between this development and the railroad tracks other than the landscaping, the foliage? I know obviously anybody that goes on there is trespassing on railroad property, however, if you have any kids, is there any way to prevent them from physically getting into the railroad right-of-way there?

MR. CARUSO: Jim (Martin), at this point we're not proposing a fence, you know, for a physical barrier. I don't have anything like that shown.

MR. HOWARD: There are woods there that they will leave. That whole wooded area.

MR. CARUSO: If you were asking me if we're putting in a physically -- physically proposing a fence, the answer is no. But we do want to try to keep what is there, you know, to some extent. I think some of the grading, just some of the grading in there, you know, it doesn't allow you to try -- if you try to grade right up to that property line, sometimes you can't always keep that vegetation. You need to tie those contours back.

JAMES MARTIN: That is all I have.

DARIO MARCHIONI: Jim (Martin) brought up, just houses on the other street that back up to this railroad also, I was trying to walk back there, and the snow was -- but they don't have a fence there. They have some backyards that are fenced in, but -- the other -- the one question I have, John (Caruso), you show a 10 foot -- almost a 10-foot slope on this pond, you know. You show almost a 10-foot drop in this pond. Have you considered putting bushes or anything, landscaping around it -- or, you know, some bush type?

MR. CARUSO: Sure. I can do something.

DARIO MARCHIONI: Like Roberts Wesleyan. We had that situation there, where we had almost the same situation where the pond was close to the bleachers.

MR. CARUSO: Yes, I can do that.

DON FASO: John (Caruso), we also did the same thing for College Greene, the ponds that are up -- they have guardrail.

MR. CARUSO: No problem with it. It is a good idea. Unfortunately what is happening today, these new storm water regulations are requiring these ponds to become deeper and wider and bigger. We're certainly not trying to make the ponds smaller and deeper because of area. We have the area here (indicating), and you can see it. But the nature of the design requires that these ponds -- they want storm -- they want sort of wetland type ponds. You may understand them better as retention type ponds rather than detention ponds.

KAREN COX: They want you to address the quantity and the quality now.

MR. CARUSO: They want that water to sit in there for 24 hours. They want it to slow down and drop its silts out. We'll see how that goes. I have some thoughts on that. You know, once it drops the silts, how do you clean it out when you can't get to it because it is 10-foot deep off these banks? Those are issues. They may just be forgotten. Once the cattails come up, they may just be happy.

DON FASO: What are the side slopes on the pond?

MR. CARUSO: One on three or one on four. They have to be. We make them constructible and mowable.

DON FASO: How many acre feet?

MR. CARUSO: Acre feet for the pond? I knew would you ask me that. It has probably been an acre foot. You know, one.

But I guess the point is, you will start seeing these on the sites. These ponds will be deeper. One of the things we'll start to do on the bigger ponds is putting a shelf in there. You can go down 5 feet put a 2 or 3-foot shelf and do it again, but people -- for safety reasons people argue about that, that you get a false sense of security. You're still under water. I have heard it. It is the same argument as do we put a fence around the pond or not. So in answer to your question, Dario (Marchioni), yes, can we put some vegetation around there to take the course off that, make it shown as a barrier, yes, I will do that.

DARIO MARCHIONI: You're aware -- I looked at -- well, in this area, you know, there is a propane storage situation there further down the street. As long as you're aware of it. That is all. I could elaborate on that, but I would like to stop on that.

KEITH O'TOOLE: Since there is always the issue of absentee landlords when you have units like this -- effectively absentee landlords because they will go down to Florida or whatever, the Board may wish to pose as a condition a Homeowners' Association with a professional manager that would impose its maintenance as part of the monthly maintenance fee.

With regard to the property line that runs along the railroad tracks as well as property that runs along the GB property, you may wish to consider some direction to the Conservation Board requiring them to impose an evergreen screen. Most of the vegetation depicted on this property is on somebody else's land, not on this land so the neighboring landowner can tear that down at any point and perhaps a berm because of the railroad noise issue as we tend to experience here at Town Hall. Nothing further. Thank you.

DON FASO: Good comments. Have you thought of a berm?

MR. CARUSO: I don't think a berm will work for us in there, but screening is certainly something we want to do. But I will look at it again -- again, I will look at a berm. I don't think the contour -- it is sort of uphill. I will look at that again, but certainly I think if the intent is to screen and create some sort of physical barrier, we'll look to do that.

DANIEL KRESS: Only a question. I'm not entirely clear on whether we're further subdividing the portion of the parcel next to the animal hospital at this time, or if that is going to be handled as a separate transaction?

MR. CARUSO: Well, what I would like to do --

DON FASO: It could be a 17-lot subdivision.

MR. CARUSO: I think it was advertised as a 17-lot.

DON FASO: 16-lot.

MR. CARUSO: Okay. What I would like to do is either right now as we show it is 16 lots, maybe when we come back for final after we get our variances is show it at that time.

DON FASO: Would that meet zoning?

MR. CARUSO: It would be added to the other property.

DON FASO: Oh, do a resub on the animal --

MR. CARUSO: I was thinking of doing that. Does the Town do administrative resub?

DON FASO: Yes. We have that provision, but would this cover it?

MR. CARUSO: Well, if I did it separately for them later. That is where I got the 17 from, on this (indicating).

DON FASO: Oh.

MR. CARUSO: But I mean --

DON FASO: When you came in for discussion, it was advertised as 17 lot?

MR. CARUSO: I don't know if it was advertised, but that is what was on that sheet. I didn't

know if they had looked at something as open space.

DON FASO: I know I don't have my December agenda. Does anybody have a December agenda?

MR. CARUSO: I guess, Don (Faso), it may turn out to be an 18-lot subdivision if we add the pond on to the one on the right and the one onto Dr. Kuntz's to the left.

MR. HOWARD: Is it easier to deal with that now?

DON FASO: No. I'm just wondering if there was a typo from 17 on the previous application -- here.

MS. JONRO: I have the December agenda.

DON FASO: What does it say?

MS. JONRO: It says 17.

DON FASO: Okay. I am wondering if the 16 was a typo.

MR. CARUSO: I guess if we can look for an opportunity when we come back after we get variances.

DON FASO: Thank you, by the way.

MS. JONRO: You're welcome.

MR. CARUSO: If we can deal with it then, or does it need to be readvertised? We're bringing it in and disclosing up front that we want to do this subdivision.

DON FASO: I don't think the Board is leaning towards final, right? That is the impression I'm getting.

DANIEL KRESS: Point of clarification. We do have an administrative subdivision procedure, but I'm not sure this would be eligible in this case, so it probably really needs to be done by the Planning Board.

DON FASO: Okay. That is G.B., right, General Business zone?

The indication was it is G.B.

CHARLES ROBINSON: Just two comments. When the applicant submits the landscaping plans, the Conservation Board is particularly interested in the landscaping and the screening that is going to be proposed around the 10-foot buffer area.

MR. CARUSO: Okay.

CHARLES ROBINSON: We'll be looking at that quite heavily. In addition, we just need confirmation of the fact that we believe the plans indicate that this is being built in a federal wetlands.

DON FASO: John (Caruso)?

MR. CARUSO: I'm sorry?

CHARLES ROBINSON: The development is actually being developed in a federal wetlands?

MR. CARUSO: I don't believe so.

DON FASO: No, I don't --

MR. CARUSO: It would have come right out in those DRC comments.

CHARLES ROBINSON: We would just like confirmation on that, whether it is or not.

KAREN COX: What makes you think it is a wetland, Charlie (Robinson)?

CHARLES ROBINSON: Well, based on the maps that we had, and the location that it looks -- it appeared to us as though it was, in fact, in the federal wetlands.

MR. CARUSO: They're looking at the drainage pond on the parcel -- when you look at that map it is hard to tell, but we'll confirm that. I know we have already confirmed that and I know DRC would have picked up on it also.

DON FASO: Not only that, Charlie (Robinson), I think when we acquired this parcel from Wegmans, and I was on the Town Board, we looked at the wetlands that went through this property because we had to traverse it with a road, and we looked at all of the surrounding areas, and I don't believe there was a wetland --

CHARLES ROBINSON: Once again.

