

CHILI PLANNING BOARD
March 10, 2009

A meeting of the Chili Planning Board was held on March 10, 2009 at the Chili Town Hall, 3333 Chili Avenue, Rochester, New York 14624 at 7:00 p.m. The meeting was called to order by Chairperson James Martin.

PRESENT: George Brinkwart, Karen Cox, John Hellaby, Dario Marchioni, Jim Powers and Chairperson James Martin.

ALSO PRESENT: Ken Hurley, Town Engineering Representative; James Ignatowski; Architectural Advisory Committee; Chris Karelus, Building Department Manager; Keith O'Toole, Assistant Counsel for the Town; Pat Tindale, Conservation Board Representative; Brad Grover, Traffic Safety Committee Representative..

JAMES MARTIN: Normally when Congress passes laws, it is usually to take money out of our pockets. However, this one I like and wanted to bring it to everyone's attention.

It says, "For years, Veterans have wanted to salute the U.S. flag during the Pledge of Allegiance and the National Anthem instead of just placing their hand over their heart. Now they can.

A Congressional Amendment sponsored by Senator James Inhofe, Republican of Oklahoma, in the National Defense Authorization Act for Fiscal Year 2009 specifically states that 'members of the Armed Forces and Veterans who are present but not in uniform may render the military salute.' 'Veterans can salute the flag during the National Anthem as well as during 'the hoisting, lowering and passing of the flag.'"

So anyone who is a veteran in the audience tonight who feels compelled to do -- give a military salute to the flag during the National Anthem -- excuse me, during the Pledge of Allegiance is welcome to do so.

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

JAMES MARTIN: There will be a slight change to the agenda tonight. The applications of Number 3 and 4 on the sheet concerning the Daniel Boon will not be heard as a Public Hearing tonight. Basically, I will have a brief review by their engineer of changes and other things that have happened since we heard it initially as a concept review. It will be a rereview of the concept, so we will not be having a Public Hearing on those two applications tonight.

PUBLIC HEARINGS:

1. Application of C & S Engineers, 90 Broadway, Buffalo, New York 14203; property owner: Upstate Properties of Chili LLC; for preliminary site plan approval to erect a 2,815 sq. ft. restaurant at property located at 3305 Chili Avenue in G.B. zone.

Lowell Dewey and Ron Goodwin were present to represent the application.

MR. DEWEY: My name is Lowell Dewey. I'm with C & S Engineers, and our office is at 90 Broadway in Buffalo, New York. I'm a partner with the firm, representing the Treadwell Enterprises, also known as Great Lakes Restaurants. The plan, as you have seen in the submittal, is for a new Kentucky Fried Chicken, and it's on a half-acre parcel on Chili Avenue, just next to the McDonald's restaurant. So I am sure you all know where that is.

The current parcel is really covered with asphalt. Our intention is to build a 60-seat restaurant with green space to the north and south, and we have consulted carefully with Chris Karelus and have modified the plans to remove parking that we had in front and to provide a potential access drive or connecting link between us and the McDonald's site.

If you're familiar with McDonald's, as you look to one side, as you are driving around, it's a steep slope there, so our challenge was to pick a finished floor for this building that blended into the existing grade as well as possible and at the same time getting it up a little bit higher than what it is now so it drains, and also so there is a potential to connect between us and McDonald's. But as you can see, if you're familiar with contours, there is quite a few contours between us and the McDonald's site. It's steep. So that presents a challenge.

We have met with the neighbors to the south. We're planning to obtain a drainage easement. It is just over half an acre, so we did do a Storm Water Pollution Prevention Plan and we have also augmented the drawings in accordance with your Town Engineer's requirements. I spoke with him tonight. I understand he has been satisfied, but he can speak to that.

We now show curbing around the whole parcel. We didn't before. We do show curbing

everywhere where we come in contact with a grass surface, and really there will be less runoff from the site. As you can see, there is green space where there was none before.

The intention is to run a small pump station to lift the sewage out to Chili Avenue, the sewers on the other side of the street. We are talking with the neighbor to potentially get an easement all of the way to the rear of the parcel for a gravity sewer, but right now we're showing a small pump station.

Got the site well lit. I understand that you have a specific requirement for a certain type of light fixture. We're willing to accommodate that. I wasn't aware of that until just recently, so the light fixture we have submitted is the typical shoe box that pushes all light down, and that is what we typically do. We have no off-site lighting at all, so it stays squarely on the site, but if you have a more ornate requirement, we can deal with that.

I guess with that, I would be willing to answer any questions you have. I think as we go along, I would like to show you some more plans, but a minor modification of what we have submitted, and I'll be glad to answer any questions that you have now.

JAMES MARTIN: I have a letter dated March 9th, '09, which was a response to several issues that were raised by the Town Engineer, and I don't know if you have had a chance to review this letter.

MR. DEWEY: I think one of my guys wrote it, and I read it. So certainly.

JAMES MARTIN: One of the issues that they brought up was the handicapped accessibility from the -- you know, from the public sidewalk running along Chili Avenue down to the location. The response within this letter basically says you don't want to do that. That is essentially what it says, due to some issues around the grade and how you would configure the sidewalk.

So, you know --

MR. DEWEY: Do you want me to speak to that?

JAMES MARTIN: There are -- you know, we do have some handicapped people that, you know, utilize that public sidewalk, okay? I mean the fact that everybody that is handicapped that would be coming to the -- to this restaurant in a car is not totally true, all right, from my perspective of living in the Town and seeing who utilizes that public sidewalk.

I understand it requires hand rails on both sides. Is that true, Ken (Hurley), from your perspective in looking at ADA requirements?

KEN HURLEY: I was going to review that. Speaking with Chris Karelus, he believes that is true.

JAMES MARTIN: That is true, all right.

MR. DEWEY: We thought it was quite a structure to accommodate very few patrons and if they had access to the driveway with the handicapped ramp, I would suspect that is where they would go because the driveway is a much flatter slope. Just a -- we haven't -- we haven't been called to do that before, to run a sidewalk in addition to a public sidewalk, in addition to handicapped parking. So we thought that the stairs coming down would allow able-bodied people at least to walk directly to the store, rather than another 40 feet to go around on the -- on the driveway opening.

I don't think expense is the problem. These people are very flexible and they're great to work with, but I just saw it as having to switch back, back and forth, to get up the slope, even to get a 1-on-20 slope -- 1-on-12 requires hand rails on both sides. To do that you still need to turn the sidewalk back and forth. It will look odd. That's my opinion.

JAMES MARTIN: The rest of the Board can comment on that issue. It bothered me a little bit we weren't going to be able to accommodate that particular aspect of the plan from a Town perspective. I will listen to other comments.

There are several issues that I will be including in my letter, assuming this goes forward tonight, as conditions, and I just wanted to kind of go through these. You will get a copy of this, but if you wanted to write down any of these -- certainly cross access from parking units need to be included as part of the plan.

Certainly, you know, the immediate area which includes the access roads through the Easton plaza and cross access roads through McDonald's parcel. And obviously they're going to need to be approved by the Building Department and our Assistant Town Attorney.

Any and all utility easements should be finalized, all right, and certainly will be subject to Assistant Town Counsel approval prior to us signing any of the -- you know, the plat maps for the project.

Copies of maintenance agreements for use of all of the common areas should be provided to the Building Department, Town Attorney, all right, prior to us signing off.

You have already indicated that you have curbed the parking areas, so that goes off the list as a potential condition as far as I'm concerned. You have already agreed to do that.

Certainly striped parking area, the south parking area should be curbed with a landscaped tree placed within an island to provide asphalt surface break-up and green space. That would be very nice and we'll probably include that as a condition.

MR. DEWEY: It's on the latest plan. It's on that drawing. We agreed with that.

JAMES MARTIN: Planting a visual screening around the refrigeration unit. Have you included that from the standpoint of any landscaping?

MR. DEWEY: I think we do.

JAMES MARTIN: I know you need access to it. If you can screen the majority of it, all right, that would be great.

MR. DEWEY: It isn't very pretty.

JAMES MARTIN: As far as the -- I know the Architectural Review Committee hasn't completed their review yet, and we're anticipating that, but clearly in looking at the elevations from my perspective and -- all right from the Building Department's perspective, if you added mullions to the windows, I think it would be a very nice decorative treatment as far as the window treatments go.

And another thing that we would probably place as a condition, assuming approval, um, we have issues with the temporary window signage that goes up. And I don't know how much KFC does, okay? But it just detracts -- you build a beautiful building and then plaster these things up all over the place and it detracts from the appearance very dramatically. I think what we would prefer to do is say that we wouldn't allow that temporary window signage, which to me is, you know, just not conducive to a very good appearing public building. So to -- you know, to give you a heads-up on what potential conditions might come out of this approval tonight, I wanted to run those by you.

It is my understanding, from my conversation with Mr. Karelus, there is some consideration being given to consolidation on a new freestanding pylon sign that might be part and parcel of something down the road in conjunction with another owner, you know, in the vicinity, all right? And --

MR. DEWEY: Maybe I can speak to that.

JAMES MARTIN: If you can shed any light on that, it would -- obviously you would be approved for whatever signage you are allowed to have on the parcel itself, but if there is something in the works, you know, it would be nice to be aware of that and where that might stand at this time.

MR. DEWEY: I can tell you there are really three parties involved and engineers don't usually get in the middle of these things, but I happened to be there.

JAMES MARTIN: I appreciate that. Lawyers usually do that.

MR. DEWEY: They're much more expensive.

The -- KFC would like its own pylon sign and they will comply with your sign ordinance.

The sign that shows several businesses on it, I think it has green posts and it is back-lit, the owner of the -- I think it is Prudential behind in that -- and the old bowling alley. The people who are selling this parcel to my client are -- are trying to get together to have the sign lit more hours and to potentially approve it to include perhaps one more user. Not the -- not the KFC. KFC would like its own separate sign.

So I believe those negotiations are underway and we would like to come back with a separate application for them and for our own sign for the KFC sign. I'm involved because the people who are selling the parcel to KFC are the -- the Eastons, and they're here, too. And they're in discussion, the two parties are.

JAMES MARTIN: Because obviously the original signage that was approved prior to the subdivision is still in place, and as I said, you're entitled to your signage in compliance with our sign code.

MR. DEWEY: Appreciate that.

JAMES MARTIN: I think that is all I have got.

JIM POWERS: On this cross access, has there been any correspondence between you and McDonald's as to where it might be?

MR. DEWEY: Yes. I spoke to their engineer, and I sent him our drawings -- as a matter of fact, I sent him our CAD file so he could adjust his grades to try and match ours. We can't go any higher with our building because we need to grade it so there is positive drainage away from our neighbor's building. If we're up too high, it -- we can't slope it steep enough to drain the place. We're as high as we can get, but they know about our plans. So I -- I sent our drawings to the engineer for McDonald's and we discussed the quite steep slopes. He was a little skeptical about the potential to connect the two. I don't know physically it can be done -- it can be done, but you will be scooting down the hill, if anyone wants to.

JIM POWERS: In looking at your rendering here, where might I look at this map and see where you might have this cross access?

MR. DEWEY: I speak up here.

It is here (indicating). Can you see this (indicating)? If you can't see it, I will do it on this one (indicating). We used to have parking in the front. Chris (Karelus) asked us to pull that off and to provide a potential connection point right along our frontage. For McDonald's to work, they would have to lose parking and grade back into their property to -- to make this so it is navigable.

JIM POWERS: I see on the northeast corner you changed the curbing along there from what the original plan showed. It showed the drive-through traffic moving over into that other lane, which is a good change.

MR. DEWEY: Yes. Chris (Karelus) asked us to do that.

JIM POWERS: In the drive-through, the lane next to the drive-through lane, you show the other lane where the dumpster enclosure is in the back corner there. That is going to be on a concrete pad?

MR. DEWEY: Yes, sir.

JIM POWERS: I can drive over that concrete pad?

MR. DEWEY: Yes, you can. We like to put concrete because they roll the dumpsters out.

JIM POWERS: I can use that pad to drive --

MR. DEWEY: It would be the same grade, yes.

JIM POWERS: On the west side of the building, you show traffic going in two directions.

Is there any reason why you couldn't have all your traffic enter at the north end and -- for your parking purposes, or for your drive-through rather than have traffic in that section going both ways and possibly move the sidewalk that you have there over a little bit and have everybody enter in one section and exit in the other, in the south end?

MR. DEWEY: That allows me to show you a small option that -- that our neighbors have asked us to do, and I did not want to change plans in the middle of my submittal. I wanted to submit one for you to review, but they have asked us to make a slight change. Maybe this accommodates your question. If you don't mind, I will just show it to you. It doesn't -- I think it is up here (indicating).

It is still two-way. The only way -- if I put this next to that (indicating), you won't see much of a change at all. It is just that the Eastons, their building is here (indicating). The way we had it, there was really no parking, no defined parking for their patrons.

So all we did was narrow that raised sidewalk that you talked about and put parking on this side (indicating). It is just striped in the existing pavement so their patrons can park here (indicating). But this will be a raised curb, you can't drive through (indicating).

The reason for the two-way traffic here is just because this is 90-degree parking, and you could back out and just leave this way (indicating). If you had it all one way -- is that what you had in mind? If you had it all one way, the only thing they could do is go this way (indicating) and way around here (indicating) and leave this way (indicating). We didn't see the reason for it. We thought this -- this being the 26 feet wide here, is plenty wide to make the turns, so we felt this -- this is the place for all that traffic to go (indicating).

JOHN HELLABY: If I can jump in real quick, while you have that right there, how far roughly is it from the parking area, the center of that to the face of Eastons' present building?

MR. DEWEY: From here to here (indicating), it's about 60 feet. It's a good distance.

JOHN HELLABY: All of the parking out there presently goes away, and the only thing -- so you will have a driveway and along the existing front of the building just that parking in the front?

MR. DEWEY: Yes. Right now if you drive the place there is not too many stripes anywhere. It is haphazard. This now will formalize it so everybody knows where they can park and where they will have to drive.

JOHN HELLABY: Is that still a raised island on the plan?

MR. DEWEY: Right.

JOHN HELLABY: You can't drive through that.

MR. DEWEY: They wanted it that way, the Eastons did. Because this identifies this parking for them, and all of the parking for the restaurant. Works pretty well, actually. It's just harder to plow, obviously.

JOHN HELLABY: How does that affect their overall parking space requirement? Are they still within the --

CHRIS KARELUS: Yes, the original project had the shared parking agreement. That is why we're asking them to provide the easements over all of the areas that are collectively used by both parties. That was the intent when McDonald's came through. The intent is the same with this project.

JIM POWERS: If and when this project is approved, how long do you figure it will take you to up that building and be open for business?