DON FASO: -- the north side of Chili.

CHARLES ROBINSON: The maps we have may be old or outdated. But when he looked at it, he tried to depict on what we were looking at, it appeared to be so. We would just like confirmation.

MR. CARUSO: When we go see them, we'll show them our stuff and why we're not in the

wetlands.

CHARLES ROBINSON: John (Caruso) has worked with us before, so we don't have any problem. He will take care of it.

Don Faso made a motion to declare the Board lead agency for SEQR, found this to be an unlisted action and made a determination of no significant environmental impact, based on the testimony and the material presented at this hearing. The Board all voted yes on the motion.

The Board discussed the proposed conditions.

DON FASO: Have you looked into an HOA?

MR. HOWARD: No, we didn't.

MR. CARUSO: Will you propose one?

MR. HOWARD: I can go back to them regarding that. I mean --

KAREN COX: Would this --

DON FASO: Let me just throw something out. I live in the Mayflower Village. I don't own a lot. I own my footprint and I get my driveway plowed and my grass cut and the landscaping. A piece of fascia blew off, called the maintenance company, next day they were all fixed. I don't want to do that any more. I don't do that any more. It is a great idea. It really is. If you're talking towards empty nesters and people that vacation in Florida.

MR. HOWARD: I usually agree with like a 200-lot subdivision in The Vistas, but a 16-lot -- I guess the costs would be cheaper, too. We would just have to look at putting the Homeowners' Association together for that.

DON FASO: May be something. It would be a great marketing tool, believe me. It would be a great marketing tool.

MR. HOWARD: It is working at The Vistas, I know that.

KAREN COX: Especially, again, if you are -- one of your target --

MR. HOWARD: You always have those that don't want to pay that monthly fee. This was an avenue for -- we had that at The Vistas, but if you didn't, you had this.

DON FASO: Just a thought. I think it would be a great marketing tool.

KAREN COX: If you didn't have that, who would be mowing the common space?

MR. HOWARD: Well, there really isn't common space other than --

KAREN COX: So they would be mowing --

MR. HOWARD: Their lots, their individual lots.

DON FASO: We'll make that as a condition that you look into the possibility of an HOA.

DECISION ON APPLICATION #5: Unanimously approved by a vote of 7 yes with the following conditions:

1. Landscaping plans be submitted to and approved by the Chili Conservation Board.
2. Pending approval of the Zoning Board of Appeals for the required variances. Variances should be obtained before returning to the Planning Board for final approval.
3. Applicant to provide the Planning Board with a disclosure statement.
4. Developer to research the possibility of forming a homeowners' association.
5. Final plans to show lighting and sidewalk plan.

The Planning Board's approval of this application is based on the following findings of fact:

1. In keeping with the general residential character of the neighborhood.
2. Does comply with the master plan.
3. Neighbors are in favor of it.
4. Should resolve drainage issue in the area.
5. Ties in the community facilities, too, especially with the sidewalks.

On the conditional use, Don Faso made a motion to declare the Board lead agency for SEQR, found this to be an unlisted action and made a determination of no significant environmental impact, based on the testimony and the material presented at this hearing. The Board all voted yes on the motion.

The Board discussed the proposed conditions.

DECISION ON APPLICATION #4: Unanimously approved by a vote of 7 yes with the following conditions:

1. Landscaping plans be submitted to and approved by the Chili Conservation Board.
2. Pending approval of the Zoning Board of Appeals for the required variances. Variances should be obtained before returning to the Planning Board for final approval.
3. Applicant to provide the Planning Board with a disclosure statement.
4. Developer to research the possibility of forming a homeowners' association.
5. Final plans to show lighting and sidewalk plan.

The Planning Board's approval of this application is based on the following findings of fact:

1. In keeping with the general residential character of the neighborhood.
2. Does comply with the master plan.
3. Neighbors are in favor of it.
4. Should resolve drainage issue in the area.
5. Ties in the community facilities, too, especially with the sidewalks.

There was a recess in the proceedings.

DON FASO: Planning Board back in session. We're going to go back to Application Number 1 under Public Hearings -- I'm sorry, Number 1 under Old Business, the application of Glenn Schneider for preliminary subdivision approval of two lots.

So what I need to do is then -- we took care of SEQR. Now, we're going -- I make a motion that we grant preliminary subdivision approval, waive final. Larry (Nissen), engineer's approval?

LARRY NISSEN: Yes, please.

DON FASO: Dan (Kress), this was or was not in a Drainage District?

DANIEL KRESS: This is already in the Drainage District.

DECISION ON OLD BUSINESS APPLICATION #1: Approved by a vote of 4 yes to 3 no (John Hellaby, John Nowicki, James Martin) with the following condition:

1. Pending approval of the Town Engineer.

The Planning Board's approval of this application is based on the following findings of fact:

1. This proposal is in keeping with the general character of the surrounding neighborhood.
2. Applicant has met with NYS Department of Transportation. The Department of Transportation is satisfied with the proposed curb cut.

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

6. Application of Ignazio Battisti, owner; 2575 Chili Avenue, Rochester, New York 14624, for rezoning of approximately 21 acres from RA-10 (Rural Agricultural) to R-1-15 (Residential) at properties located at 221 and 227 Golden Road.

Rob Fitzgerald was present to represent the application.

MR. FITZGERALD: Good evening. Again, Rob Fitzgerald with Avery Engineering.

I'm sure at this point the Planning Board is a little familiar with this project. I think we were in actually I think back in May for -- if you want to call it, just discussion I think it was. At that time the Planning Board did have some comments regarding the flag lots to the east. We have reduced those. We also have tried to incorporate the other comments, too, with what we're going to do with the existing structure, the two cul-de-sacs, so we did move some things around to hopefully clean some things up as recommended from the Planning Board.

I guess tonight what we're looking for, correct me if I am wrong, is the recommendation of rezoning to the Town Board.

DON FASO: Rob (Fitzgerald), I will start off. There were some questions raised about the cleanup of the site. You were supposed to document that it had been taken off the hazardous waste inventory.

MR. FITZGERALD: I do have some documentation supporting that. I highlighted the last sentence, which is kind of what sums it up.

DON FASO: That is a document from?

MR. FITZGERALD: That's from the DEC. And what it is is there is a parcel -- when they referred to this as hazardous waste site, this is considered the north portion, which is north of the Conrail tracks and the south portion. The majority of the contaminants are to the south of the tracks and we're not proposing anything in that area. So there are still issues with what is south of the tracks, but the northern portion has been delisted.

DON FASO: Say that again? The northern portion?

MR. FITZGERALD: Yes.

DON FASO: Is delisted, and the southern portion?

MR. FITZGERALD: That is still listed.

DON FASO: Give me a minute.

MR. FITZGERALD: It is still listed as a -- what do we call it here, the exact terminology? An inactive hazardous waste site. South of the tracks. Where originally the whole parcel -- it is common tax ID numbers, so the whole parcel was in the district before and they have delisted the northern section.

JOHN NOWICKI: Why did they delist it?

MR. FITZGERALD: Based on studies they conducted.

JOHN NOWICKI: Who conducted?

MR. FITZGERALD: The New York State DEC.

JOHN NOWICKI: Do we have evidence of those studies?

DON FASO: Yes. I have seen them. It was Superfund money.

JOHN NOWICKI: Is this situation -- this situation goes back to 1995, 1996. I have documents that go back that far. We were supposed to do a lot of things that were never done.

MR. FITZGERALD: It is dated October 2002. This is the document that was prepared and all of the studies which led to our client being able to request this being delisted because there was nothing found.

DON FASO: Can I see that?

MR. FITZGERALD: Yes.

JOHN NOWICKI: Do they show the map? Here is a site map of Phase 2 investigation south of the tracks, north of the tracks --

MR. FITZGERALD: Here is a small portion I copied out of that book as well that does delineate what is considered the north, the north parcel and the south parcel.

JOHN NOWICKI: There is a landfill area there.

MR. FITZGERALD: There were areas that were considered, and it is all outlined under that document.

JOHN NOWICKI: But what was done to mitigate that situation?

MR. FITZGERALD: What it was was there were traces of high metals, but they weren't significant to keep it under that listing.

DON FASO: Dan (Kress), do you have --

DANIEL KRESS: No.

DON FASO: Rob (Fitzgerald), would you copy this document and give it to the Building Department?

MR. FITZGERALD: We can copy it, yes, entirely sure.

DON FASO: This is what I have seen. I have seen this document.

DARIO MARCHIONI: Can we get a copy of that, too?

DON FASO: Sure.

Dan (Kress), can you run them off for everybody?

JOHN NOWICKI: I guess could you just maybe go through what actually has been done on this site to clean it up? Do you have a history of what was done to remove the contaminants from the site?

MR. FITZGERALD: Maybe Mr. Battisti can cover that.

MR. BATTISTI: There were no contaminants on the site. That was the whole purpose of the testing. It is what is called now a solid waste. Basically like building debris that was dumped there. There have been tests done on the property from the Health Department, the DEC and pretty much anybody else you can think of has been involved in that. The only thing that was found there were basically remains of foundry sand and broken bricks and stuff like that that was considered a solid waste now.

DON FASO: The drums were empty?

MR. BATTISTI: They're not on that site. That's the south side.

JOHN NOWICKI: There is evidence to support those statements.

MR. BATTISTI: A Phase 1 and Phase 2, that is 2 1/2 inches thick, that would document all that. The problem was always on the south side. If you want to call that a problem. They found aerosol cans.

DON FASO: To draw your attention for the record, page 3, answer 9, "Because no hazardous waste remained on the north parcel, the property owner may petition the New York State DEC to remove the north parcel from the inactive hazardous waste disposal site listed."

MR. BATTISTI: That's correct.

DON FASO: And DEC has formally done that.

MR. BATTISTI: Yes. It hasn't come out in their national registry, to the best of my knowledge. They said it would be out in their next publication and they said that last summer. I haven't seen the newest one because I don't think they have come out with it yet, but as soon as they come out with it. But it is on their website as Rob (Fitzgerald) showed you. He printed off that document that is floating

about. They will verify it, but they have not published a new edition of their national registry.

DON FASO: Rob (Fitzgerald), what is this right underneath what you have highlighted? "Confirmed hazardous waste disposal site." That is on the south side?

MR. FITZGERALD: I would assume it is on the south side, unless it is part of the next application.

DON FASO: Oh, okay.

MR. FITZGERALD: It does outline it and it will help the Board, too, if -- this whole study is outlined in here of all of the different tests, what was found. They did find some higher metal ratings, if you will.

KAREN COX: This whole page is about that site?

JOHN NOWICKI: So the property north of the railroad tracks, do you have to -- if it ever got developed, would you have to identify the deeds or anything like that that those sites were contaminated at one time or they were close by contaminated sites? Would people have to be aware of that before they go in there or build or buy?

MR. FITZGERALD: I'm not sure.

KEITH O'TOOLE: When they create abstracts of title, they're supposed to check the waste site list and, in fact, you will see a setout for that in the abstract.

JOHN NOWICKI: They will?

KEITH O'TOOLE: Yes.

JOHN NOWICKI: It will show up in the abstract.

DON FASO: Mr. Fitzgerald, when this came before the Board for discussion, in the past, applications on for discussion aren't generally circulated to departments for review. When it becomes a legitimate application, which this is for rezoning, it was circulated. The Superintendent of Highways has taken a look at this, and I don't think you're going to get his approval for the tight radius on the tight bend up by Iggy (Battisti)'s house. It does not meet a curve minimum. That's a corner intersection radius, not a curve. And he is very, very concerned with that.

MR. FITZGERALD: Coming off Stone Barn Road, traveling south?

DON FASO: Correct. It meets the radius for an intersection, not a curve. It is not an intersection.

MR. FITZGERALD: Okay.

DON FASO: Whether it's a curve and does not meet the minimum requirements. Larry (Nissen), do you have the minimum radii offhand?

LARRY NISSEN: For a local street it would be 150 feet along the center line.

DON FASO: I think you have got 35, correct?

MR. FITZGERALD: Yes.

DON FASO: Which meets intersection standards, not curve.

MR. FITZGERALD: Right. So if you put a stop sign there, could we -- it is probably something I need to address with Joe Carr.

DON FASO: He is very concerned about it. He typically doesn't look at applications on a discussion stage, but when they're on the agenda for review is when they're circulated, and that's one of the very first things he has picked up on.

JOHN NOWICKI: He is going to have to get together with Joe Carr to try to investigate that issue.

DON FASO: Iggy (Battisti), the other question was the estate, having some questions about the sale and if the flag lots are in keeping with the houses. Didn't we ask you to look into that?

MR. BATTISTI: Yes. The flag lots are pretty much what you see. The estate is still involved. Everything is no longer in the estate's name at this moment.

DON FASO: I'm sorry?

MR. BATTISTI: The estate -- it is not in the estate's name any longer.

DON FASO: In yours?

MR. BATTISTI: It's in my name with the understanding, though, as soon as this is completed some of the land goes back to the estate.

DON FASO: Some of the?

MR. BATTISTI: Land. Once we subdivide.

DON FASO: Will the flag lots go to the kids? Is that what you're saying?

MR. BATTISTI: Some of that and the other side of the property as well. The southern side. There is property -- there's a portion broken up from Golden Road forward and then south.

DON FASO: Hang on a minute. That is one of the reasons I wanted to -- a large scale map so we can see all of the property.

DARIO MARCHIONI: Can you point out on the board what he is talking about?

DON FASO: Iggy (Battisti), would you do that, or Rob (Fitzgerald), somebody?

MR. BATTISTI: Right now it is all in my name. At the end of this -- if it ever comes to that, some day that something should happen, at that point, because of the health of Howard's sister, they have put it all into my name until it is completed. Once the subdivision is done, then based on what we're able to achieve, then a portion of the land goes back to the children or to the family or however you want to look at it.

DON FASO: You know now that I have an opportunity to look at the overall, there is a parcel in there that is L.I. surrounded by R-1-15 and your parcel is RA-10. How are we going to access -- there is common ownership right there where it says 1891.5 A. There is a common ownership there. You own that, too?

MR. BATTISTI: No. That is just a common -- well, I imagine -- when you say "own," legally, or technically it's in my name, but this is a common easement that belongs to the three parcels of land on that side. And it also leads to the back of what is RA-10, but you can't cross the railroad any longer.

KAREN COX: So that L.I. is kind of no man's land?

MR. BATTISTI: I don't know if I answered your question, Mr. Faso.

DON FASO: But there is only a 20 foot wide right-of-way.

MR. FITZGERALD: Yes. There is a 20 foot wide right-of-way just immediately south of the tracks where those three parcels can be accessed from.

MR. BATTISTI: We didn't propose that. That was there before.

MR. FITZGERALD: So as far as we're concerned with the land that is south of the tracks, it would get a separate tax I.D. number. We're not proposing any changes in ingress or --

DON FASO: One of the things I wanted to look at was to make sure we were not land-locking anything.

DON FASO: That small triangular piece, that is an individual parcel?

MR. FITZGERALD: Correct.

DON FASO: Only accessible by the 20-foot right-of-way?

MR. FITZGERALD: Correct.

RAY BLEIER: One lot, the Lot 7 is under the proposed 15.

MR. FITZGERALD: Yes. We will swing that so we won't have to obtain a variance. There were a couple variances that we're looking at requesting. I believe it -- a lot depth variance on this particular lot, Lot 1, as well as Lot 8. We also want to push the houses up -- in this zone the front setback is 60 feet. We wanted to increase that to 40 feet, so it would be closer in line to the PUDs and PRDs that have been done in Chili which is usually between 30 feet and 40 feet for front setback.

JOHN NOWICKI: We can't do anything with this until he resolves the --

DON FASO: It will be a problem under site plan, but we're looking at a rezoning request. Recommendation to the Town Board.

JOHN NOWICKI: As long as he knows he has a problem getting into the site. There is nothing he can do with it.

DON FASO: It is a major issue.

MR. FITZGERALD: Certainly.