MR. GOODWIN: They usually give us 90 days.

MR. DEWEY: This is the contractor, so he knows.

JIM POWERS: 90 days?

MR. DEWEY: Fast.

MR. GOODWIN: We just remodeled one completely and it took us --

JIM POWERS: Will you build it somewhere and truck it in?

(Laughter.)

KAREN COX: Get back to Jim (Martin)'s, your question about the handicapped access from this front, it would be nice to have that. I think that having something, a facility with switch-backs and hand rails might detract from the look of the front. It might make it less attractive. They tend to look a little clunky when you have more than one switch-back on them. I don't know how many it would take.

MR. DEWEY: It would look like a Z, or a Number 2. I would go like that and that and then down (indicating).

KAREN COX: It may look a little clunky, Jim (Martin), I don't know. Maybe there would be a way to, you know, define a lane or something. I don't know if you can -- if you legally have to do it, but just somewhere where drivers would be aware of handicapped people --

MR. DEWEY: The pavement is wide. We could stripe the yellow stripe that would indicate -- and maybe even have a symbol painted -- handicapped symbol painted on the ground.

KAREN COX: I know I have seen things like that in large parking lots. Dick's has one out at the mall where they have a walkway through the parking lot, but it is defined with striping. That is just a suggestion.

JAMES MARTIN: Might be an alternative that should be looked at and investigated.

MR. DEWEY: We can do that.

KAREN COX: Looking at the alternate you have up there, are you asking us to comment on both of these?

MR. DEWEY: I'm sorry about this. I don't like doing this, but it came up kind of late, this concept. I would say this -- because it's -- Eastons' business is next door and we don't want to

harm their business, and we want to give them a parking space that makes sense and defines the whole lot, this is the preferred method, this one (indicating). It's very little change from that, except there is parking on both sides.

KAREN COX: Right. I actually like the way that one looks a little better.

MR. DEWEY: The islands at the end are a little bigger and you can plant a tree in each one. That is our intent.

JOHN HELLABY: Just a couple of general questions. Hours of operation if this thing is approved? Do you know roughly yet?

MR. GOODWIN: Generally.

JAMES MARTIN: Could you state your name for the record, please?

MR. GOODWIN: Sure. My name is Ron Goodwin, and I live at 135 Apartment One, Williamsville, New York, and I am the Superintendent for the construction company.

The hours of operation will normally be like 10 in the morning until 10 at night during the wintertime and during the summertime we're open until like 11 o'clock.

JOHN HELLABY: I'm assuming this is a franchise type restaurant?

MR. GOODWIN: Yes.

JOHN HELLABY: The person or persons that are actually running this franchise, do they have other restaurants only?

MR. GOODWIN: Approximately 68 KFC and two Ruby Tuesdays.

JOHN HELLABY: Run by the same person?

MR. GOODWIN: Run by the same person, yep.

JOHN HELLABY: I guess that is all technically I have. Two and a half years ago it was approved for something very similar in scope, and the engineers did an adequate question and so has Mr. Karelus, along with the other players. I think right now I'm more interested in basically getting through the Architectural Review Board, the Conservation Board with regard to the landscaping and finding a nice equilibrium with McDonald's folks next door.

MR. DEWEY: Okay.

MR. GOODWIN: One of the other things, I think you had mentioned about the signage in the front -- you are talking about temporary signage?

JAMES MARTIN: No. I wasn't talking about temporary signage.

MR. DEWEY: He is talking about signage in the windows for advertising, the specials.

MR. GOODWIN: We normally put our specials out on the front, on a big board.

JAMES MARTIN: As long as it is not a sandwich board, you will be all set.

MR. DEWEY: We have one out there now, you know.

JAMES MARTIN: I know. The Town asked you to post that.

MR. DEWEY: Yes, I know.

GEORGE BRINKWART: I would like -- first off I would like to compliment you on the drawings. They are very well done, clear, and present a lot of information that we need to know.

CHECKK I want to pick up a little bit on the sidewalk thing there. I want you to know we in Chili take access for our pedestrians very seriously, and just briefly looking at the grading plan, I mean you don't have to think in terms of 90-degree angles here. I think if you went down grade a little bit and followed one of the contour lines, you would find you could probably get your 1-on-20 slope which would alleviate you from putting in those ramps you're talking about. So take a pretty close look at it.

MR. DEWEY: We'll look at it.

GEORGE BRINKWART: Also, while we're on the topic of sidewalks and pedestrian access, when McDonald's was here, we let them know, and I think Dario (Marchioni) might be able to elaborate on it as well, we felt it was very important you had some pedestrian access from the southern portion of the site.

Now, a possibility, since you have already collaborated with McDonald's on some of the cross access stuff, you might want to also have a discussion with them that maybe collaboratively you could put a very nice pedestrian access from the back, with some nice landscaping and maybe even, you know, a park bench or something like that, something to make it a little more pedestrian friendly. I think that is very important to us here, and I really want you to take a look at that.

Another question, kind of getting off topic now, what are the planned hours of operation for this site?

MR. GOODWIN: They are 10:00 a.m., and normally the workers will get there probably about 8 o'clock, start making the chicken.

GEORGE BRINKWART: I'm sorry. I meant for the operation of the store. Is this 24/7?

MR. GOODWIN: No. 10:00 a.m. to 10:00 p.m. during the winter. 11:00 p.m. in the summertime.

MR. DEWEY: Taco Bell is 24 hours. This is not --

MR. GOODWIN: Taco Bell is 24 hours.

MR. DEWEY: No breakfast here.

GEORGE BRINKWART: I see you're boring across Chili Ave. to get your sewer and water connections. Have you done any hydrant flows on the water? What kind of pressure do you have out there?

MR. DEWEY: One of my guys called for the hydrant flow test results, but I don't have them off the top of my head. I believe they're good, but I -- but I'm not sure. I can -- I know we have them in the office.

GEORGE BRINKWART: I think when you get that data, that would be handy to put on

here, as well.

Also, check with Town Engineer regarding the storm sewer. I think we have a 12-inch minimum, but double check with Town Engineer.

MR. DEWEY: I'm sorry, what did you say?

GEORGE BRINKWART: 12-inch minimum for storm sewer.

MR. DEWEY: Okay.

GEORGE BRINKWART: Check with the Town Engineer.

MR. DEWEY: In this case, if you follow the off-site drainage path, our neighbor to the south said that the catch basin we are tying into sometimes floods and what we did was oversize the pipe for some detention. Even though we're a much less impervious area now, we said to accommodate his problem, we were going to oversize the pipe and then throttle it down, so there is one small stretch of pipe where we connect into the catch basin, I think an 8. But we did that on purpose, even though we weren't engineering required to do it. We understood his situation.

GEORGE BRINKWART: Check to make sure the 8-inch would be acceptable to our Engineering Department.

Since you brought that up, have you done any investigation on the downstream side of the storm sewer to see if it is suitable for --

MR. DEWEY: It takes a lot of flow. It's one catch basin that takes a lot of flow.

I was concerned about it. That is why the first day I was out at the site we met with the neighbor and I asked him if he had any problems, because he apparently installed those grass-lined swales that act as detention out by the railroad tracks. He doesn't have trouble with those, but he has trouble with that immediate catch basin. We felt that we were, again, probably 30 percent less pavement, less hard surface, we're going to help him, because all of the water goes there anyway. It all sheet flows right to the catch basin. It is the only place for us to go. That is why we oversized the pipe and kept it on our own parcel. That is the best we can do.

GEORGE BRINKWART: I would again recommend you contact the Superintendent of Public Works, Dave Lindsay, and make sure that all of that stuff is --

MR. DEWEY: We submitted the drainage calcs to the engineer.

GEORGE BRINKWART: I think that is most of the questions I have.

Oh, if and when you do get preliminary approval for this project, I just wanted to point out Section 500-40 in our Town Code requires that all permits for State and County be in place before you submit your final plans.

MR. DEWEY: Yep. That is typical.

DARIO MARCHIONI: Are you going to do any improvement on the entrance from Chili Avenue, the main entrance from Chili Avenue on this project?

MR. DEWEY: Have not planned to. We're going to use -- there are existing curbs there. It is a pretty wide radius, so we weren't going to make any changes there.

DARIO MARCHIONI: Any new asphalt there or anything?

MR. DEWEY: That's in pretty good shape. We're going to saw cut close to there, because this whole area is going to get resurfaced, to grade it correctly. But we are not going out into the entrance at all.

DARIO MARCHIONI: So the entrance will stay the same?

MR. DEWEY: Yes, sir. I just went there today. It looked fine to me, but it is just me.

DARIO MARCHIONI: Depending on the standard you use. Okay.

Now, you're saying this brick paved area is not going to be on your property here, right?

MR. DEWEY: Yeah. That's actually on the neighbor's property, the people who are selling it to our -- my client. One that -- they have asked us to add striping here (indicating). That part that you say was bricked, it's just shifted slightly.

DARIO MARCHIONI: There is a pattern.

MR. DEWEY: Yes. It is going to be the same thing, but it is narrower, and it defines this space (indicating) from the space serving the restaurant.

DARIO MARCHIONI: It will be a different height you said?

MR. DEWEY: A different width. Same height. 6 inches.

DARIO MARCHIONI: If somebody parks here, they can walk across that.

MR. DEWEY: Yes. They can step right over it. It is just a curb.

DARIO MARCHIONI: I thought it would be --

MR. DEWEY: Not a big tall thing. Just a curb. A fat curb.

DARIO MARCHIONI: Also would be used for Eastons' property, the parking there?

MR. DEWEY: Yes.

DARIO MARCHIONI: So it is in general.

So actually there wouldn't be a distinction between this project and next door? It would be a continuous?

MR. DEWEY: Continuous.

DARIO MARCHIONI: Plaza atmosphere.

MR. DEWEY: This is a half-acre parcel and if you look at the property line, it is much closer to our building, but because we're purchasing from them, we've asked them to accommodate this parking arrangement.

DARIO MARCHIONI: This will complement.

MR. DEWEY: I think the whole thing will be better for access, safer.

DARIO MARCHIONI: Also for moving around.

MR. DEWEY: Everybody will see where the islands are and the striping and that is where they will go.

DARIO MARCHIONI: Also, when you snow plow that area, it would be clean area with the exception of the two ends?

MR. DEWEY: Yes. There will be tree plantings there. So they will have to clear snow and push it in a different direction.

DARIO MARCHIONI: On both ends?

MR. DEWEY: Yes.

DARIO MARCHIONI: So you said that basically you cannot work with -- I shouldn't say that word -- with McDonald's on getting an access for both properties?

MR. DEWEY: I think it is difficult. I would be glad to speak to your engineer about it, but right now the slope between us is about 15 percent, and you don't really want to drive on something like that. If we can get it down closer to 8, 8 percent and salt it all of the time, um, perhaps it would be doable.

DARIO MARCHIONI: I would like to see an atmosphere like this, that is flat -- everything is all in one, rather than individually divided up by berms, you know -- if it is -- if it is an open atmosphere where a person -- easy navigating, if they park here and they decide they want to go to Kentucky Fried or change their mind, they can do it, instead of having to drive back around.

MR. DEWEY: I understand.

DARIO MARCHIONI: Working together to better the --

MR. DEWEY: If the site were a little flatter, it would be so much easier. This is tough. This is difficult to -- you see that berm when you're out there. It's a big drop, so that is what we have to navigate.

DARIO MARCHIONI: But you guys are engineers.

MR. DEWEY: I'm only telling you the truth.

KAREN COX: You can only do so much with what you have.

DARIO MARCHIONI: I thought I had to ask. Thank you.

JOHN HELLABY: I have one other real quick question. You may or may not know the answer to it.

Presently I believe he is parking some service vehicles out in that lot where this building is proposed to go.

MR. DEWEY: Right. I saw them there tonight.

JOHN HELLABY: Where are those trucks going, just out of curiosity? Do you know or might someone know?

MR. DEWEY: They would -- they would park in some of these new striped spaces or behind their building. There is plenty of asphalt there.

DARIO MARCHIONI: One more question. Are you working with McDonald's on the architectural so it has a kind of blend on both buildings? How --

MR. DEWEY: We started with a building that kind of looked like the Dunkin' Donuts that was approved a couple years ago. We were asked to do a building that was more a Greek Revival, and I'm trying to explain what that means to the KFC people, but they don't know what Greek Revival is. Even though my house is Greek Revival, I told him to look at my house. Anyway, we're going back to the Architectural Review Board. I'm using a local architect and he knows what he has to do. So we'll -- it is going to look like a big house, I think. Actually not so big. 2,800-square foot.

DARIO MARCHIONI: Just the fact I wanted to mention that Walgreens down the street in Chili Ave. is going to receive an award for the design that they have. That is kind of what we -- we would like to see you receive an award, too.

MR. DEWEY: Me, too. Keep us in mind.

CHRIS KARELUS: I thank Lowell (Dewey) for talking over the DRC comments and presenting some of the recommendations from the Board into the site plan. With respect to the cross access for McDonald's, their engineer has been working with our office. We have been working with both parties to get them file shares to start working on a plan to unite the two through that cross access. What I can tell the Board after this meeting, this evening, assuming the project moved forward, Town Engineer and myself, I can work as mediator and we can sit down with all three parties, the Town Engineer and the two engineers and work out a design solution. I agree with the Board, concur with the fact that that cross access will help relieve some of the traffic that might find its way onto Chili.

In addition to that, I had -- I had been approached about a comprehensive sign and I asked that be handled under a separate application. This applicant has rights by the code to a freestanding sign independent for their parcel. If I could speak to also the -- the raised parking area islands, this really provides delineation of parking aisles that never existed in the plaza. I know the property owner has talked to the consultant and the consultant is actually putting on paper today what will work, clearly defined drive aisles for both projects. I asked Ron (Brand) what is going to be the intent of that brick area? Will it be stamped concrete or brick laid? How do you all provide that type of --

MR. DEWEY: You mean the divider between the two parking areas?

CHRIS KARELUS: Stamped K-crete or actual placed brick?

MR. DEWEY: It got thinner from the plan that we submitted, and it's -- it could easily be stamped concrete.

CHRIS KARELUS: I think that will -- in this climate, it will stand up a heck of a lot better.

MR. DEWEY: Yes. It is probably 3 feet wide, so only like this (indicating). So it will be

raised. It will be curb on both sides, and in-filled with stamped concrete. Yes. That makes sense.