RAY BLEIER: I'm disturbed about that little piece of L.I. sitting over there on the other side of the tracks. I know it is only a 20-foot right-of-way into it. I don't know. Should this be cleaned up at this time?

JOHN NOWICKI: How can we as a Town get that changed? Why would you leave it L.I.?

DON FASO: John (Nowicki), in my mind why was it ever made an L.I.?

JOHN NOWICKI: I know.

DARIO MARCHIONI: All those homes on Stone Barn, where they're backing up to this property, are they R-1-15 also?

MR. FITZGERALD: Yes. I will just show you this map. This is a great map that has the

surrounding zones. So it pretty much is surrounded by R-1-15 and R-1-20.

MR. FITZGERALD: There is RA-10 in there as well as L.I. south of the tracks.

KAREN COX: It is kind of a mess down there. As far as the rezoning goes, I don't have anything. The big issue obviously is the access, getting that worked out.

DON FASO: This is clearer now.

JAMES MARTIN: That makes it really clear.

DON FASO: If somebody wanted to come in with a proposal, off of King Road, turning in to a -- thank you. That clears that up. It is not just a little sliver of L.I. This is the R-1-15. This is all -- opens up. The expressway curves down here (indicating). This whole piece is L.I. (indicating).

JOHN HELLABY: It goes out quite away, too.

JOHN NOWICKI: I wouldn't have a problem with rezoning if they could resolve the roads.

DON FASO: They could resolve it. Iggy (Battisti) may lose some of his driveway.

FRED TROTT: We just have concerns along with the Highway Superintendent about the access.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

JIM McCONKEY, 17 Stone Barn Road

MR. McCONKEY: I have three particular issues with this. The first being that it -- the New York State Department of Environmental Conservation has listed this as a disposal site, hazardous disposal site. I have a letter from them stating -- July 2nd, 2003, that says that in the parcel -- they divided the property in two parcels, north and south. The south still has standing contamination and hazardous waste and the north parcel contained fly ash and sludge from a foundry that used that as a dumping site many years ago.

My question on that is, in this material that makes up the fly ash and the sludge, there are known carcinogens. I want to know if there is any of that material on the northern site, if it is covered with dirt. If they're going to be building foundations and holes to build basements for houses, if any of that material is under the earth, will it be released to the environment and cause a health concern for the residents near by, me being one?

The other concern is the topography of the site. I was down here this morning looking at that map layout here and I didn't see anything about drainage. I was told by a member in the office this morning it is maybe a little too early to have that information.

DON FASO: Right. We're considering a rezoning.

MR. McCONKEY: With the topography of that land, my land is lower and so is most everybody on Stone Barn Road. My concern is that drainage, rainwater and groundwater --

DON FASO: What is your lot number?

MR. McCONKEY: 17. 17.

KAREN COX: He is right where it says Mitchell.

MR. McCONKEY: My concern is because I'm so much lower, at least 2 feet, and my neighbors are even lower than that, how the drainage will be on this property so I don't get inundated with water, and I'm very still concerned about the hazardous waste site still on the south side of the property that all this construction and whatever is done with the land, we'll divert that, contaminate it, have hazardous waste into my property. Those are my concerns.

DON FASO: Those would be typically issues that would have to be answered under subdivision approval. But I do know that even asphalt buried under the ground after a period of time, the DEC would declassify that as not toxic. I can't remember what the length of time is, but there is a length of time where asphalt becomes an acceptable fill. I can't remember how long that takes.

MR. BATTISTI: I can answer his question if you would like. I don't have a problem answering it.

When the testing was done originally on the north side, we basically found the perimeter of where all of the foundry sand was dumped based on the owner who dumped most of it there and digging test pits on both sides all of the way around this area. The way we have come up with this road that is basically where the fill is, that is where we plan on leaving it, is under the road. So it shouldn't be affected by -- there is none up in this area, nor by the homes, especially not by this area (indicating). There is none down in this area (indicating). It was basically in the roadway that he used to travel

through to feed the cows.

And a little bit throughout the cow pasture lot he would occasionally spill some fill in. We found those areas, measured the depth where they're located. That is where it is all located. As far as what is inside the foundry sand and stuff like that, they have found high elevation of metals, PCBs and different things, but nothing that exceeds the national average in New York State. There is nothing that will kill anybody there. And we have done studies, believe me, how much a child would have to eat in order to even get a stomachache off it. We might have to do something for dust control at some point, but there is nothing there that will kill anyone or harm anyone. No three-headed frogs.

MR. McCONKEY: My concern is previous to this last letter I got from the DEC, a year or two, year and a half before sent a detailed information about all of the different things they found on the site, both north and south site and it was pretty nasty stuff. Being I'm living right there, my concern is when they start digging we don't get covered with this stuff.

DON FASO: That is understandable, but I think there should be minimal disturbance and the drainage should definitely be taken care of when we do subdivision. He will not be allowed to increase any runoff on your property. There will be nothing from this site going on your property. That is in our code and the Town Engineer will make sure the grading is such so there is no problem.

Do you have a drainage problem now?

MR. McCONKEY: Yes.

DON FASO: The proposed site may even help alleviate some of your problem with standing water in the backyard.

JOHN NOWICKI: What are the depths of some of the materials on the north side?

MR. BATTISTI: On the north side? We found things from 2 inches to 6 inches, and a fill, but then it was -- like filling in a low pocket, just grading it and --

JOHN NOWICKI: It wasn't a fill area. It is was just a road.

MR. BATTISTI: Like I said, a lot -- they even mentioned ash and a few other materials that Howard used to basically fill in the area when it -- his tractor would get -- leave ruts or whatnot.

DON FASO: I remember -- used to travel Ballantyne Road daily because I worked in Henrietta and the guy that is on corner of Ballantyne where he makes -- sits way back. For years I watched him build up his driveway with cinders and whatever he could get his hands on to raise that above the --

KAREN COX: The one with the millings sign?

DON FASO: Yes. That is probably exactly what they did. That was his lane way and that is --

MR. BATTISTI: That is how he fed the cows from the back side, yes.

DON FASO: He was probably just building up his roadway.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

DON FASO: Seeing the rezoning would be a legislative act by the Town Board, it would be my recommendation that the most significant approval would be the Town Board on a rezoning, so my recommendation would be to let the Town Board handle rezoning on this. So then --

JOHN NOWICKI: If you're asking for a recommendation for rezoning, are we going to have to act on environmental issues, SEQR?

DON FASO: No. Unless you want to.

JOHN NOWICKI: Because I'm saying do we really know?

DON FASO: Well, that would be up to the Town Board to determine all of the facts. You will have to do probably a long environmental assessment on this one. That would be my recommendation to do the long one before you go to the Town Board to get that right out of the way off the bat. Then you would be able to use the same thing for subdivision.

JOHN NOWICKI: If we act, we have a couple things we can make conditions.

DON FASO: Like what?

JOHN NOWICKI: Joe Carr, Highway Superintendent, that he has a concern about. That is a site process. The other one is an environmental issue, so let the Town Board deal with the environmental issues.

DON FASO: They will have to satisfy Joe (Carr), and it can be done. You are the one that will have to do the subdivision plan and if Joe (Carr) is not accepting that minimum radius, you will have to reconfigure it somehow.

Iggy (Battisti) also owns that corner house. He could put some of that land in there. He lives in that corner house.

MR. BATTISTI: The last time we came down you were concerned with the flag lots. Does that seem like something the Town would be willing to accept?

DON FASO: What you have there now is better than what I saw before.

MR. BATTISTI: I just didn't know if you wanted us to play around.

DON FASO: I'm assuming that is part of the parcel that is going back to the family, the flag lots and existing lots?

MR. BATTISTI: It is all based --

DON FASO: They want to keep the houses.

MR. BATTISTI: Right now it is looking that way. The daughters have shown a lot of interest in it. They're just not financially in that position. The one daughter is 17, 18 years old and the other is 21 years old. So we'll see what the proceeds bring after the number of lots are approved. I guess it is based off of that.

DON FASO: So they grew up in that house and it has sentimental value?

MR. BATTISTI: Absolutely. A lot of those buildings will have to come down, though. We're in the process of cleaning that up, but it is just too cold right now. It takes a lot of time. 50 years of accumulation, you know.