KEN HURLEY: In regards to the access to the Chili Avenue sidewalk, in talking with Chris (Karelus), on site, those handicapped ramps add parking space, make it ADA accessible for the site. The sidewalk going taught to Chili Avenue, I think kind of a compromise for both, if you don't label it as handicapped access, but maybe put a condition that they provide a 1-on-12 sidewalk out to Chili Avenue, a handicapped person could use that ramp because it is at a slope they're familiar with, but that also wouldn't require hand railings as a handicapped access. It'd just be a sidewalk going out to Chili Avenue that happened to be at the same slope that a handicapped person is used to using. And that I think would get rid of the railings and the steps going down to Chili Avenue, make it accessible if they chose to -- if the handicapped person chose, they could still use the drive --

MR. DEWEY: I'm okay with that. It's the railings that really bothered me.

JAMES MARTIN: So basically what I worded here is, "Applicant give serious consideration to handicapped access from public sidewalk." I'm leaving it open so that, you know, you can negotiate with the Building Department, with the Town Engineer to accomplish that.

MR. DEWEY: Got it.

KEN HURLEY: I have a copy of the engineer's report, and answering George (Brinkwart)'s question, it looks like they have 20-gallon per minute flow and a 49 PSI for pressure, for the water. If the Planning Board gives final approval tonight -- waives final approval, I just ask for any engineer's --

JAMES MARTIN: It would be pending Town Engineer's approval. Anything else?

KEN HURLEY: That's it.

CHRIS KARELUS: I also want to make a point. I know the public is here. Just be advised, this project does need a variance. Due to the fact that this is going to again try to work with the McDonald's parcel and cooperate with setback, the McDonald's parcel is set back at 60 feet. In addition, there is a minor parking variance with respect to the landscaped island within the parking areas they're providing on site. They provide a 10-foot break-up. Two minor variances the ZBA will be entertaining.

PAT TINDALE: I guess I'm going to ask them to collaborate with McDonald's, too, maybe in the front, on the street tree plantings if the landscaping architects could talk to each other on that so the varieties could be the same when they're on the street.

There are some changes here, and I understand the plans have changed somewhat. I'm seeing some plantings on this drawing, the south end that are probably not going to be there.

Mr. Dewey showed the plan to Ms. Tindale.

MR. DEWEY: At the south end we -- there is a tongue-shaped sliver of green and we added two trees there.

We would be glad to share the plans with the engineer for McDonald's. He has our CAD drawings.

JAMES MARTIN: Big enough modification, Pat (Tindale), to cause you any concern?

PAT TINDALE: That part, isn't, no. The Board suggested one thing, but after listening to the talk here, I'm not sure if it is feasible. We would like to see the side of that building softened up either with foundation plantings, moving the sidewalk a little to the west, foundation plantings up alongside the building or somewhere further to the west to separate the parking from the parking, from the other parking lot. I mean it is roadways and a lot of parking. I don't know if it is a possibility. That was the suggestion we would have liked to have seen.

MR. DEWEY: I would, too. It is just the lot is so narrow.

PAT TINDALE: Listening to this, I can --

MR. DEWEY: It just makes us confined.

PAT TINDALE: A couple other things need to be changed. We require a two-year warranty on all plant material and yours says one. We have certain size specifications with the trees. And on the Cleveland Select Pears, they should be 2 1/2 to 3 caliper. I don't know how you pronounce this one. It looks like amselem crabapple. Should have a 2 1/2 inch caliper.

MR. DEWEY: I think it is amselem or something like that.

PAT TINDALE: Allakhazam is more like it.

We would like to see a revised print before we stamp our approval on this.

MR. DEWEY: Okay.

JAMES IGNATOWSKI: Silvestri Architects, which represents or designed the KFC, appeared before the Architectural Review Committee on the 25th of this month and it was our conclusion that the design presented to us did not comply with the present architectural code and we suggested that Silvestri Architects redesign the project to comply with the code.

JAMES MARTIN: Okay. When is your next scheduled meeting and are they scheduled to appear before you?

JAMES IGNATOWSKI: As of now they are not scheduled to appear at the next meeting, which will be the second Wednesday --

JAMES MARTIN: What is the date of your next meeting?

JAMES IGNATOWSKI: Second Wednesday in April. I don't have the schedule in front of me.

CHRIS KARELUS: March 25th. Deadline is March 16th.

MR. DEWEY: We're -- we're aware of that, and our architect is going to resubmit before the 16th. He is almost done. He knows what you need. He spoke with you, I think.

JAMES IGNATOWSKI: Yep.

JAMES MARTIN: Essentially if this moves ahead, certainly the Architectural Review Committee recommends to the Planning Board. They don't approve. You know, you understand that relationship, okay? But we would certainly, you know, listen very diligently to their recommendations to us.

So the 25th of March is the next meeting. Certainly it would be in everybody's best interest to have them submitted. Assuming that this moves ahead with preliminary tonight, we could then address the final architectural issues at a final review, all right, before shovels go in the ground, all right, to be sure that we're all together on the architectural aspects of the building.

MR. DEWEY: Sure, or if you didn't want to see me again, you could just make it a condition.

That didn't work, did it?

JAMES MARTIN: Well, if you want to send the architects.

(Laughter.)

JAMES MARTIN: Certainly, you know, I'm going to capture something that the architectural review will be completed at the final review for this project, assuming it goes through preliminary tonight.

MR. DEWEY: If it were up to my client, it would be the big red square box.

JAMES MARTIN: We do have some elevations that have been submitted that certainly are not the typical KFC you see driving around this country, and, you know, I think with some -- some changes and some modifications, hopefully the Architectural Review Committee will approve it. I will say architectural review to be completed at final review. All right?

Are we okay with that, Jim (Ignatowski)?

JAMES IGNATOWSKI: As long as they get in by the correct date.

MR. DEWEY: 16th.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

STEVE GINOVSKY, 19 Hubbard Drive

MR. GINOVSKY: Good evening.

JAMES MARTIN: Good evening.

MR. GINOVSKY: Steven Ginovsky, 19 Hubbard Drive and a resident of Chili since 1961 and proud of it.

Now, the first part that was made mention on handicapped accessible in the front part, well -- in -- and our sidewalk that is in the front here on Chili Avenue as I'm looking at this to the north, we have spent an awful lot of money and worked awful hard to make Chili Avenue look decent. I'm personally not really impressed with having two-way traffic over in the front, if I'm looking at that print correct from here, in front of McDonald's over to this Kentucky Fried Chicken franchise restaurant, and I think that is a very unsafe practice. I have worked in a number of cities where they -- other restaurants have tried this. Awful lot of accidents, people get hit and hurt. We don't need this.

With that being said, with that sidewalk in the front there with the traffic, I think it's totally out of control. If anything, it should be around the back end of the restaurant, maybe some type of control. Because if you come off of Chili Avenue, into that restaurant and someone is coming across the front of that building, you're going to have a collision. No if, ands or buts. You're going both ways and someone stops in midstream and people walk in there, that is more than an accident looking for a place to happen.

The next part that I would like to bring up on this. To the south, either in that -- in the plaza where the property is being purchased, originally when that was a bowling alley, that was for parking. Those catch basins are set up for that. That is what the drainage is for. I used to plow that originally. That was before Mr. Howard even owned that, when it was a bowling alley. And the snow was stacked there.

Which brings me to another point. In the back of this building here, where are they going to put the snow in the wintertime? You know, it is only a half acre. You don't have a whole lot of room to push it, and parking is going to be at a premium, and you're going to be sharing it with McDonald's. I really have reservations on that, on the parking and the snowplowing, and it is definitely not going to get hauled out. We have had other businesses, and I will leave it at that, that promise not to put snow piles in front of their buildings and it has happened, and they're new buildings. I will leave it at that. I am not going to pick on it.

The next part is, when I hear the Town, and it was mentioned here, well, the client would prefer to put just a red box up. That's a threat, as far as I'm concerned. And for this Planning Board to even joke or entertain any fact similar, you are wrong. We have our standards, what is required by our review board over here coming up, and if they -- if anybody can't abide by our rules and laws that we want here, maybe we don't want them as a good neighbor or maybe they won't be a good neighbor. You can make your decision any way you want on this.

And I heard sharing the two properties, McDonald's and Kentucky Fried Chicken. I have yet to hear that anybody has signed anything on here as legal responsibility on this. And being in the front of the building, on Chili Avenue, like I said, that is wrong. You're going to have people pulling in off of Chili Avenue, and if there is a car or a pedestrian or somebody there, you're going to have more than just accidents. You will have a death. I don't want to see this happen in

this Town. We're too good for it. We have rules and obligations. Let's live by them all. Thank you.

JAMES MARTIN: Thank you for your comments.

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

The Board all voted in favor of the motion.

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

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

JAMES MARTIN: We have a lot of conditions that will need to be put in place if we move ahead on this tonight. I will go through these.

James Martin reviewed the proposed conditions with the Board.

PAT TINDEALE: I would like some revised landscape prints for us to sign.

JAMES MARTIN: You would like a revised landscape plan?

PAT TINDEALE: Yep.

CHRIS KARELUS: I would also request the light plans be reviewed and approved by the Building Department. The standard shoe boxes that they originally proposed would have sent the consultants -- as the Board had approved and reviewed prior applications, the goose -- the goose -- as you approved it through the Walgreens applications and previous local projects, I recommend that they look at those type of light fixtures. So what I will do is present it to the whole Board, and if the Board is in agreement with what he hands out, (inaudible).

JAMES MARTIN: Lighting fixtures to be approved by the Building Department.

CHRIS KARELUS: I will actually cycle to the Board for your approval prior to sign off.

JAMES MARTIN: All right.

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

1. Pending Town Engineer approval.
2. Applicant shall obtain Zoning Board of Appeals approval of all required variances.
3. The applicant shall work with the Building Department and Town Engineer to design the most suitable handicap access from the public sidewalk to the KFC Restaurant.
4. The applicant shall work with the Building Department, the Town Engineer, and the adjacent property owner to the east (McDonalds Restaurant) to determine if a cross access capability is achievable, and if so, it shall become part of this project.
5. The revised landscape plan shall be submitted to the Conservation Board for approval.
6. The architectural review of the proposed building shall be completed at a final review of this project.
7. Copies of all cross access parking agreements shall be supplied to the Building Department and Assistant Town Counsel for approval.
8. All utility easements shall be approved by the Assistant Town Counsel prior to signature approval of proposed plans.
9. Copies of all maintenance agreements pertaining to use of all common areas shall be supplied to the Building Department and Assistant Town Counsel for approval.
10. The applicant shall provide visual screenings and plantings around the refrigeration unit on the south side of the Building.
11. The Planning Board requires that mulleins be added to all building windows.
12. Temporary window signage shall not be permitted.

JOHN HELLABY: Before you continue, I would like to request to recuse myself from the next application as I am a leaseholder with several of the cell providers in the area.

JAMES MARTIN: You're recused, Mr. Hellaby.

2. Application of Verizon Wireless, 175 Calkins Road, Rochester, New York 14623. for preliminary site plan approval and modification of existing conditional use permit to increase number of antennas on telecommunications tower from nine to twelve at property located at 3235 Chili Avenue in G.B. zone.

Tom Greiner was present to represent the application.

MR. GREINER: Good evening. My name is Tom Greiner, here on behalf of Verizon Wireless tonight. I was in front of the Board ten years ago when the Board first approved Verizon's site on this tower, at the old Town Hall.

What we're here for tonight is a modification of that conditional use permit, site plan, final site plan and -- on this application.

Basically, the purpose of the application is to optimize the site. If you look at Exhibit J, I think it is, you will see a statement from Alex Bell of Verizon, RF Engineer. In that what he says is that the purpose of this is for two reasons. One, is to improve the in-building penetration as more and more people are using cell phones in their house as well as data applications, internet and so forth.

The second reason is this type of technology, the digital technology is very sensitive to noise, and so whereas you want the signal to overlap a little bit, you don't want it to overlap too much, and so you will see what he is stating in there is he would like to draw back on the signal somewhat to make sure that the signal itself is not creating noise to the other cell sites in the area.

To do that, we are -- as Chairman said, proposing to go from 9 panel antennas to 12. The existing ones are 4 feet tall. The new ones are 8 feet tall. And with that, that -- that is actually the essence of the project.

We're also proposing, and, in fact, I talked to Mr. Karelus about this, that as a condition, if the Board approves this, as a condition to the building permit, the structural engineers are suggesting that some reinforcement be done at the 20 to 40 foot level on that tower, so we would, of course, have that done, as well. We would do that anyway, but we would ask that that be a condition to the building permit if the Board approves this application.

If you will look at -- if you can turn for a minute to Exhibit I, which is in our last submission, what you see on that is the existing tower on the left and the -- well, the tower on the right, but with the proposed antennas.

JAMES MARTIN: Do you have any capability of showing this information to the public?

MR. GREINER: You know, I did not prepare anything oversized.

JAMES MARTIN: We can use our viewer here, if it is operating.

MR. GREINER: Great.

There was discussion about the new overhead projector.

MR. GREINER: On the left is the tower as it looks now, with the six antenna arrays. Verizon is the array at the top. Those are the 94 foot antennas.

Then if you look on the right, what you see is the same tower, the bottom five arrays from -- are the same, and then that top array, located at the same center line on the tower has the 12-panel antennas.

If you also look in the middle of the drawing -- well, down at the bottom it actually has the specifications for all of the antennas. They're also situated up within those two circles, the upper circle is the existing array from a planned view, from like an aerial view, and then that circle below is the proposed antenna array, again, from that same plan view. Just to point out, the -- Chris (Karelus) had asked us to do this. The diameter of the array up top, in other words, a diameter fitting that circle where the array is fitting on a circle is 20 feet. It only increases to 20.5 feet, so half a foot increase in diameter of the antenna array.

So you have the plan view and the elevation view.

Those are the only changes along with those -- that one tower modification, the 20 to 40 foot section strengthening. Nothing is being done on the ground. This is really, um, kind of a simple modification to just improve the efficiency and optimization of this cell site.

JAMES MARTIN: Okay.

MR. GREINER: With that, the only other thing I would ask is Chris (Karelus) had asked us for an identification of the five arrays below us. I have given three in Exhibit -- I think it is Exhibit K. Below us is Cingular, Voicestream and Cricket. I placed a call to American Tower to identify the bottom two. The Town may have records of this, but it was just simpler to get American Tower to do it. The gentleman I was dealing with American Tower won't be back for a while, but, again, when I talked to Chris (Karelus) about this, we thought we would make this a condition of the building permit, if -- again, if the Board approves the project.

And then finally regarding the 1 percent landscaping fee, we would -- on behalf of Verizon, we would respectfully request that be waived. This went through full site plan the last time with

the landscaping fee, and, again, we're not actually doing anything on the ground at all.

So with that, I can answer any questions.

JAMES MARTIN: Okay. It is my understanding that you were granted a variance to have a total height of 185 feet.

MR. GREINER: Correct.

JAMES MARTIN: And that even with the new arrays being slightly higher, you would still be under the 185 feet.

MR. GREINER: That's correct. We would be at the -- this array would go up to the 184 level, below, as you say, the 185, the highest improvement on the tower.

JAMES MARTIN: Certainly we're going to require the certified engineering report regarding necessary structure modifications to the tower and a schedule for completion be provided to the Building Department and the Town Engineer prior -- prior to issuing any appropriate permits, all right?

MR. GREINER: Of course.

JAMES MARTIN: And you have already touched on supplying the Building Department with some height location for all of the other co-locators on the tower, prior to the issuance of any permits. So certainly those would be two things that would be necessary.

JIM POWERS: You mentioned some repair work that is to be done on this structure because of a deficiency of some sort or another. What is that deficiency?

MR. GREINER: Let me -- let me tell you what I know. Exhibit D is a structural report. What they do, Mr. Powers, every time Verizon and presumably the other carriers are going to make additions to a tower, they do a structural report. The structural engineers go out and they examine. They also make calculations based on the total load on the tower that is existing and then look at the total load as it would be proposed. This is not only a static load, but a dynamic load. In other words, torque and looking at the effective wind and so forth.

That is about as far as I'm going to go, because then they run it all through some sort of computer model they have and they decide whether or not the tower as it is constructed will withstand all of those loads, with the proposed additions to the tower.

And in this case, the tower engineering service stated that the following tower modifications be made.

You know on these open lattice towers there are the diagonal pieces as they go up the tower. What they say is they want to replace the existing 2 1/2 inch by 2 1/2 inch by 3/16th of an inch diagonal members with new 2 1/2 by 2 1/2 by 4/16s, but 1/16th more from the 20 foot elevation to the 40 foot and with that, it passes the -- what they call the ANSI TIA specifications for towers. That has not only to do with the load, but wind speed and ice, as well. So they load it with ice, they have strong winds, they look at all of the loading and then they decide whether a tower needs repairs or it doesn't. And they're suggesting that in this one, in order to meet current specification, that if Verizon puts these new antennas on that, that change be made. That that 20 foot section have slightly larger diagonal members between 20 foot and 40 foot.

JIM POWERS: This would just about be the full capacity of this particular tower, wouldn't it?

MR. GREINER: It's -- it's unusual, I think, in our area to have any more than six on a tower. They're built very strong, obviously for wind and size. But it's actually -- it's not that unusual to have six. In other areas, bigger cities, Boston, Philadelphia, I have seen them with eight arrays on them. Not all of them cellular because there aren't eight cellular companies left, but eight antenna arrays, so this would be probably maxed out, I'm pretty sure. Just as a layperson. I mean I am really not speaking as an engineer, but I think you would be right.

GEORGE BRINKWART: You answered my question on more detailed review of what was to be done with the modifications. I think Jim (Martin), you included in that a condition of approval.

JAMES MARTIN: Yes. We need it verified.

GEORGE BRINKWART: To be reviewed by a licensed structural engineer.

JAMES MARTIN: Certified licensed engineer.

DARIO MARCHIONI: I don't have a question. It has been ten years since we saw you.

MR. GREINER: Ten years. We were at the old Town Hall when we had this.

DARIO MARCHIONI: I remember that. It sure goes fast.

CHRIS KARELUS: County Comments back. There was nothing of significance back on the project. All of the information that Mr. Greiner and Nixon had provided the office covered most of the concerns. I will just reiterate, I will ask that the tower permit happen prior to this permit being granted for the collocate, so the modifications happen, so the structural integrity is there before this new unit is hung.

Also, I saw the report was done in '07. Just the whole project would have to meet FCC guidelines. It is on the Town's property and there are yearly routine safety inspections be required. I ask that be a condition, that those safety inspections be done by American Tower, be given back to Town, so we're notified when it happens, when these reports are actually submitted back to American Tower on deficiencies.

JAMES MARTIN: So you want safety inspection schedule and foundation supplied to the Building Department?

CHRIS KARELUS: FCC requires they do it annually. Since it is on our property, we should be getting record of it.

JAMES MARTIN: Safety inspection reports supplied to the Building Department.

CHRIS KARELUS: Yes.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

JERRY BRIXNER, 14 Hartom Road

MR. BRIXNER: I believe that this tower is on the old premises of the old Town Hall facility as indicated, is it not?

JAMES MARTIN: It is located on Town property. That's correct.

MR. BRIXNER: The old campus.

JAMES MARTIN: Pardon?

MR. BRIXNER: At the old campus?

JAMES MARTIN: (The witness indicated non-verbally.)

MR. BRIXNER: I would like to ask whereabouts on the old campus? With all of the play areas involved, whereabouts is that particular tower?

JIM POWERS: Back in the pine trees.

MR. BRIXNER: Back in the pine trees, Jim (Martin)?

JAMES MARTIN: Back quite a ways.

MR. BRIXNER: Thank you. That's good information. Thank you.

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

All voting Board members were in favor of the motion to close the Public Hearing.

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

JAMES MARTIN: We'll do SEQR before we move on with this.

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

JAMES MARTIN: I will request that due to the fact that at the previous approval they did do a 1 percent landscaping either donation or plantings, whatever it was -- it was before my time -- I am going to make a motion that the Planning Board waive the requirement on this particular application. Do I have a second on that?

DARIO MARCHIONI: Second.

JAMES MARTIN: It has been seconded.

All voting members were in favor of the motion.

James Martin reviewed the proposed conditions with the Board.

There was discussion about the condition requires a structural engineer stamp.

JAMES MARTIN: Do you have anybody on your staff that is certified structural?

KEN HURLEY: Yes.

JAMES MARTIN: So it will be submitted to the Town Engineer, all right?

GEORGE BRINKWART: Thank you.

JAMES MARTIN: So they will review it. Are you okay with that?

GEORGE BRINKWART: Yes.

KEITH O'TOOLE: Mr. Chairman, are the old conditions going to remain in effect?

JAMES MARTIN: Pardon?

KEITH O'TOOLE: The old conditions going to remain in effect?

JAMES MARTIN: Very good catch, Mr. O'Toole.

KEITH O'TOOLE: Thank you.

JAMES MARTIN: All previous conditions remain in effect.

James Martin further reviewed the proposed conditions with the Board.

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

1. A certified engineering report regarding the necessary structural modifications to the tower with a scheduled completion date shall be submitted to the Building Department and Town Engineer prior to ensuing appropriate permits.
2. Verizon shall supply the Building Department a list and height location of all other co-locaters on the tower prior to the issuance of permits.
3. All safety inspections reports shall be supplied to the Building Department.

4. All previous conditions remain in effect.

The Planning Board by a motion and unanimous vote of five yes with 1 abstention (John Hellaby) approved the waiver of the 1% landscape fee due to the fact that it had been previously paid by the applicant.

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

3. Application of Daniel Boon, 20 Berna Lane, Rochester, New York 14624, property owner: Jarvee Associates; for special use permit to allow a residential/commercial landscaping & snowplowing business, commercial roll-off service and residential refuse collection business at property located at 3520-A Union Street in General Industrial zone.
4. Application of Daniel Boon, 20 Berna Lane, Rochester, New York 14624, property owner: Jarvee Associates; for preliminary site plan approval for a change of use of property to allow a commercial/residential landscaping and snowplowing business, commercial roll-off service and residential refuse collection business at property located at 3520-A Union Street in General Industrial zone.

JAMES MARTIN: We will not be having Public Hearing on these two applications tonight. However, my understanding is that Mr. Finley from Avery Associates wishes to make a brief presentation to the Board tonight. My expectation is there will be limited questions and concerns raised by the Board at this time since you're going to have to do this over again at a Public Hearing anyways. At least it will give the audience, who I am sure is here to hear these particular two applications, at least some answers to some of the concerns that have been raised, so at this point in time, if you're ready, Mr. Finley, you can make your presentation.

Kip Finley was present to represent the application.

MR. FINLEY: Hello, everyone. Kip Finley with Avery Engineering and Surveying. Tonight we have the whole Boon family here, of Chili. They have an existing building that -- they have an existing business that is in Ogden. They want to move it to Chili and have found what they believe to be the perfect spot for it. The site is the former Frontier Telephone dispatch and material storage yard, that is Union Street behind the Amish outlet, in that area. The zoning in that is General Industrial zoning for that whole area and this site.

The former Frontier Telephone site was there for about 37, 38 years since it was built in the '70s, and the use that they're proposing is really very similar to it, but since it is slightly different, we're going to be requesting a special use permit or conditional use permit and that relates to site plan review, too.

I just want to do some mental bench marking because I think some information is out on the street that really doesn't sound like the application we have in front of us. Some friends that live on Davis Road and Paul Road told me of a petition going around. It just doesn't sound like it. So I wanted to just briefly touch on a couple of things to make sure that we're all looking at the same application.

The business that the Boons run, it's a landscaping business. They do refuse hauling and want to use this facility as their dispatch center. That is where their office will be. Then they also in the winter, like most landscaping companies, do plowing. So they're -- I just want the Board to know if there is talk that this is a trash transfer station or something, that's a completely different business, requires New York State DEC permitting. This applicant is not at all in the business, not permitted for that. So I think, and rightly so, if I lived next door, I would be here sitting in the audience, too, because a transfer station, we have all seen those and they can be disgusting, and we need to be sensitive to what the neighbors are going to experience for this.

The one thing I wanted to point out is all of the Board members should have a packet where we answered questions from the Town Engineer, questions from the Building Department. We reviewed all of the letters that came in from the public and we have put all that information in these packets for you. If you do ask a question specifically tonight, I can show you on the projector what -- about that to address it. The kind of things that we're providing information for deal with the use, traffic, visual impacts, lighting, noise, odors, hour of operation and things like that. We're going to be prepared to give all of that information at the Public Hearing. In general, this is a less of an impact than the existing facility as far as things like trucking, hours of operation and those. Boon & Sons has half the number of employees that Frontier housed there. They have half the number of trucks that Frontier had there, and they're going to be storing fewer materials on site than Frontier had with all their poles and spools of all that.

So as far as traffic impacts and all of that, there is really nothing -- it's less than what it was, considerably.

The hours of operation, from what I understand from the owner of the property, Frontier operated a 24/7 operation. They were on call all of the time. There were people staffed there. The landscape business, refuse hauling, snowplowing, is generally 6:00 a.m. to 6:00 p.m., weekdays. Obviously snowplowing, when there is a storm, people want their parking lots and their driveways plowed so they call the driver's in. They may come in at 2 or 3 in the morning to pick up their plow truck and leave so that they can get all of the driveways plowed out.

Another thing about in the winter, all of the equipment, like loaders and things, plow trucks aren't on the site that much. The loaders are stationed at big parking lots where they need those. So we actually have fewer vehicles on the site or equipment on the site during the winter.

As far as the containers for roll-offs, they call them cans, that go with the refuse and recycling business. Most of the time through the summer season, the yard is nearly empty because they're all on job sites. If they're not on job sites or in transport, they're not making money. In the winter when the construction season slows down, the containers are all cleaned out and stored on site. We have an area designated on our plan for up to 60 containers. That would be the most they would ever expect to have in the yard at once. But those are emptied, they're cleaned out at the place where they're dumped at the land fill, and generally most of them are construction debris, so they're fairly clean anyways. Drywall, shingles, aluminum studs, steel studs don't generally smell.

So then that kind of goes with the noise. People are worried about noise. This facility is going to be having fewer employees doing fewer work and moving fewer vehicles around than Frontier ever had at this site. It is also one of the main Conrail train tracks between the site and the residents which would be considered the receptors for noise. We don't usually consider noise among industrial businesses because they're all sharing the same thing.

So, therefore, really noise we don't perceive as a problem with this.

I think people are under the impression that maybe they're going to be moving containers around 24/7 and they're going to be dumping things, banging things, dropping things, which would be very disturbing, but that is not what this business is.

And then finally -- and we have other engineering topics that we're discussing with the County Health Department, the Building Department, Town Engineer, but as far as impacts go, people I think in the letters expressed concern about lighting. We're not proposing to change any of the site lighting that is there. It has some site lighting. It is going to stay there. They need to rewire it to get rid of some of the overhead lines, because that is a problem with their equipment. You don't want to lift up something, slide it off a truck and have a power line there.

The only lighting we're going to do is there are broken wall mounts on the buildings that need to be replaced because they're dangerous and they don't function.

So hopefully that is brief enough. We have props here if you have questions. I know we're going to get into a lot more at the next meeting, but we're open for anything you would like to ask.

JAMES MARTIN: Just a very brief comment. You made a statement that for the major plowing contracts, such as a major parking lot somewhere, that that equipment -- in the wintertime, that equipment basically stays at the plowing location and does not go back and forth to the site.

MR. FINLEY: It is a case where if you see at a mall or something, you see a yellow loader out at the parking lot. They leave it at a site. You don't want to drive a loader 20 miles an hour down the street every time you have to plow. Those would be stored in the summer back behind the buildings. In the winter they would be gone.

JAMES MARTIN: Curiosity question. I would like Mr. Boon to come up to the podium to answer this if he can.

On the small plowing trucks you have for driveway surface or something like that, do they have the back-up warning --

MR. BOON: No.

JAMES MARTIN: No alarms on them?

MR. BOON: Not on the small trucks.

JAMES MARTIN: Not on the small trucks. So any truck going out there perhaps at 2 o'clock in the morning --

MR. BOON: The only one -- may be a couple of salt trucks, but generally our salt trucks in the wintertime are placed inside the building. They're like fire trucks. When they're needed, you go get in and drive them down the road. They're not backing up and driving around the road. In the wintertime we generally leave them loaded so they're in the building, kept dry so we can take off in the middle of the night, 2, 3 in the morning, if we have to leave at 4 o'clock or whatever, to go out and deice.

JAMES MARTIN: They would be forward facing?

MR. BOON: Just drive them out and go. We have a plan already in place for us to be able to do that.

JAMES MARTIN: All right.

MR. BOON: Thank you.

JAMES MARTIN: I just wanted clarification on that. Just a couple brief curiosity questions I had.

JIM POWERS: Are you leasing the property from Jarvee?

MR. BOON: No. We're going to purchase it.

JIM POWERS: The entire parcel?

MR. BOON: Yes, sir. Well, the entire 6.8 acres, that parcel. Jarvee owns other land up in that -- I believe 66 more acres or whatever they own up there.

JIM POWERS: So you're not --

MR. BOON: I'm buying the old Frontier parcel.

JIM POWERS: The reason I ask is there were a number of junk cars up there.

MR. BOON: The cars in that facility are going. Everything is going out of there. We're going to clean it up.

JIM POWERS: I don't mean inside your property.