DON FASO: You also have to remember, John (Nowicki), the major trunk line went through there, and they didn't find any major contaminants when they put in the sewer.

MR. FITZGERALD: In addition to a waterline that went down Golden Road. We have documentation on that, as well.

DECISION: Unanimously approved by a vote of 7 yes to recommend to the Town Board rezoning of 221 & 227 Golden Road to R-1-15.

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

Note: Applicant must contact Joe Carr, Superintendent of Highways/
Commissioner of Public Works regarding vehicular access to the proposed subdivision.

MR. FITZGERALD: In this study it is kind of overwhelming, even being an environmental engineer myself. They go down and list every type of metal, but next to it they have the acceptable concentration which is normally found and then the range that he has in his particular parcel. So just because it is listed doesn't mean it is negative. That is naturally found in soils.

DON FASO: The booklets that you had, I remember looking at that, but I don't remember where I saw it, so I'm not sure there is a copy in Town Hall. I want a copy in Town Hall.

MR. FITZGERALD: The other thing that is interesting, this was open to public comments and there are six pages of questions and answers which I found very helpful myself. If you don't read the whole thing, definitely read those six pages.

DON FASO: Thank you for highlighting those. I just wanted it in the Building Department so if anybody from the audience wants a copy of it -- it is a public record, but they will have easier access to it.

INFORMAL:

1. Application of Kayex Corp., c/o Total Identity Group, 2340 Brighton Henrietta TL Road, Rochester, New York 14623 for sign approval to allow a total of three signs on the property at property located at 1000 Millstead Way in G.I. zone.

Brice Griffin was present to represent the application.

MR. GRIFFIN: Good evening.

DON FASO: Good evening.

MR. GRIFFIN: Brice Griffin, the manufacturing manager at Kayex. Total Identity couldn't be here. The sitter gave up on them.

DON FASO: Larry (Nissen), your comments about soil disturbance? What was I reading? Did you give me a letter about soil disturbance on this site?

LARRY NISSEN: Where are we at? Kayex?

DON FASO: Yes.

LARRY NISSEN: No.

DON FASO: My mistake. Reason for the three signs are?

MR. GRIFFIN: We have one sign on the side of the building there. There was a pre-existing sign on the building in 1968 that doesn't have a permit. We discovered that when we applied for this sign. We want a new sign closer to the road so tractor-trailers turning off Scottsville Road aren't locking up their brakes within 96 feet of the intersection trying to make our driveway because they can't see it. There is a berm with trees on it between my property and the Albany Rental on the corner of Scottsville and Paul.

DON FASO: Albany Ladder?

MR. GRIFFIN: Yes.

DARIO MARCHIONI: You have Zoning Board's approval already?

MR. GRIFFIN: Yes. For example, on the 27th of January --.

JOHN NOWICKI: 3 foot by 4 foot?

MR. GRIFFIN: No. Will not be illuminated.

KAREN COX: Other one will stay on the building?

MR. GRIFFIN: Yes. That will stay on the building. For whatever reason the pre-existing sign was never captured in any other -- a sign was built with the building back in 1968, and there was never a permit for that sign. I don't know what happened. We're rolling it in this request, as well.

RAY BLEIER: The box for Drainage District is indicating no.

DANIEL KRESS: My records, the property is in the Drainage District.

DARIO MARCHIONI: We put a couple additions to this place.

MR. GRIFFIN: That's correct.

DANIEL KRESS: I don't know who checked that off. Apparently it was from the sign contractor.

DARIO MARCHIONI: How is business going?

MR. GRIFFIN: Very slow in the semiconductor industry. That is the industry we support. We're the sole American manufacture of crystal growing equipment for that industry. Also solar.

DARIO MARCHIONI: Do you foresee a pickup?

MR. GRIFFIN: We're hoping there will be one. It is just a matter of when.

DON FASO: Do we need to do SEQR on this, Keith (O'Toole)?

KEITH O'TOOLE: I believe it is a Type II.

DON FASO: Okay. No action.

DECISION: Unanimously approved by a vote of 7 yes with no conditions.

FOR DISCUSSION:

1. Barbara Galbraith - proposed 40-lot subdivision at properties located at 2250, 2284, 2300, 2320 Scottsville Road in A.C., FPO & FW zone.

Barbara Galbraith and John Caruso were present to represent the application.

MR. CARUSO: Hello. Well, good evening. Mr. Chairman, I'm John Caruso. With me tonight is Barbara Galbraith. This is her and her husband's property. It is just under 300 acres of land and we have been working with Barbara (Galbraith) over the last several months trying to find a configuration, looking at alternatives to developing this property, and the property has some physical impairments to it

such as flood plain. There are some wetlands, federal and DEC wetlands, and in our investigation we tried to identify where those were, and then create some sort of layout that would allow us to develop the land and not have any impacts on it.

So with that, Barbara (Galbraith) was able to give us as much input as she could with her knowledge. She is very knowledgeable of development and has development blood in her family, and said that she would like to preserve some area, some open space. So in this plan here we have about 73 acres of preservation that would remain forever wild.

Then we did a lot layout that are 5 acres according to the AC zone, and we took into account the flood plain and the wetlands so that you could develop houses back in and past the setback and not be encumbered. So it is sort of simple. We have done a couple layouts and I don't know if you have this one, but there was one that went through DRC and that had use of Mile Wood Road. When we did that layout, we didn't know if the Town had owned Mile Wood Road at the time. We know that the Town of Chili roughly maintained Mile Wood Road so we weren't sure if they owned it or not, but when we found out that they didn't, we just converted to this type of layout.

DON FASO: That is the layout that the Board has (indicating).

MR. CARUSO: The difference is, that is that.

MR. CARUSO: From the DRC meeting, what you're looking at is, instead of having these lots here front onto Mile Wood Road, if the Town doesn't own this and this right-of-way is not here, then we just turned them inside and just moved the road around and reconfigured the lots to be 5 acres or greater. And then in these areas here (indicating) where there are some development restrictions here and in here (indicating), we just made the lots a little bit deeper.

Now, on this plan here we have not accounted for -- AC allows -- if you do donate 15 to 20 percent of your land, we could take these lots which all meet code and try to increase by 20 percent. If this is 40 lots, we could probably get another 8 lots in this. I don't know if we're ready to do that just yet.

These lots would be supported by individual disposal systems or septic systems and those have to work in order for you to start shrinking those lots down, but the potential is there.

This site would be serviced by public water, and there are several different contours and gradient on the site where we could impose the drainage regulations and so on. We have identified the flood plain, you know, to be here (indicating) so that all these buildings that would be proposed would be outside the flood plain so we wouldn't have to construct in the flood plain. And after meeting with Joe Carr, I got some feedback that, boy, if we were to bring water in here to service this, we would like to have an opportunity to bring water back to service some of these cottages along the river and could we possibly leave him an easement, and I said sure. So I talked to Barbara (Galbraith). We have provided a utility access here for water and possibly a road.

Now, the reason why I say road is because Mile Wood Road is not owned by the Town. It's owned by the Krenzlers, and if he ever wanted to put a dedicated road in, he could do it off this road here (indicating).

But right now, we're not sure whether this property line, because this is just a concept plan -- we're not sure whether this south property line sits over the middle of Mile Wood Road, on the north side or south side. That is yet to be determined. Nonetheless, what we have proven to ourselves is that there are several different ways to develop this property for the Galbraiths and this was one of them that we thought we would bring in and show it to you.

DON FASO: I thought you were -- in conversation with Joe (Carr) about extending a street down and picking up the private drive to service those cottages, putting them on the cul-de-sac --

MR. CARUSO: That is this right here (indicating).

DARIO MARCHIONI: He wants a turn-around I think, Joe (Carr) does.

MR. CARUSO: Well, what we have here is this road could either tie through if this became dedicated or when we take it to design, we could put a cul-de-sac here (indicating) and this -- or end it here (indicating) and this could be private (indicating).

DON FASO: I think Joe (Carr) was looking for a way to have the people along the river there, that -- the cottages, the homes, to have access to public streets rather than drive up Mile Wood.