MR. BOON: I haven't seen anything anywhere else up in the property -- I walked our property where we're purchasing and I haven't seen any.

JIM POWERS: On your equipment list and whatnot, how many of those sit-down mowers do you have?

MR. BOON: I believe we own 16 of them.

JIM POWERS: They're not on this list.

MR. BOON: It is just our landscaping equipment. I mean we own roughly 16 mowers. We own a slope mower, some stuff that we do to take care of our contracts on our landscaping end.

JIM POWERS: Where are they stored in the winter?

MR. BOON: Stored in the building. That is why we're asking for the second building, what I will call Building Number 2 there, in between -- we're going to store -- that is why we want to make that cold storage, just to keep a lot of that stuff out of the weather.

JIM POWERS: On your map you don't indicate where you're going to store your salt.

MR. BOON: Salt is going to be underneath that third building in that front section there. I believe it is marked on there.

JIM POWERS: Okay. That's all, Jim (Martin), for now anyway.

DARIO MARCHIONI: I have a couple of quick ones. On your short environmental assessment form, what is present land use in vicinity of project? You put industrial, commercial, but you don't mention residential.

JAMES MARTIN: I think that has been amended, hasn't it?

MR. FINLEY: That is one of the engineering comments. I think when we filled out the form -- the residences are across the tracks and further away, but we changed that to include residential.

DARIO MARCHIONI: Also, your attorney's explanation for the reason why this is a good project on this site, he doesn't mention too much about residential either. He mentions all of the other business, Gates Albert, but not the residential.

MR. FINLEY: I read through that letter and I think the reason he is talking about it, he is trying to draw a comparison of all of the other businesses that are in the general industry zoning so that if we're proposing something that is of a similar size, magnitude, potentially the same kind of impacts, there is really no need to explain what is around it. He is trying to say we're very much like what is in that zoning. That's my guess. I didn't ask him about it.

DARIO MARCHIONI: You keep mentioning Frontier. One thing you forgot to mention. Frontier left the building like that, just walked away, okay? That's what we're very worried about, people come into the Town, put up a building and then just leave and leave whatever -- a mess like that that is there now. What says that this might not happen again?

MR. FINLEY: I guess I would want to remind everyone that Frontier was there for -- well, starting out as Rochester Telephone, and being in a place for 37 or 38 years isn't really a -- too bad of a track record.

The building itself, having been leased, admittedly is in kind of rough shape. It's like when you leave the apartment, they had the security deposit, we're not taking care of anything. Boon & Sons has about a \$150,000 budget to come in and paint the building, fix up the paving and their parking area, stripe it, put new doors in.

MR. BOON: Doors, windows, roof. We're going to completely put the building back sound again, clean it up and make it look nice, presentable to the community.

DARIO MARCHIONI: The last question I have, you mentioned that this is -- different business is going to be at this project, okay? Various kind of businesses here.

What guarantee does this Town have that this will not turn out to be basically all garbage -- a garbage depot? We went through that with Spector. They started out with this paper recycling and from paper recycling they went to deal with garbage.

MR. BOON: You're comparing me again to a transfer station. We're not applying for a transfer station. We're a hauling company.

DARIO MARCHIONI: What guarantee do we have that it will not happen?

MR. BOON: You can put it that I don't have a transfer station. You can put it in the conditions. We're not asking for a transfer station.

DARIO MARCHIONI: We can't put conditions on a commercial property of that type because it kind of --

MR. BOON: Again, we're not applying for that. We're not asking for that. I mean that is not what we do.

JAMES MARTIN: I think as a -- you know, he stated earlier, that is a whole different permitting process.

MR. BOON: We're comparing something different here. We're not doing that.

KAREN COX: You have to have a special permit.

MR. BOON: Just so -- the Town is aware of it. Just -- for everybody to understand, if I decided tomorrow that I wanted to go in the transfer station business, I have to apply with the DEC, the government first and then it comes down to local government, which is you guys. And that's not going to happen. It has to be -- there is a big long process. We're not asking for that. We don't want to do that. We're not in that type of business. That is something that is not going to happen. It's not going to happen.

DARIO MARCHIONI: With due respect to you, sir, Mr. Spector said the same thing. He says we're only hauling paper, recycling paper, bundling it up and shipping it out. Then he got a

DEC approval --

MR. BOON: I have been in Ogden since '91, and I'm not in the transfer station business.

DARIO MARCHIONI: Sir, I'm trying to --

MR. BOON: I understand.

DARIO MARCHIONI: -- figure out what is going to happen. What guarantee do we have, I'm just asking the question, that this might not be a transfer --

MR. BOON: I don't know how to answer it. I can guarantee you it is not. I mean I don't know how to answer it. I'm not going to do that.

DARIO MARCHIONI: I was here when Spector said the same things.

MR. BOON: I understand that.

DARIO MARCHIONI: "We're only going to do paper recycling."

They got DEC approval for hauling garbage and the restaurant there had to move out because of the stench.

MR. BOON: I know the facility. I know exactly what you're talking about.

MR. FINLEY: Should probably answer.

DARIO MARCHIONI: I just want to know what guarantee does this community have that we're not going down that path?

JAMES MARTIN: Can I interject something here Dario (Marchioni)? I think the permitting process has dramatically changed since Spector came in and misrepresented his activity to the community.

I think that's one protection we have. The permitting process today is much, much more stringent than it was at that point in time. We have some local control over this.

And I, you know -- I will say it now, and I will probably say it again at the Public Hearing. I had a call from Tom Watts, Supervisor, I believe of the Village of Spencerport indicating that Mr. Boon has been a very solid citizen of the Spencerport-Ogden community for many, many years, has always been a man of his word and I take that as very complimentary to the way you do your business and conduct your business. So I just wanted to point that out. You did get that endorsement from the Town of Ogden, where you have been located since 19 what?

MR. BOON: 1991. Ogden doesn't want me to leave, but there is no where to go. Have to move because I lease where I'm at and I don't want to go through it any more. We have to do something to secure our business and our family-run operation for many years to come.

MR. FINLEY: I have one other thing for Mr. Marchioni. We're applying for a conditional use permit and those usually have a renewal period.

DARIO MARCHIONI: No, they don't.

JAMES MARTIN: We'll get into that at the Public Hearing, but if and when a building permit is granted, a special use permit becomes permanent at that time, however, subject to review if there are major complaints, major issues occur in the future. So if the Board feels there is a right to review that, okay. It would become permanent upon reissuance of the building permit. So just so everybody understands that particular issue.

I can share Mr. Marchioni's concerns.

MR. BOON: I can understand his concerns. That is not our intentions here at all. I don't know what I can say to you to assure you of that. I'm not going to do that. That's not the business we're in. I -- I have been doing this a long time, and we're in the hauling business. We're not in the transfer business. We, you know -- it's -- it's a lot different today than what you're thinking what happened back in the day. I lived in this Town most of my life and I remember all of that. It's different now. Like -- it's a different world today. It doesn't happen as easy as it happened back then.

DARIO MARCHIONI: We have to reassure the people that are living there.

MR. BOON: Again, I need you to understand that -- I -- I want to be a good neighbor and we certainly have been a good neighbor where we're at, and I guess I need -- it will come out at some point. Where I'm at now we're in an industrial park that I have -- everybody has to drive out through a residential area, and I have been there a long time and the Town will tell you I have never had a problem, never. We comply with the rules and we do the rules. I mean over here, we're not driving through the residential areas. So I think that's a big plus for everybody. You know, we're going out a road, onto 259 and we're gone. And I think that's why it is a very good fit for us because I don't really see the impact -- it's not going to be an impact. We're just going to be a good neighbor to everybody and we're certainly going to look better at that facility than it does now.

DARIO MARCHIONI: You can understand my dilemma. I have a petition of 100 plus people that are residents of this Town, and they're --

JAMES MARTIN: All right. We'll get into that at the Public Hearing. I want to cut this off at this point, because I don't think we're gaining any ground at this point.

DARIO MARCHIONI: Fine.

JAMES MARTIN: I will back up a second. The reason that we did not have a Public Hearing tonight on this was that the public posting issues in our current Town Code weren't totally properly complied with as far as this application goes. That was the reason that we did not have a Public Hearing tonight.

We will have a Public Hearing, at this point in time I think you're thinking April, for the April meeting.

MR. BOON: Yes, sir.

JAMES MARTIN: At this point, just to let everybody know, this will be heard at the April Planning Board meeting, and so -- so at this point I would like to obviously make a motion to

table these applications tonight, pending the April Public Hearing on this particular issue. There are two applications we're tabling, the preliminary site plan and special use permit. Do I have a second on tabling the applications?

JOHN HELLABY: Second.

The Board was unanimously in favor of the motion to table the applications.

DECISION: Tabled by a vote of 6 yes to table. Due to the failure to meet all requirements under Section 500-86 of the Town Code (Notice and Conduct of Public Hearings), the Chili Planning Board was unable to hear the above described applications at the March 10, 2009 meeting. These applications were tabled to the April 14, 2009 meeting.

JAMES MARTIN: April 14th will be the Planning Board meeting. Thank you.

5. Application of Titan Rock LLC, owner; 20 Ambush Lane, Churchville, New York 14428 for preliminary subdivision approval to combine two lots into one at property located at 4348 & 4354 Buffalo Road in G.B. zone.
6. Application of Titan Rock LLC, owner; 20 Ambush Lane, Churchville, New York 14428 for preliminary site plan approval to erect a two-story 23,714 sq. ft. retail/office building at property located at 4348 & 4354 Buffalo Road in G.B. zone.

Patrick Laber was present to represent the applications.

MR. LABER: Good evening. I'm Patrick Laber from Schultz Associates here tonight representing Titan Rock for 4248/4354 Buffalo Road.

The proposal here is to merge the two existing lots, to resub them into one lot, 1.7 acres total. Existing buildings on the smaller parcel at the southeast corner of the site have been raised, so the site essentially right now is vacant. Zoning of both parcels is General Business and they're both currently under the ownership of Titan Rock.

The proposal is for a two-story commercial and office building. Retail on the bottom floor, professional office on the top floor, with a gross area of 23,714 square feet. The building has been presented before the Architectural Advisory Committee earlier -- it was last month, and it is my understanding that it was received favorably, and they will be going back this month also to finalize details on the look of the building.

Along with the building, we're also proposing parking. I believe on your plan, 92 spaces were shown. We have had to make some adjustments to the site since that time. One major change that we made was the retaining wall on the east side of the site has been shifted approximately 5 feet to the west in order to better protect the existing trees along the cemetery line. That also allows us to reduce the height of the wall from approximately 10 feet down to 6 feet, which will reduce any reinforcement we have to have. So by pulling that away, we shouldn't be impacting trees much at all. There are two trees we'll have to take down just to make grade work, but the vast majority of them will stay and should be well protected now by moving that wall over.

That change, along with some changes that we made to the proposed storm sewer system, have placed us now at a total of 87 spaces. Code requires 108. Um, we have made application to the Zoning Board of Appeals for variance on that. We have been also looking at the parking. The developer feels the 87 spaces are enough.

Basically, one of the major reasons is there are some staggering, and the uses that will be in this from professional to retail, when peak times occur, the thought is that they won't coincide at the time, so the full 108 shouldn't be necessary.

Access to the site will be -- obviously Buffalo Road, one main access. It has been reviewed by the DOT, and one lane will be coming in and two lanes coming out, turning lanes.

The other existing driveways will all be closed.

Utilities, we'll be getting water across the street, so we'll need to bore under Buffalo Road. Sanitary sewer is on our side. We'll be tapping that. Storm sewer, we're proposing an underground storage system for water quantity, and for water quality, we will have a combination of a hydrodynamic separator and also bio retention areas. The two uses are necessary because only a small portion of the site qualifies for redevelopment that allows us to use the hydrodynamic separator. I believe your plan shows just the separator itself. In speaking with David Lindsay and Ken Hurley, we have reworked the plans to get several bio retention areas in the site to handle the area that doesn't qualify for redevelopment. The CDS hydrodynamic system will be a smaller system, but it will still be used for the area that does qualify.

We had an extensive landscape plan produced by McCord Landscape that was presented to the Conservation Board last week. Landscaping will be provided throughout the entire site with emphasis provided on the north line wherever green trees will be placed with a starting height of 8 feet and the plan says those can reach 30, 40 feet at maturity. We're also proposing to put -- to install a 6 foot vinyl fence, same style that was installed at Walgreens, and continue that along the north line, the entire length of the north line. That in conjunction with the grade difference, if you take a look at your grading plan, there's anywhere between, I would say, 2 to 6 feet worth of distance between our proposed retaining wall and the grade at the top, so the fence is actually

going to be sitting up much higher in reference to the residences behind us. If it was just a fence that is sitting on level grade, there is significant grade difference from the base of that fence down to our parking lot. So with the trees in place, that four-season buffer, I think that the residences to the north of us should be quite adequately screened.

We're also providing landscaping, as I said, throughout the site. All of the islands will be landscaped. I believe -- the Conservation Board asked that we provide additional landscaping along the east side and we agreed to that.

The landscaped plan probably will change slightly based on the fact that we're adding these bio retention areas and we'll just have to have McCord take a look at those plantings to insure that they will be able to tolerate some minimal inundation during storm events.

One item that comes up, that pertains to the landscaping and the parking is snow storage. With how extensive of a landscape plan we have and the way the site is being developed, we have limited snow storage areas. We should have enough for a small storm event of a few inches or so, but other than that, the development is agreeing to truck the snow off the site and he is willing to go to whatever lengths, putting it on paper or whatever the Board would like, um, to satisfy your requirements that that will happen.

The site will be lit. Fixtures will be exactly the same as what was proposed or what was installed over at Walgreens. Fixtures on the north side, again, in keeping with having as little impact as possible to the residences, are on lower pole mounts than in the surrounding development. They will be at 20 feet and also will have house shields on the north side to prevent light spill to the properties.

And as I mentioned earlier, there are two retaining wall areas. A very minor one along the west side and then the more substantial one around the north and east side of the site. That is basically so that we can make our grade work. We have some fairly -- I wouldn't call it steep, but we have some slope on the site in its existing condition. In order to get the building in, get the parking in and get everything graded so it works from a drainage perspective, we have to level out the site. So the retaining wall is necessary in those two areas. As I said, in working with the Town staff we have been able to reduce that and provide a little more green space on the east and north sides of the site.

That is essentially an overview of what we're proposing here. I will be happy to answer any questions.

JAMES MARTIN: Going down through, I did note that one parcel was in the drainage district and one parcel was not in the drainage district.

MR. LABER: Okay.

JAMES MARTIN: So you will have to apply, petition the Town Board for inclusion, I think, for the parcel at 4354 into the Consolidated Drainage District. The parcel at 4348 is in the drainage district, according to our records.