KEITH O'TOOLE: It would also have the benefit of bringing the water all of the way down there, at the developer's expense I might add.

MR. CARUSO: You can add all you want, Counselor.

KEITH O'TOOLE: That's my job.

MR. CARUSO: This is a utility access easement (indicating) to the Town of Chili. If they wanted to bring the road down, I made it wide enough so if they wanted to bring the road down here (indicating) to tie these people into a public road.

JOHN NOWICKI: When you say "they," who is they?

MR. CARUSO: The Town.

JOHN NOWICKI: That road is owned by the Krenzlers, though, right?

MR. CARUSO: No. I have provided an area on the Galbraith property that runs parallel to the way they run now.

JOHN NOWICKI: Sufficient for a Town standard road?

MR. CARUSO: Yes.

JOHN NOWICKI: Cul-de-sac at the end?

MR. CARUSO: Not for cul-de-sac at the end. He could put it here or here (indicating). We're just playing with it at this point. But I did meet with Joe (Carr) and Joe (Carr) did not direct me to provide him with a cul-de-sac and a dedicated road here. He asked me, "Would you consider giving me an access down here for water and a way to get people out to the public road without having to go on Mile Wood?"

DON FASO: When I talked to Joe (Carr), he grabbed out a magic marker and came down and had the loop road and put a cul-de-sac on it very close to where those cottages would be.

DARIO MARCHIONI: Third lot coming north.

MR. CARUSO: If we're here looking for direction from the Board, comments, this is one that we would pursue.

JOHN NOWICKI: If you're familiar with the cul-de-sac the Town plows by Norcross Helicopter, that goes in there, they plow that, there is a private road off that cul-de-sac into Norcross. That is what Joe (Carr) was looking at over here, saying on the third lot up, going north there, just bring that road in there so the people could have their private road tie into a cul-de-sac like over at the airport. Then you could bring your public water down and the septic. You will have to work it out. If we're doing this, you will have one shot at this to solve the problem. You might as well solve it now.

MR. CARUSO: All I'm saying is we would like to make provision to do that, but if the Galbraiths would be responsible to bring the water down and -- we could bring it down to here (indicating) and give provision for someone to extend it, but I don't know why you would want to ask them to do that.

KEITH O'TOOLE: Because it fits in with the network of providing public services to the community just the way we connect our road network. An easement is one step better than darn near nothing at all. The likelihood the Town would expend money to extend water over 1200 feet along that easement, plus connecting it down to the cottages, I think is highly unlikely. Unless you extend the road, punch the cul-de-sac down and bring the water down, it will never happen, so let's not spend time getting the easement.

JOHN NOWICKI: One shot. Do it right and let's get it done.

DON FASO: If we need to cluster it, we can cluster. We can do a --

MR. CARUSO: Maybe that is one of the things that would be the benefits to clustering, that they can get a few more lots to help offset some of those expenses.

JOHN NOWICKI: Sure.

MR. CARUSO: Plus with this, there is an opportunity by using this (indicating), they would pick up some lots, but that is why we're here. We are here to hear --

DARIO MARCHIONI: How far do the wetlands go?

MR. CARUSO: The wetlands are in here (indicating). So there they're sort of back and out of the way. The flood plain is -- is right around this perimeter here (indicating), as far as we can tell at this level. But I think the biggest thing we're hearing tonight is a good project benefit would be to try to do something to resolve these people having access.

Now, you know these people -- I'm assuming that they have some sort of legal right to use this road in their deed to get out, so I don't think it is that they're there illegally. I just think what you're asking us to look into, trying to provide a permanent access to public highway --

JOHN NOWICKI: Is this currently prime farmland being farmed?

MR. CARUSO: Not being farmed.

This portion of it up in here was being farmed?

MS. GALBRAITH: Right.

MR. CARUSO: Will he continue it next year?

MS. GALBRAITH: He is the gentleman who was electrocuted. He is no longer living.

MR. CARUSO: His friend who was maintaining it?

MS. GALBRAITH: There is no one maintaining it now.

MR. CARUSO: The gentleman that was farming this land was killed this year. So he won't be back to -- so that is why I asked.

DON FASO: The Krenzlers have an active farm.

MR. CARUSO: Someone had to come back and take his crops out.

DON FASO: But the Krenzlers have an active farm.

MR. CARUSO: (Indicating).

DON FASO: That is an active farm?

MR. CARUSO: Yes.

JOHN NOWICKI: That land is not being farmed at all?

MR. CARUSO: No. It was used mostly for the old racetrack and the -- what else was it used for?

MS. GALBRAITH: We have pasture. Some of it is fenced for horses. And basically what we have been using it for is just our own enjoyment. We have had what we call hunter paces where we bring horses in and go back through the trails and we have kept trails open there, maintained them.

JOHN NOWICKI: Thank you.

DON FASO: I know it is not a public hearing, but you folks live on Mile Wood? No?

JOHN HELLABY: Are they developing these lots? Will they just sell them as --

MR. CARUSO: Barb (Galbraith) would like to be able to start with it -- an infusion of cash by doing something over here, if she could have access to Mile Wood, but that is -- but -- there are already people approaching her. That is what prompted her to initiate this.

JOHN HELLABY: Just selling the lot? I mean they're not planning on developing the homes on these or are they?

MR. CARUSO: At this point I don't think so.

MS. GALBRAITH: Probably not.

JOHN HELLABY: You're just selling the lots to prospective buyers or builders?

MS. GALBRAITH: Correct. We have been approached by many different individuals, including a couple of people who are actually living down in the houses along the river now, wanting to buy lots, larger lots and lots farther up towards the highway.

MR. CARUSO: That is what prompted -- they want to buy these lots here (indicating), and come out on Mile Wood Road.

JOHN HELLABY: What are percolation rates over there? I'm assuming you have done some perk tests.

MR. CARUSO: The perks are about moderate. I haven't -- I looked at the soils maps in the area to see, you know, what we're expecting to see out there, and the prime and unique soils means you probably have a whole lot of topsoil, more than you have sub soil. So before we get into doing -- I can do all of the perk tests I want. Until you get into doing them on each individual lot, it is hard to see how they're going to -- so I'm not sure how we can put these down until we sort of know more about the soils.

JOHN HELLABY: I'm --

DON FASO: What would County Health alone do to you?

MR. CARUSO: Right now they're about as big as -- the lots are as big as they need to be. I could probably bring them down to about 260 feet wide and they're almost 300, 290, and where that comes from is -- let's say this is the lot and we had a raised septic system from the lack of perk. You would have to come in 100 feet from here (indicating) and 100 feet from here (indicating) and that leaves you room to put five long lines, 10 feet apart; there is 50 and another 5 on 5 on the perimeter and there is 60, and that is how I come up with a 260 foot wide lot.

I'm not afraid to put in better septic systems on our designs because people aren't calling me on the phone telling me they weren't working. Put a little sand in them, costs extra dollars and they work a long time.

JOHN HELLABY: Not forever.

MR. CARUSO: No.

JOHN HELLABY: If you have to change them all around the same time, would you have your hands full?

DON FASO: Maybe some day they will have sewer.

(Laughter.)

MR. CARUSO: Barb (Galbraith) has been approached by several people, and that has really prompted her to start. She has been approached to purchase the whole thing. Nature conservancy. Some people wanted to buy strips along the river. I said, "Barb (Galbraith), let's get our arms around this for a minute. I would hate to see you agree to segment the development property or make a move" -- so we were able to find out some of the things that were wrong with it and every day we find out a little more. We know about Mile Wood Road and your concern to help solve some issues down in here (indicating). Other than that, it is a pretty big piece of land in here with pretty big lots.

This (indicating) came out of our meeting with Joe (Carr) to try to help facilitate if this road was ever done to have two means of access into the area, good planning and good thoughts. That's about it.

MR. CARUSO: It's a beautiful piece of land.

DON FASO: If you walk away with an impression, I would say the Board would kind of be in favor of this. Possibly looking at a cluster development. So there would be definite benefit to the Town. You would get a few more lots. Benefit of bringing water down to the existing homes.

MR. CARUSO: Okay.

DON FASO: I think it will work. I know you can come up with an innovative plan.

MR. CARUSO: Thanks again.

2. Benderson Development Company - proposed Tim Horton's at property located at 800-810 and 822 Paul Road in G.B. zone (no approvals requested).

Randy Bebout, Bob Trybulski and Lou Terragnoli were present to represent the application.

MR. BEBOUT: Good evening, Chairman and Board members. My name is Randy Bebout with FRA Engineering at 530 Summit Point Drive. I'm here tonight on behalf of Benderson Development and Tim Horton's. With me is Bob Trybulski from Benderson Development and Lou Terragnoli from Tim Horton's here tonight to talk about the proposed Tim Horton's in the existing K-Mart Plaza at the northwest intersection of Chili Avenue and Chili Center Coldwater Road.

The proposed building is 62 by 52 and totals approximately 3,224 square feet. It is located 81 feet off the front property line. The building offers dine-in eating and a drive-through. The drive-through is depicted on the site plan as an 11 foot drive-through lane on the north side and west side of the building, and those drive-through lanes are protected by raised curbed islands, a 2-foot island on the north side and a 4-foot island on the west side.

Outside of that, we are showing 24 foot wide two-way access lanes around all four sides of the building to serve the seating patrons or the dine-in patrons of the restaurant. We are showing 37 parking spaces within the immediate vicinity of the Tim Horton's restaurant. Included in those 37 spaces are two handicapped spaces on the south side of the building that offer easy access into the building and avoids them having to cross any of the drive lanes.

As part of the parking, the site currently has 484 spaces overall. After the proposed building and reconfiguration, we end up with a total of 471 spaces, giving us a reduction of 13 spaces. We have submitted to the Zoning Board of Appeals for parking, number of parking spaces and also for parking within the front setback. The distance, the closest distance to the parking from the property is 11.8 feet to the front property line. Where the proposed building is located, it is currently consisting of asphalt parking area and a portion of the existing storm water detention area.

What we're proposing is to expand the existing detention facility to the north and construct a retaining wall along the western side of the Tim Horton's parking. The change in volume of the pond -- there is no change in the storage volume of the pond. We have submitted a drainage report to Larry (Nissen) and he has reviewed it and informed me that he is okay with what we have done.

With that, the actual existing increase in impervious area is 0.05 acres after all of the changes have been made with the curbed islands and everything, and you can see on the plan we are adding

landscaping along the front. We're adding some additional evergreen trees on the north and west sides of the pond where it is being expanded.

The utilities for the building will be served from an existing 8-inch water main and existing 8-inch sanitary sewer that will run parallel to Paul Road Square continuing through the green area to the east of Paul Road Square and they connect into the mains on Chili Avenue, so we'll just have a service lateral for water and sanitary correcting into -- connecting into both of those. We'll be adding a couple catch basins for the storm drainage in the parking area and those will be directed into the storm water pond.

In regards to lighting, we're proposing to relocate two existing light poles on the north side of Tim Horton's and we'll be adding one light pole to the south in the front green area between the property line and the southernmost curb line.

The parcel itself currently consists of two parcels, one being 9.677 acres and one being 1.081 acres. That property line is maybe a little hard to see, but it is depicted on the plan and it goes right through the Tim Horton's building. We're proposing to resubdivide that and that has been submitted and I believe it is on the agenda for the March 9th Planning Board meeting. That's it.

DON FASO: You're coming back with preliminary site on March?

MR. BEBOUT: Yes. That is our goal.

DON FASO: I would like to see Tim Horton's come in town, but I have a problem with the traffic pattern you're proposing there. It is a hodgepodge now. Benderson Development built the lane ways in there and people don't abide by them. People go the wrong way. I think the addition of this building and the traffic pattern that you're proposing is going to cause more of a problem than alleviate a problem.

MR. BEBOUT: I went out to the site before I came here, and one thing that is not depicted on this plan is that the long, narrow green island in the center there, it is actually striped as one way on either side.

DON FASO: It works fine until you come across a car coming at you head on.

MR. BEBOUT: Understand, we're not proposing any change to that. And the thought was that the way the site was laid out is that the people with their destination being K-Mart can continue to do what they do today. The people that are going to Tim Horton's can come in and turn left. The Tim Horton's circulation parking is kind of kept separate of the traffic for the people heading to K-Mart.

MR. TERRAGNOLI: Lou Terragnoli, Director of Real Estate for Tim Horton's.

Many advances we see at this site with -- specifically regarding, you know, the traffic flow around our building, if I could work my way back from the drive-through window just to follow a car coming through the site. The car would be right about here (indicating) picking up their order at drive-through window. Car would be back in here (indicating), places their order, and then the cars would have this lane here (indicating) to be -- the advantage is they would be segregated from the balance of the parking feeds. The other advantage to this site, the building has an entrance here (indicating) which is handicapped accessible. We're able to have -- handicapped spots are right here (indicating), so the handicapped customers could pull into this spot and use the entrance here (indicating). There is also an entrance here that has these parking fields so customers also have the ability then to also park in the building, get out of their cars and use this entrance to the building also. We think the site has good traffic pattern. We would be using the existing curb cuts that are at the plaza. A car coming in this curb cut (indicating) making a left into the site, they could use a parking spot here (indicating) or they could keep going and use the drive-through facility, come back out and use this curb cut here (indicating).

For a customer that might be at K-Mart first, um, you know, one of two things could happen. They could already be parked and just walk over, or just drive over, drive through this aisle here (indicating). If they wanted to use the drive-through, they could come around or they would be able to use one of the many parking spots that surround the site. We feel when we're on a larger tract like this and there are a lot of options for customers to move around, sometimes too many options could be a problem. I hear what you're saying there, but we think given the largeness of the site and the ability to park around the site that we have, with the drive-through lane being segregated, those are great advantages we see to this site.

JOHN NOWICKI: I will offer you something. I have a sketch plan here that I think you should consider. I think this is -- I want to be serious about this and don't take it lightly. This is a very serious situation, and that is what I am looking at. This is the same situation and layout you have on Buffalo and

Howard.

MR. TERRAGNOLI: No. We're on our own piece, not part of a large tract.

DON FASO: The setup with a building, the drive-through. It is the same configuration as Buffalo and Howard, which I am very familiar with because I have used it. It is very confusing. Sometimes there are cars cued that block people from backing out with the main entrance. You have cars coming out the drive-up window where your main entrance is. I think you can improve it. I really do. That is my concern. People do not pay any attention to striping and arrows. They just don't do it. I like the idea of separating and having -- and putting a buffered island where that lane way is. I think with proper signage you could do a better job on this here.

MR. BEBOUT: The one concern that Benderson Development has, you know, we looked at the plan provided by Keith O'Toole. The one concern we have is with the loss of parking, as I mentioned, we are going to the ZBA for a reduction of parking, but Benderson Development has a concern of losing more parking than what is proposed today.

DON FASO: We could grant you the parking. I do believe. Go ahead.

MR. BEBOUT: The concern is that they have a commitment to K-Mart for so many spaces. K-Mart has seen this plan and is okay with it. If the concern is if we continue to take away spaces, that that opinion may change.

JOHN NOWICKI: I would say we're going to put that on the table for discussion. We'll take a look at that. Something has to be done. We haven't got into the other items yet, but the traffic pattern there is very critical because I go in and out of there every day and it is a mess. It is a very serious, dangerous situation going in and out of that and until you isolate your situation with some islands and landscaping in there, which I think will be very beneficial -- you have to keep in mind that in Chili Center we're trying to develop a theme and area through that which we'll get into later on as other members of the Board will start to discuss that with you. We're willing to work with you on it, but we're very sensitive to what we get and how it handles in that traffic pattern.

MR. TRYBULSKI: We can look at that. Just looking at this now for the first time, just some quick off-the-cuff comments I would have. It is my understanding that -- that dividing island it is one way, and I grant you I'm told that is not adhered to, but in this particular layout you're basically bringing cars in that are coming up a one-way lane, and the other issue that I see with this is that if you bring people over here for a drive-through (indicating), you're bringing up the possibility that they're going to stack cars -- cars will then stack in front of this lane and block off this one lane (indicating). Obviously it is something to be looked at, but that is just my quick comments about that.