MR. LABER: Okay.

JAMES MARTIN: Certainly there are some ZBA approvals that you will need to obtain. I will certainly make it pending Town Engineer approval if this goes forward. You had already indicated, and I will steal your thunder, Pat (Tindale), certainly if there is revisions to the landscape plan previously approved, you will need to resubmit a plan to the Conservation Board, assuming this goes forward.

JIM POWERS: I am very happy to see the screening on the north end of the property. Probably you're aware that over the years there has been a water problem or drainage problem or whatever to the north of this parcel. I think you have tried to handle that well.

MR. LABER: Thank you.

JIM POWERS: My big concern is the sight distance coming off the property to the left, going back towards Orchard Street.

MR. LABER: Uh-huh.

JIM POWERS: I know when the Pizza Shack was where Walgreens is now, you would have to -- used to watch for the cars coming from the east. There wasn't as much distance over to Union Street to the signal light, and of course now you have more sight distance there.

MR. LABER: Right.

JIM POWERS: In that respect, but from Union Street down, the cars come over the crest of that hill, and they're on that property pretty quick. Evidently you have done a study on that.

MR. LABER: In the traffic study we submitted, we actually had the traffic engineer take a look at that, and they found it was more than adequate sight distance according to the calculations they used, according to the speed limit posted out there.

JAMES MARTIN: Is there a safety margin built into that? Was it three times the speed limit, sight distance -- I forgot the exact number.

MR. LABER: I think it's 11 times, and then it is 10, and one additional for the safety margin, if I have that correct.

KAREN COX: The State would not issue a permit for the driveway entrance anyway if their sight distance -- if the sight distance requirements weren't met, I presume.

MR. LABER: Yes, unless there was some other way to mitigate it.

JIM POWERS: From a retail aspect, what do you mean retail? Any type of particular business or whatnot that you -- that you would hope to see in there?

MR. LABER: I don't have any specifics right now other than obviously uses allowed by code. I don't know if you want to speak to that, but I don't believe there is anything at this time that is -- that is under contract or anything like that, but it's -- it will obviously conform to code. But I don't have any specifics.

KAREN COX: Speaking on somewhat of the same question, you may have asked this at the first meeting. There is a drive-through canopy on the west side of the building, and is that -- that is just to attract certain businesses that would want to use one, like a bank or -- or fast food type restaurant?

MR. LABER: Right. Just makes it more marketable to more retail uses to have that on there now instead of coming back later on. Trying to tailor it to somebody --

KAREN COX: Could have had a retrofit. That doesn't work very well. I want to second Jim (Powers)'s comments on the buffering on the north side of the property. You have done a good job with that.

JIM POWERS: The drive-through on the west side, was there a change there from your original --

MR. LABER: It was narrowed up somewhat. That was one of the areas that we shrunk in order to try to get some more room to protect the trees on the east side.

KAREN COX: That's all I have.

JOHN HELLABY: Again, was -- with the a list of concerns with the Town Engineer, I think all of my questions have been answered. I guess a point of interest more than anything, in light of the way the economy is today, is this building being put up on speculation, or do we have clientele already lined up hopefully to go in here? The only reason I ask, I hate to see somebody dump this kind of money in a building and have it sit vacant similar to half that Dunkin' Donut building on Scottsville Road for several years.

MR. LABER: Right. Titan Rock and the other company that they're involved with have several commercial products. They have done their homework. They -- I don't think anyone is under contract right now, but they're developing this based on their information and everything tells them there is a good market for it in this area.

JOHN HELLABY: Financing is in place so once this project starts, it will be completed?

MR. LABER: Oh, yeah. Yes.

GEORGE BRINKWART: I would also like to compliment you on the drawings. They're well done, clear and present a lot of information. Although the ones I have don't have all of the latest information you were talking about.

MR. LABER: I apologize for that. It has been a work in progress.

GEORGE BRINKWART: They all are.

Have you received any comments from the DOT? Did they have comments of significance on your traffic study?

MR. LABER: The only comments we got back from the DOT, we had a separate -- we made a preliminary or concept application just to have them take a look at our access, during our concept review with this Board and they agreed with everything in the traffic study. They agree with the layout, the location and the three lanes on the access and the sight distance. Other than that, the only other comments we have gotten back from them so far are part of Monroe County DRC, and that comment just basically was the boilerplate, get all your permits from us, so that is where we are with them right now. The submission is into them. It went in about a month ago. It may take another month, but that's -- so far there have been no show-stoppers.

GEORGE BRINKWART: I would like to ask you some questions on the storm water. You will use bio retention and then proprietary systems (inaudible)?

MR. LABER: Right.

GEORGE BRINKWART: I know initially there was some conversation about possibly discharging more to the State DOT system. Have you been able to resolve that?

MR. LABER: In working with Town staff, I'm confident that that problem will go away with these bio retention areas, slowing down the flow for the majority of the site, to the State system. And I just want to point out that -- it is an increase. It is an increase -- it's an insignificant -- not insignificant. It is a very small amount of increase. We're not talking tens of CFS here. We're talking 1/10s of CFS. We'll make that work. We have to make that work to satisfy the State. I will be revising the report and getting that out to both the Town and the State.

GEORGE BRINKWART: To accomplish that, are you doing something -- anything like using the parking lot for some of your storage?

MR. LABER: Not the physical pavement structure itself, no. Everything is in underground storage. There may be the opportunity with some of the soils that we have to do some infiltration in the underground system, in the rear of the site, where we have better soils than in the front, according to the soil study. That is one of the things we'll be looking at. It was suggested by the Town Engineer.

GEORGE BRINKWART: I guess in your future submittal, we like to see a good detail on that bio retention and (inaudible) criteria (inaudible) on the 1, 10, and 100.

I think since you don't have any tenants, you really don't know what the hours of operation will -- what you're planning on.

MR. LABER: Right.

GEORGE BRINKWART: Something typically in the 9 to 5 area? Do you anticipate having anything open there late?

MR. LABER: For the retail uses, I would assume the standard retail hours would apply. I would assume maybe to 10 for the retail. Obviously anything -- I don't think anything else is -- would go in there that would have a 24-hour use. That is just not the type of project that this is. I would anticipate probably 8 to 10.

GEORGE BRINKWART: I guess I would also like to remind you to take a look at Section 500-40 that requires you to have all your permits in place before you come to the Planning Board

with final approval and we'll have some more questions later.

DARIO MARCHIONI: Compliments. I took a few hours to go through all of this stuff. I don't know if I mentioned before, did you consider a cross connection between Walgreens and yourself? Typically we ask that question before, but I don't remember the answer to that.

MR. LABER: I think we talked about that at concept and it was grade prohibitive, similar to --

DARIO MARCHIONI: An attempt was made?

MR. LABER: We haven't pursued it any further because it will -- physically it didn't seem possible.

DARIO MARCHIONI: We have some comments from a neighbor behind there pertaining -- he was concerned about the landscaping and the other thing. I don't have the letter right with me. Did you have any more contact with the neighbor?

MR. LABER: The only -- I didn't have any contact directly with the neighbor.

DARIO MARCHIONI: Is he satisfied with what he sees? Do you know?

MR. LABER: I haven't spoken directly with him.

DARIO MARCHIONI: I know you did a tremendous improvement on the landscaping.

MR. LABER: I haven't heard anything directly, no. The only information I have from the neighbor was a letter that was written several months ago.

DARIO MARCHIONI: Correct. Correct. I wondered if you addressed his concerns.

MR. LABER: I believe they're addressed. I haven't heard directly from the resident, but I think this does address the concerns that were on there. As for the storm water, I think we have done everything that we can to insure that we're handling, you know, whatever water is coming onto our site and the water produced by this site, so, um, I think -- I would say that we have addressed it.

DARIO MARCHIONI: I appreciate that. That is all of the questions I have for now, sir.

CHRIS KARELUS: Just received County DCC comments. As the consultant testified to, they're minor in nature, referenced about a State D.O.T. permit being required. I just ask that if the Board moves forward with the approval, that be a condition on the approval. The only minor comment regarding the filing of the map. And County Health and Environmental Conservation had no comments.

The Town Fire Marshal had a chance to review the site plan. Correspondence I copied in the Planning Board. The drive aisle arrangements were part of what he needed to see in the plan, and they all agreed with what -- the comments that he gave back to the project.

In general, he is in agreement that the project would be approvable, just asked that the Board make it a condition that all of the permits he would have to get for the project through the Fire Marshal be in hand as part of the project.

As far as our office goes, the Building Department, you know, each sign on the project would be a separate permit application. If there is anything that is going to exceed the code, obviously we'll bring that back to this Board for review and approval.

I understand from the applicant they will have a comprehensive sign for this site, so all of the tenants will be one sign on the roadside, not more than one free-standing sign. That will also be handled under a separate application where they will bring more detail in nature, sign package before this Board.

JAMES MARTIN: All appropriate permits shall be obtained prior to issuance of any building permit.

What was your comment about DOT, Chris (Karelus)?

CHRIS KARELUS: Their permit was called out in the DRC.

JAMES MARTIN: Pardon?

CHRIS KARELUS: If we can just be kept in the loop as they get comments back from the DOT. (Inaudible) keeping us in the loop (inaudible) the agency as it is.

JAMES MARTIN: So Building Department shall review all permitting agency permits?

CHRIS KARELUS: Yes.

JAMES MARTIN: That sounds redundant, but...

KEN HURLEY: My only comment would be just -- it is my understanding the applicant is asking to waive final approval. I would just recommend to the Board that they would take into consideration that on top of the drive access with an extra turning lane and the storm water discharge and utilities are all required for DOT approval. It doesn't look like they're substantial enough that it would change the plans if the DOT would require that, but just any time you waive final, the standard, code says that you should have those in place before you go through the final, so when you waive it, if any changes do come, the Planning Board doesn't get to see those changes.

JAMES MARTIN: So there has not been a decision to waive final at this point.

KEN HURLEY: I understand. Just mentioning it.

PAT TINDALE: Landscaping plans were excellent, but as you stated, we would just like to see the revised ones. Thank you.

JAMES IGNATOWSKI: (Inaudible) Associates, which is a lead architect firm for this particular building, made a presentation to us on the 25th, at our last meeting. It was our conclusion that it did not comply with the Town architectural codes and we ask that they revisit our standards and come back with something more in line with the codes.

JAMES MARTIN: Your architectural recommendations should be reviewed.

JAMES IGNATOWSKI: They need to come back before us with something more in line.

JAMES MARTIN: Final approval.

JAMES IGNATOWSKI: We have no final approval yet. We need to see some revised drawings.

JAMES MARTIN: Let me ask when you're scheduled to do a final review with the Architectural Review Committee on the elevations of the building. Do you have a plan to do that at this point?

MR. LABER: Yes. I spoke with the architect this morning, and I believe they're going to be in this month for that.

JAMES MARTIN: So that will be March 25th review --

MR. LABER: Yes.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DONNA BELLIVEAU, 12 Berry Lane

MS. BELLIVEAU: Hello. I'm Donna Belliveau. I live at 12 Berry Lane in North Chili and I'm the neighbor that wrote the letter a few months ago. So I am one of the two properties that borders Titan Rock property on the north.

I'm at the west end of the northern boundary, not at the east. I did buy my house in a neighborhood because I wanted it to be with other residences. And to be honest with you, I'm not, like, loving the idea of having a two-story building straight back behind my property. One story maybe, two story, you know, that's -- that's not my idea, but I know I bought commercial property backing up, so I know that something is going to be built back there.

I did have a slider door put in the back of my house that looks straight back to my property to that north border, and that is a very popular area of my house, so it does concern me what I do look at aesthetically for that land.

And I chose to buy in North Chili because it was a more quaint area, not as much commerce. The commerce that was there, um, you know, was done with taste and not just a great big huge building stuck somewhere.

But I know that things do have to change, and so I am, you know, trying to work with this.

I do have the letter from Schultz Associates from February 5th, from Patrick Laber, and on the second page, there are a few things I would like to address with that, two or three issues on that letter.

The site lighting is one of the things that I want -- there a second -- this letter, February 5th, talks about lighting being -- I will quote it here. "The design of the site lighting also pays particular attention to the residential properties to the north of this site." So -- to me, that is a key issue.

It also states that it should be identical to the lighting that is adjacent to Walgreens, and that is the part I disagree with. I like the, um, the looks of the lights, but they're way too high. If you drive down Buffalo Road, you can see they're a good 5 to 8 feet taller than even the streetlights and that is the part I don't agree with. I don't see why commercial lighting has to be higher than streetlights. I would say that lighting has to be lowered, compared to that. So I wouldn't agree with that paragraph of that part.

Also, it states that, um, there will be shielding and lower mounted fixtures that have been specified to insure the proposed lighting will not spill into adjacent residential properties.

I'm not familiar with what that means, so -- but you had said 20 foot light fixtures in the back.

MR. LABER: Right

MS. BELLIVEAU: That would be considerably lower than what Walgreens is in the front.

MR. LABER: I think Walgreens are at 30 in the front.

MS. BELLIVEAU: That is what I think should even be in the front. If you do, if you drive down Buffalo Road, there is a definite height difference between Walgreens. They're higher than the streetlights, which is a lot higher than, of course, Family Video, the Glue Factory, any of those. None of them are that high. And I do appreciate the fact that they're trying to, you know, do this for me. This is very kind-hearted.

The next thing that I wanted to talk about is the buffer of the 8 foot evergreen trees, to make sure that that is what is going to be done. I know that is what they're saying, is the 8 foot evergreen trees, and I appreciate that, but if it goes on the plan, I'm assuming that is what has to be there if you approve it.

JAMES MARTIN: That is a correct assumption.

MS. BELLIVEAU: Okay. That is good. That is what Glue Factory put in, and it was a much better thing than anything shorter and it grew faster and did well.

Now, the site plans for the grading, that -- that is a piece that I am concerned about, too, because I do have a drainage problem, but not so much that, but -- I don't know if you can look at the site plans or if you have the ones with the elevation and the grading. I looked at them in the Building Department with Mr. Karelus this afternoon, and the land dips down. It's -- like I said, they have to dig out, and then there is going to be the elevation and then there is my land.

But the eastern section of the boundary is at 601, and the western section is at like 593. It's quite a bit higher on the east end than it is on the west end. I'm on the west end. Um, so I would ask that -- Glue Factory put a berm around the parking lot and then put evergreen trees on top of that. There is a 3 foot berm and that worked well for more of a buffer. I would ask that they put some land, if they're going to have to dig out, maybe they can put some of the dirt in the back so that it runs the -- the whole thing is the 601. Because right now, my land goes -- this is the north boundary, goes like this (indicating). So if a fence is going to go there (indicating), the fence is

going to go at an angle, and it's -- aesthetically it will look ridiculous to go like that.