RAY BLEIER: In regard to traffic also, your cuing distance for cars coming out on Chili Avenue is kind of small, and I have seen the cues backing up quite a ways back into the area where your parking is going to be, and of course, this will add to the number of cars exiting out here. Maybe you have to be a little careful. I'm concerned with that aspect of traffic also.

MR. BEBOUT: I think the way the site is laid out, if that does occur, I guess the -- the positive is that the way the circulation works is that people will be cued within the Tim Horton's vicinity, if you will, and not out into the north/south driveway where people are trying to exit from K-Mart which will help minimize the congestion.

MR. TERRAGNOLI: Another advantage, too, is you really have eight cars that could be stacked with this car being at the pickup window, the eighth, maybe even ninth here before you start to get into this parking field. Now, if Chili was such a business that it went -- and that would be a good thing in Tim Horton's mind -- and this traffic ended up coming back in here (indicating), we have an advantage with the parking here and here for other alternatives for the customers to go. But just to have -- we have seen in the overall Rochester market now to have let's say -- I think this is about the ninth car here, a nine-car stack, and it is still segregated from the rest of the traffic. That would be pretty good and sufficient from what we're seeing happening in the market right now, be able to handle the business without coming back further in the site.

One of the situations you brought up with Buffalo and Howard, car comes away from here (indicating) and then there is a curb cut right about here (indicating). Advantage we have here, that car pulls away, they're here (indicating). The curb cut is down here (indicating). So you don't have an oncoming car coming in here at the same time this car is trying to pull away here (indicating). That is an advantage, this site here (indicating).

DON FASO: We're all familiar with that driveway and the problems that arise because --

MR. TERRAGNOLI: I was just comparing it to Buffalo and Howard.

RAY BLEIER: What is percentage of drive-through versus sit-in?

MR. TERRAGNOLI: We're seeing about 50 percent of the business in the drive-through.

KAREN COX: This time of year nobody wants to get out of the car.

MR. TERRAGNOLI: I would also like to mention, if I could, that Tim Horton's is primarily a morning business. We would be accomplishing most of our business for the day, the later part of the morning at the same time that K-Mart would just be about opening, and especially the bank. We consider ourselves a very good, quote/unquote, second user on a site because we have a morning -- primarily our business is done in the morning where other parts is mostly afternoon and evening peak times.

JOHN NOWICKI: Are you open 24 hours?

MR. TERRAGNOLI: Yes.

DON FASO: This will be your standard design, Tim Horton's?

MR. TERRAGNOLI: Yes.

JOHN NOWICKI: We want to talk about that. I think there is an opportunity here, and across the street we have buildings that have gone up recently and some other projects that are coming up under construction here and it has been pretty much a residential theme, and we would like to see you consider some other architectural treatments to the building.

MR. TERRAGNOLI: I will show you what I brought tonight and you can give me comments on this and maybe some direction. Here is an artist rendering of the building. This building is brick on all four sides and I will show you that with the other parts of the rendering. Perspective, this part of the building here would match up to right here (indicating). Then this side-view here would be this part here (indicating).

RAY BLEIER: That is pretty much what the Howard Road and Buffalo Road site looks like.

MR. TERRAGNOLI: Yes. There is the side with the drive-through. The rear of the building, which I mentioned, which is also all brick.

JOHN NOWICKI: That is not exactly what I had in mind.

MR. TERRAGNOLI: Well, I'm interested in your comments. I have looked in the area. I have spent a lot of time here. I have seen some of the buildings and some of them have some peaks to them, but their trade-off there is they didn't put any brick on the buildings, but I'm very much interested in your comments.

JOHN NOWICKI: At least this is my opinion, and a couple other people's opinion, to see more residential-style-type building and screening out of any rooftop units whatsoever. We have asked that from other businesses in the community. Slowly and surely. You have a great product and great name. We would just like to see a little more architectural --

MR. TERRAGNOLI: Something more in the roof lines?

JOHN NOWICKI: Yes.

DON FASO: A little more architectural detail.

DARIO MARCHIONI: Not the whole roof.

JOHN NOWICKI: Get rid of the boxy look.

DON FASO: I think Chili is ready for a Tim Horton's.

MR. TERRAGNOLI: We're ready for Chili.

DON FASO: I think this will be one of your better stores.

MR. TERRAGNOLI: I do concur.

DON FASO: It will be well worth your investment.

MR. TERRAGNOLI: We're excited about the opportunity. We're completely respectful of the approval process. We know we have to do some different things on the site and the building. We're going to start working on that tomorrow. But I -- being respectful of the process, we would like to be in the process and under construction as soon as the weather would allow us, April 1.

JOHN NOWICKI: Just to give you an example, we just had Byrne Dairy in here the last couple months and they probably did one of the best presentations in working with the Town. They actually accommodated us with dark sky lighting on the site. I'm not sure if you're familiar with that.

MR. TERRAGNOLI: I'm not.

JOHN NOWICKI: They have done that and architectural treatments, everything they did on that site. I'm pleased with how that turned out. I'm sure you guys, with all your experience, you

question people in the Town and take that into consideration.

DARIO MARCHIONI: If you look at the sketch we gave you at the end of the -- all of the parking areas, you have an island there to cut it off, there, maybe some shrubs or greenery there.

KEITH O'TOOLE: You have to have landscaping every ten spaces, correct.

KAREN COX: What was the purpose for installing that island in the K-Mart parking lot, the long island?

MR. TRYBULSKI: I have no idea. I wish I could tell you the answer.

KAREN COX: Ten years ago when I moved to Chili it wasn't there and then all of a sudden it appeared and nobody follows the --

MR. TRYBULSKI: I have been told --

KAREN COX: Except maybe myself. It causes a lot of trouble.

DON FASO: Under 115-33(C)11, in the event the applicant demonstrates to the Planning Board under site plan approval process an Article 5 that the initial need for parking or less than that which may be required, the Planning Board may permit such limited parking. So I think we can cover that. Personal observation is I have never seen people wandering around looking for a place to park. Even at Christmastime, the parking spots to the west are vacant. There has never been an occasion that I have observed personally where the parking lot has been absolutely jammed full. I'm all sure Benderson and K-Mart don't like to hear that, but I think we could grant relief from the parking.

MR. BEBOUT: From the number, but not the setback?

DON FASO: Setback is ZBA. We can do the parking.

MR. BEBOUT: Okay.

DON FASO: Do a little creative thinking with the islands. Don't worry about losing spaces to an island because I don't think there will be a problem.

MR. BEBOUT: We'll take all these into consideration. There are definitely things we can look at and improve on.

DON FASO: I understand you're looking at other spots in Gates?

MR. TERRAGNOLI: We are working on our second location in Gates right now. We're about 50 percent through the approval process there.

DON FASO: Are you looking --

DARIO MARCHIONI: Lyell Road.

MR. TERRAGNOLI: Spencerport and Elmgrove is the second site.

DON FASO: So you're looking at two additional stores in Gates?

MR. TERRAGNOLI: No. That would be our second store. That is the only one we have under consideration right now.

DARIO MARCHIONI: Gates always gets more. I don't know why.

MR. TERRAGNOLI: With a little luck maybe I could have Chili catch up on the end of the year.

(Laughter.)

DON FASO: Chili Center and then North Chili.

MR. TERRAGNOLI: Maybe I'll be able to talk to you about that in the next 30 to 60 days.

RAY BLEIER: I think it would behoove them to get to the Conservation Board, for landscaping. When they do their plans, final drawings, we would anticipate you would come to the Conservation Board on that.

FRED TROTT: Same thing you were saying with parking.

LARRY NISSEN: On the retaining wall we're going to need to see a little more detail on that. I see that there is a note that calls for plans to be submitted, stamped by a licensed professional engineer and approved, but I think we're going to need a little more detail on that.

MR. BEBOUT: We'll provide some more detail. The time of the submission we weren't sure what type of wall would be constructed. It will be like a block, segmental.

LARRY NISSEN: Your concept looks good and will work for the area, but we want it in detail.

The meeting ended at 11:02 p.m.