So since they have to do retaining walls and since there has to be grading done, then I would say that it needs to be brought up to the 601 level so that the whole north boundary is the same all of the way along.

Did you understand what I was trying to -- yeah, okay.

JAMES MARTIN: We'll ask for, you know, comment from the Engineer after you're finished, regarding that particular issue. Okay?

MS. BELLIVEAU: Yes. The last thing I have is, do I have any recourse if there is any drainage problem? Because in my way back -- I -- I call it the way back. I can't even mow -- there's an underground spring. I can't even mow that until the end of May. So I can mow the first three-quarters of my yard at a normal time, but I can't mow the back half until two weeks later. The lawnmower bogs down. I use that. I have a horseshoe pit back there and we do things, but is there any recourse I have -- if once they get started with construction, it does interrupt the spring that is there under or any kind of water and I see it come towards my house?

JAMES MARTIN: I understand your concern. Obviously there is a rule that when you do development like this, you cannot cause water to run off on somebody else's property, okay? That is kind of a -- that is just an understatement of the drainage issues that exist around development of a piece of property like this.

My expectation is that it will be thoroughly reviewed by the Town Engineer to insure that the drainage calculations that have been put in place, the elevations that are proposed for the site will not cause any water, all right, to run onto your property in any way, shape or form. If for some, you know, unknown reason at this point in time that it does happen, yes, there certainly is recourse, okay, working again, with the Town, all right, to remedy any potential problem that might occur in the future, but the expectation is that if it is a properly designed drainage system, that will not happen.

I know I'm probably not making you entirely happy when I answer that question, however, you know, you are protected very thoroughly by the Town Engineer and by the Superintendent of Public Works in the Town of Chili to prevent anything like that from happening to your property.

MS. BELLIVEAU: Okay. What about the underground spring? That used to be a pond back there, before I bought it. That is why it is called Berry Lane, because it is spring fed under there. There were strawberry fields there. If there is underwater spring variance by what they do, is that going to cause a larger problem on my property where the spring is, where the pond used to be? So that I'm going to have it going towards my house underground more and coming up?

JAMES MARTIN: I would have to defer to the engineers to answer that particular question. It is outside of my area of expertise, but I ask them to address that.

MS. BELLIVEAU: Okay. Thank you.

JAMES MARTIN: Before Mr. Brixner, could you quickly reply to her concerns about the drainage and the spring issue?

MR. LABER: Yes. We don't have any evidence of there being a spring on our site. Groundwater wise, generally our site right now drains away from the property in question, and it will -- it will drain away more so with the proposed grading that we're showing on the plan.

The break is basically going to be defined right down the property line. All of our water is going to stay on our site. Any water north of our property line will basically do what it does right now. We're not proposing to put any more water onto your site. Any grading in that area, we'll force it all onto our site.

In terms of the fence, the way the contours are, we're pretty much at our limit right now, what we can do grade wise. It would be very difficult to sneak in any type of berm in that area. Um, especially in that area that I believe you're speaking of right here (indicating), where we're looking at about 596 and the parking lot is down 593, about a 3 foot difference. 6 foot wall on top of that, and in between you will have the 8 foot evergreen trees in between.

There is an opportunity possibly of stepped fence, instead of having it come down at an angle. That is something we can look into, because physically the way we have this right now, I don't think we'll be able to get a berm in there.

MS. BELLIVEAU: If berms are put at other locations, though -- I don't know -- that is not my expertise. But if a berm could be put in by the Glue Factory and then the trees on top, why can't another 3 feet be added to level off the area where we're talking about?

MR. LABER: I think you're talking in this area (indicating).

MS. BELLIVEAU: Yes. I guess I don't understand.

MR. LABER: The gradings over on the Glue Factory are a lot less steep.

MS. BELLIVEAU: They don't mow that. They use a weed whacker to do the work. It is not like they need to use a mower.

MR. LABER: One of the concerns I would have is damming up any water that could leave your site and enter our site. It doesn't look like that is too much of a concern, but I would hate to force any water back onto your site with a berm.

I would be happy to show it on here. It is just our grades right now as we have them, we're basically going down -- for every 3 feet we head out, we're going down a foot. So where you're talking on the Glue Factory is more like a 1 on -- a 1-on-12. Every 12 feet they go out, they go down a foot. We're more like this (indicating), from the get-go. If I make that steeper like a one-on-one to put a berm if, I think we'll have trouble getting our evergreens in on the slope, also. So I think it might be difficult to try to get something like that in there.

MS. BELLIVEAU: Whatever you think as far as aesthetically, if a step grade fence, you

know, would -- um -- I will leave that up to you. I just thought it would look kind of silly.

MR. LABER: To have it sloped?

MS. BELLIVEAU: To see something like that (indicating).

MR. LABER: Right. Definitely a stepped fence.

JAMES MARTIN: There is also a possibility with a berm in there you could trap water with a low spot.

MR. LABER: Right. I don't want to make anything worse.

JERRY BRIXNER, 14 Hartom Road

MR. BRIXNER: Obviously I don't live in the area because I live on Hartom Road, but I'm delighted to hear the young lady come forth and present her concerns so that you can take all of her concerns into issue. That's great. I think we definitely could use retail sales or whatever they provide over there.

A couple of basic questions, though. Is there public lighting, municipal lighting across that whole area, and if there is, does it go down to where Westside Drive comes into Buffalo Road? I just want to be sure that there is adequate streetlighting.

JAMES MARTIN: There is adequate streetlighting. I'm not sure how far it goes. I don't think it goes all of the way to Westside.

MR. BRIXNER: In this particular side there would be.

JAMES MARTIN: Certainly along the Roberts Wesleyan campus, I believe there is municipal lighting. I can't guarantee it, but I -- you know, it is one of those things you drive by it, and you never notice it.

JIM POWERS: We have a light at the corner of our street, which is a stone's throw from Westside. Fox Tail, where this sheriff's substation is, there is a light right there. So I'm assuming it probably goes all of the way from Westside out.

JAMES MARTIN: So there is municipal lighting.

MR. BRIXNER: Now, the two pieces of property, are they immediately adjacent? The old pizza place, is that incorporated into the drugstore, or is that one of the pieces of property?

JAMES MARTIN: The Pizza Shack went away with the Walgreens. These are other parcels that were east of essentially where the Walgreens property purchase ended.

MR. BRIXNER: Okay.

JAMES MARTIN: Between there and the cemetery.

MR. BRIXNER: Okay. There used to be a video store there. Is that part of the property?

JAMES MARTIN: No.

JOHN HELLABY: There was a shop or something.

JAMES MARTIN: There was -- I think it was a videotaping -- yes, that was part of that property. Yes.

MR. BRIXNER: So they do have that particular piece of property to use?

JAMES MARTIN: Yes.

MR. BRIXNER: The old video spot. And they're united. I would applaud their interest in having retail material there. Thank you. Or interest there.

JAMES MARTIN: I think both retail and professional offices. I think that certainly can be an asset to that part of the Town. I don't know who might move in there, doctors or whatever, but certainly having that capability in North Chili I think is an asset to the community.

LINDA HAMILTON, 8 Berry Lane

MS. HAMILTON: Good evening. I'm Linda Hamilton at 8 Berry Lane, and our property borders the Glue Factory parking lot on the northeast end. We're adjacent to Titan Rock on the northwest border, and I just have a few questions. I'm not quite visualizing what the trees will look like at their full height, but I'm concerned with privacy from the second story, and I'm wondering if the second story will be used just during the day, or evening hours, as well?

JAMES MARTIN: You can answer that.

MR. GIZZI: Jim Gizzi with Titan Rock. It will be during the day, second story. All professional, doctors, lawyers, people like that that have interest in the building.

MS. HAMILTON: Great. I'm wondering about the building materials. I'm hoping that those would be in keeping with the restored Stagecoach and the newly constructed Walgreens. And on that same topic, I'm wondering about signage as well, if that will be historical style, similar to what Walgreens put up. And I'm just visualizing that whole street could be planned ahead of time so that any buildings that went in there could fit into a long-term plan, rather than just one at a time, so that it would be just, um, have a -- you know, a historical feel to it and maybe the landscaping could be similar or in keeping with all of the buildings so that we could have a long-term plan instead of doing one building at a time.

Thank you.

JAMES MARTIN: I will give you just a quick comment. Our Architectural Advisory Committee looks at those aspects for continuity in the design, in a particular area of the Town. Obviously North Chili has a lot of brick, you know, a lot of historical type aspects to it, and they take that into account as they look at new buildings that are proposed to be sure that we are consistent with existing structures, so we don't have some steel and glass thing in the middle of these beautiful historic buildings. So just to give you some assurance that that is looked at by the Architectural Review Committee and their findings are then presented to this Board. I agree with you. Long-term planning is always better than hodgepodge.

MS. HAMILTON: Thank you. Welcome to the neighborhood.

MR. GIZZI: Thank you.

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

All Board members were in favor of the motion to close the Public Hearing.

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

On Application Number 5, James Martin made a motion to declare the Board lead agency as far as SEQR, and based on evidence and information presented at this meeting, determined the application to be an unlisted action with no significant environmental impact, and the Board all voted yes on the motion.

On Application Number 6, James Martin made a motion to declare the Board lead agency as far as SEQR, and based on evidence and information presented at this meeting, determined the application to be an unlisted action with no significant environmental impact, and the Board all voted yes on the motion.

JAMES MARTIN: As far as waiver of final, I mean we have architectural review still pending, and I'm not comfortable waiving that at this point, if we move ahead at this point in time. I will do a consensus from the Board, rather than a motion and a vote. Everybody comfortable not waiving final at this time?

The Board was in consensus not to waive final at this time.

JAMES MARTIN: On the preliminary subdivision and preliminary site plan, essentially the same conditions will apply to both. We'll vote on them separately, but I will only go through the conditions once.

MR. LABER: All right.

JAMES MARTIN: Pending Town Engineer approval.

James Martin reviewed the proposed conditions with the Board.

KEITH O'TOOLE: There was discussion about the height of the luminaires, the parking lot lights.

JAMES MARTIN: Oh, okay. I believe, Chris (Karelus), you had a comment in here that the free-standing light heights appear to have been reduced at the rear of the project to reduce the impact to the adjacent property owners. Light shields will be added to the north side of the free-standing lights at the rear of the project, to further protect adjacent neighbors to this project.

I will basically place that on the approval letter as a condition of approval, okay --

MR. LABER: Okay.

JAMES MARTIN: -- that you reduce the height of those to the minimum acceptable and that you shield them. You have already talked about doing that. Okay. But I will capture that as a condition of approval.

MR. LABER: Okay. Are we speaking for the entire site lower them, or just for what we had spoke of in the rear?

JAMES MARTIN: I think basically what we want, you know, is minimal acceptable height across the site, okay?

MR. LABER: Okay.

JAMES MARTIN: Let's put it that way.

KEITH O'TOOLE: Mr. Chairman, flush out what excess snow removal means. What does excess snow removal mean?

JAMES MARTIN: Well, I was thinking in my mind when we wrote that, how do we define that. If it exceeds elimination more than X number of parking spaces, would that be considered excess snow removal or excess snow?

KEITH O'TOOLE: Well, something to the effect that all parking spaces or X number will remain free of snow, and perhaps another condition related to that, no on-site storage of snow in excess of X feet, depending on what you're trying to achieve. I think the underlying consideration is that there is no landscaping area to drop the snow.

JAMES MARTIN: That's correct.

KEITH O'TOOLE: And so what usually happens in that instance is that people sacrifice the parking spaces, or they just push it on top of the landscaping, even though it doesn't fit.

MR. LABER: Right. We obviously don't want to do that.

JAMES MARTIN: I will accept recommendations on how we define this particular condition, or specify it.

I mean certainly, yeah, you already have to go to the Zoning Board for relief on the number of parking spaces. It would seem to me that if your snowplowing begins to obstruct more than two or three spaces, you know, you have already got a variance and now you're getting further behind.

MR. LABER: Right.

JAMES MARTIN: Help me out here, people? What do you think we ought to do? We

could define it by number of spaces that could be allowed to be covered by a snow pile, or we could say all snow has to be trucked off the site.

KAREN COX: I think if you -- you got to define it by -- if you're going to allow some storage on site, you have to define it by the number of spaces and the height of the pile, because I mean obviously there is a certain point where you couldn't keep piling snow up, but if you -- for example, if you allow two or three spaces to be covered, you could pile up snow fairly high with a front-end loader.

JOHN HELLABY: Three spaces and no higher than 6 foot.

JAMES MARTIN: I have heard three spaces and no higher than 6 foot.

DARIO MARCHIONI: Will he have a problem with his tenants if -- if it cuts off a lot --

JAMES MARTIN: Obviously it would.

DARIO MARCHIONI: He would have a lot of complaints from his tenants and it would behoove him to deal with that issue, at the time when we had that increase in snow.

JOHN HELLABY: I think three spaces, 6 foot high, gives him about just one ten-wheeler of what he will have to truck out of there. It will be one truckload to get it out of here.

JAMES MARTIN: I have a suggestion of three spaces, no higher than 6 feet.

KAREN COX: I don't have an issue with that.

MR. LABER: Did this come up with Walgreens at all? I don't know if there was anything that was done with that one.

JAMES MARTIN: I don't recall that we did specify it.

KAREN COX: No, we didn't.

JAMES MARTIN: I think they got a little more latitude over there to --

MR. LABER: Right.

JAMES MARTIN: -- to push it aside.

MR. LABER: That's what it looks like.

JAMES MARTIN: I never seen more than like 10 or 15 cars in that parking lot at any one time. You're talking about a different situation here, all right, with a combination of retail and professional.

MR. LABER: Right.

JAMES MARTIN: I will define excess snow means obstruction --

MR. LABER: The developer has a concern if only half the building is rented at that time, then all of the spaces aren't necessary. Is there any --

MR. GIZZI: Any stipulations with --

JAMES MARTIN: You know, now we're starting to split hairs here.

DARIO MARCHIONI: When is that happening? Once maybe a week in the whole year maybe?

JAMES MARTIN: I am going to stay with the way I am writing it, excess snow means obstruction of no more than three parking spaces and no higher than 6 feet.

GEORGE BRINKWART: You will not want the snow pushed on the water retention area.

MR. LABER: We discussed that with the Town Engineer. We don't want to compact it

JAMES MARTIN: We don't want any snow in the water garden. And no snow in the -- you know, in the -- what should I call those areas?

GEORGE BRINKWART: Bio retention pond.

JAMES MARTIN: In the bio retention pond.

James Martin further reviewed the proposed conditions with the Board.

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

1. Pending Town Engineer approval.
2. Applicant shall obtain approval of all variances by the Zoning Board of Appeals.
3. Applicant shall petition the Town Board for inclusion of the parcel at 4354 Buffalo Road into the Chili Consolidated Drainage District.
4. The revised landscape plan shall be submitted to the Conservation Board for approval.
5. Excess snow shall be removed from the site. Excess snow shall be defined as any amount that obstructs more than three parking spaces or exceeds six feet in height. No snow shall be allowed to be stored in the bio retention ponds.
6. The applicant shall obtain all appropriate permits prior to the issuance of building permits.
7. The Building Department Manager and Superintendent of Highways/Commissioner of Public Works shall review all appropriate permitting agency approvals.

8. Light shields must be added to the free standing lights on the north side of the project to further protect the residences bordering to the north.

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

DECISION ON APPLICATION #6: Approved by a vote of 6 yes with the following conditions:

1. Pending Town Engineer approval.
2. Applicant shall obtain approval of all variances by the Zoning Board of Appeals.
3. Applicant shall petition the Town Board for inclusion of the parcel at 4354 Buffalo Road into the Chili Consolidated Drainage District.
4. The revised landscape plan shall be submitted to the Conservation Board for approval.
5. Excess snow shall be removed from the site. Excess snow shall be defined as any amount that obstructs more than three parking spaces or exceeds six feet in height. No snow shall be allowed to be stored in the bio retention ponds.
6. The applicant shall obtain all appropriate permits prior to the issuance of building permits.
7. The Building Department Manager and Superintendent of Highways/Commissioner of Public Works shall review all appropriate permitting agency approvals.
8. Light shields must be added to the free standing lights on the north side of the project to further protect the residences bordering to the north.

There was a recess in the meeting.

JAMES MARTIN: Karen Cox came in today from a sick bed, and I let her excuse herself from the final application on the agenda tonight.

FOR DISCUSSION:

1. Indus Companies -- proposed two-story Microtel hotel at 3260 Chili Avenue in G.B. zone.

Jett Mehta, Kip Finley and Betsy Brugg were present to represent the matter for discussion.

MR. MEHTA: Good evening, members of the Board, Mr. Chairman. My name is Jett Mehta with Indus Companies. We're here tonight to go over a revised proposal for discussion for a Microtel project. I know we have been together a number of times getting to know the project. We have made some substantial changes over the past couple of months. We took some time a few weeks back to do the same presentation we're going to show you tonight with a group of the neighbors of the property, both on the residential side, Shrubbery Lane, as well as in the commercial district and the plaza.

We had a good meeting a few weeks ago. Supervisor, myself, members from Avery Engineering, Paul (Bloser) from the ZBA, as well as a few of the neighbors who are here tonight. I think we spent at least an hour, maybe more together beyond going through the presentation that maybe only took 10, 15 minutes and just talked about the project and some of the concerns. I think we made a lot of progress. I think we're going to present an application tonight that is much more favorable, certainly in light of some of the major concerns that came up last go-around, size of the building and some of the variances.

So Kip (Finley) and I together will go through this presentation, and of course we'll take some questions.

Up on the screen now you will just see basically some photos that we have shown in the past. This is one of our facilities that we opened last summer. Just showing some of the rooms, different angles, different room types, rooms with one bed, two bed, some with a sitting area, a suite.

This is a single room with one bed (indicating). This is a breakfast area that would be in our proposal here (indicating).

This shows a picture of a business center that is in the facility.

MR. FINLEY: Due to technical difficulties, I will just talk loudly. We had all this in Power Point so I could stand here and talk and push buttons. It's not working.

On this particular slide, this is the site. I think most people know where it is unless there is some people in the audience that had not been to our previous process where we went through the Planning Board.

One of the major design topics and one of the things that was most important in the environmental review of the last project is that yellow line. There is residential district to the west and north of this site, and then we're in a General Business District. Under the last proposal where we had a three-story, 67-room hotel, we went through the environmental assessment form and it was deemed that that proposal had negative impact.

The three topics that came up were visual impacts, lighting impacts and noise, particularly truck noise on that, if I'm recalling correctly.

Now we have a proposal that better mitigates the visual. The lighting, we have more information to show you. Truck noise, we have talked that over with the neighbors, and we're going to address that separately. But just to give you an idea, this is the key thing, is the -- because we're in a transition area, between the two districts.

The next slide just gives a view of where the site is, coming westbound on Chili Avenue, you would see the building between the Canandaigua National Bank and the Acropolis Restaurant where the arrow points.

On the next slide, this is a view between 27 and 29 Shrubbery, the two homes there. This is what they currently see out through their backyards at the back of the plaza (indicating), through some of the trees and vegetation along the back property line.

Next slide, this shows you the site plan of the 2008 design for the three-story hotel. Probably the only thing to look at on that is on the east side of the property, to the right of the pink building we had parking that was going along that entire property line. This is a new application. We withdrew our application and now there is also a new code, so we handled the setbacks differently on this. We just wanted -- for comparison, the next slide shows you what the three-story looked like. That is what was proposed. It is three stories tall. We did receive a height variance so it could go to 39 feet and change. That is where we were at.

Our client, Jett (Mehta), really would like to put a hotel here, so we made some pretty drastic changes to a two-story hotel that was 52 rooms. He deemed that to be the minimum size that would support a hotel here. I don't know what the next slide is.

Okay. This is the new site plan. The building is a little longer. In order to bring the roof down, we had to stretch it out a little longer. The important part to look at here, there is now a code for a 60 foot setback to residential zoning and a 30 foot buffer, green space buffer. All of the parking spaces right where the arrowhead are gone, and since we -- and since we put this whole thing together very quickly just to get a read on it from the Planning Board and the public, there is still a couple parking spaces there that really are in the buffer area. So we do need to juggle them around. That plan showed an excess of two or three parking spots, so we can pretty easily take them out and still meet the code.

The next slide, this is the view of a two-story Microtel (indicating), very similar architecture. I believe this might actually be a simulation from Allegany or -- okay.

This is very close to the one that was actually built in Allegany, New York. It's a two-story -- this hasn't been through Chili architectural review. It may look somewhat different than that, but you can see at this size, it is really the size of a two-story house with gabled roofs, height wise. We really don't need the variance any more. It is under the 35-foot for this district, for the maximum height.

Next slide, okay, this is now probably the paramount thing that we needed to address with this project. We're hoping we have done a successful job and that we can get a nod that this is the right direction. The visual impacts, this is a reminder what it looks like now. The next slide is a two-story building with the standard plantings that the Conservation Board would typically approve, with the evergreens in a dense buffer, and this time you will notice compared to last time you could see the windows on the third floor of the building, and so the one concern about people looking back in, is better mitigated by going to a two-story building.

The next slide shows that same building with the taller 12 foot trees that Jett (Mehta) had agreed to do with the last project and still would do with this project, so at planting, you would almost totally obscure the view of the buildings. As we all know, trees grow. This type of tree gets to be 25, 30 feet tall. You see other evergreens in the neighborhood. So at some point, we would go from this view (indicating), which is basically living next door to a plaza and looking at dumpster enclosures and the back of the gas meters and all of that, to almost living backing up to woods.

We did not do simulations coming from the north side from Shrubbery, from the Cases' home because these things cost quite a bit, and we're at the point where we're trying to make the decision how far to go with this.

Next slide is -- okay. This is a reminder of what it looks like now, coming down Chili Avenue, and the next one is putting the two-story building in.

So you can see that the top of this building really is not overpowering the plaza facade with the Acropolis. It's not really much taller than Canandaigua National Bank, as you're looking at it in perspective. And at this point, I just wanted to hold that slide because, as Jett (Mehta) was saying, we did have a neighborhood meeting. We did get representatives from three families, I believe.

Since then we have actually gone to the Cases' home, and -- I didn't look. Oh, there you are. We have gone there. We stood in the backyard. I ran over and stood where the building would be, and gave ideas of heights, and now with the new code, that berm that you saw the screening in the last slide has to come down and around along the Cases' property so that every one that abuts is going to have screening.

We didn't have any representatives from further towards the car wash and Jiffy Lube. They

still get the berm and the same benefits, but they didn't come to the meeting.

I'm going to say that it was my impression that you were more on the right track now?

No response.

MR. FINLEY: Okay. Just to continue then, another topic was truck noise, and we did talk in our meeting about that. And I guess the concern, if I'm correctly -- from -- the Croziers helped us to understand that the trucks now that are sometimes parked in the back of the plaza with the engines running is distracting at night. What we came to the resolution with Jett (Mehta) explaining is most of the residents you're worried about, one or two people in a home getting good sleep, we're worried about 52 people getting a good night sleep. If the trucks start parking near our building, Jett (Mehta) is going to be one of the first people out there getting rid of them, because when a guest doesn't sleep, they ask for their room to be comp'd in the morning and we don't want trucks there any more than any of the neighbors do. So I think we came to some understanding that we're on your side with that. We want to not have any tractor-trailers parking around here.

And then finally, I think I have another slide here that shows lighting on the next one. That red amoeba shape is the outer limit of the lighting footprint. When the lights shine down, they end in a certain point. We're totally within the site within our lighting. This is actually the same as it was with the last project. We have short fixtures. We have cut-off lamps. That was some of the concerns even with the last application, and in that case, the lighting is not going to be as obtrusive at all as it could be with a plaza or something where it really needs to be lit up. I think the end photo shows the all -- our final purpose is that that is what we want to achieve. Quiet, really pretty subdued lighting, dark. We want people to get a good night sleep. That is the only way Jett (Mehta) makes money, is if he collects the rent in the morning and doesn't have to comp. rooms for noise, distracting lights, traffic and all of the things that -- the same things that the residents are concerned about.

So at this point I would like to just solicit any questions from the Board or confirmation from the Board that we would be on the right track, because we have to make a decision are we going to go through this process again, and we would like a -- some feeling of what we're in for before we go through that whole process.

JAMES MARTIN: The covered entryway on the south side, Kip (Finley), you're 41.8 foot setback that you have put on your plan, does that include that protrusion of that covered entry, or are we talking less than 41.8 feet for the variance that is going to be required at that point?

CHRIS KARELUS: Kip (Finley), could you show the simulation of the two-story that indicates the front? I think I can point out what Jim (Martin) is kind of asking about.

MR. FINLEY: I believe what you're talking about is this (indicating).

JAMES MARTIN: Yes.

MR. FINLEY: And what we're talking about as far as for anybody from the audience that is listening, is there is a property line between the bank -- there is a property line right here (indicating) between the bank property and our property. There is a front setback that applies there that is not front setback from a road. It's a different situation, but we're tighter here than the front setback. That setback is meant to keep buildings separated so that you have some space between them.

This is the bank right here (indicating). So what we're trying to accomplish is a good separation distance. Technically we are going to have to have a variance for this distance, and I think what he is asking is, there is a bump out here (indicating), and we're going to have to make sure it is clear in our variance request what that distance is, because it is actually going to the canopy. That -- that is what you're asking, right?

JAMES MARTIN: That's right. You will have to clarify that.

MR. FINLEY: I don't know exactly to the foot what it is, but thankfully the property line skews a little, so it buys us a little room.

JAMES MARTIN: So you modified appropriately on the north side to take into account the new code and the buffering that is required over there. We have already talked about that.

MR. FINLEY: That was an engineer comment. When we threw this concept together, that we really need the setback line here (indicating). And then this is buffer (indicating). So these spaces here (indicating), we need to take out a couple. And we do have excess, if you look at the table. So that this is buffered (indicating).

JAMES MARTIN: Just a couple of quick questions that I have. Any questions?

JIM POWERS: I will wait until the Public Hearing, but I do have -- you met with some of the neighbors on this update?

MR. FINLEY: Yes.

JIM POWERS: Did you meet here in the Town Hall?

MR. MEHTA: We met in this room.

MR. FINLEY: It was in this room. It was a by invitation to the people that border it, and the plaza, and we used the room for it.

JIM POWERS: Was a fee paid to rent this room by Indus or by you, Jett (Mehta)?

MR. MEHTA: No.

JIM POWERS: Who gave you permission to come in -- there is a fee schedule for this building, and there is a fee schedule for Chili Community Center. There used to be. Whether it still exists or not, I don't know, but I think it is.

MR. MEHTA: I'm not aware of any fee. But the Supervisor allowed us to use the room.

SUPERVISOR DUNNING: That's correct.

My name is David Dunning. I'm the Supervisor for the Town of Chili. That is correct. We did host this for the neighbors here in this room with my permission.

There is not always a fee assessed for this room when other agencies use this.

JIM POWERS: It is spelled out pretty clear in that schedule as to who a fee should be charged to, and who it should not be charged to.

SUPERVISOR DUNNING: The Town also has the discretion to waive those fees or waive that.

JIM POWERS: To the best of my knowledge, this is the first time this Town has done this. I question it because of the applicant and where and who is all involved.

SUPERVISOR DUNNING: Actually, it is not the first time the Town has done this. We also did this for the Town Center Ad Hoc Committee had a meeting in this room with the general public.

JIM POWERS: The Ad Hoc Committee is something different.

DARIO MARCHIONI: This is special interest.

JIM POWERS: This is a private developer. I don't believe this has ever been done. I just wanted some clarification. I'm done.

JOHN HELLABY: Square footage wise, this building, how does it compare with the initial proposal? The footprint of it, do you know?

MR. FINLEY: I can in a second. I think the actual footprint is about 1,400 square feet more. But we -- what we do is add two more bays of 13 feet so that we can take the rooms off the top and then we gain those -- some of those rooms back on the first two floors.

JOHN HELLABY: The initial application had?

MR. FINLEY: 67 was the first. Now we're at 52.

JOHN HELLABY: I'm trying to figure out in my mind why the front portion of this building is so much wider in appearance than the back half. There isn't core interior rooms, is there?

MR. MEHTA: It's an interior corridor, but probably we have all of the suites along that end of the building, which are longer rooms. There is three different room types, so that end of the building has our suites.

MR. FINLEY: Yes. Those are deeper rooms.

MR. MEHTA: Mechanical room.

JAMES MARTIN: Your amenities are in that area, also, aren't they?

MR. MEHTA: Yes. Some of them are. Like the breakfast area is kind of more off towards the thinner part of the building. The laundry room is -- so we're in the core, with most of our --

JOHN HELLABY: Does the one that you spoke of in Allegany, New York, is that similar in footprint and size to what you're proposing?

MR. MEHTA: Yes. 50-unit, two-story facility. This is a 52-unit, two-story; very similar.

JOHN HELLABY: We're just in discussion, and basically the audience doesn't have any participation, unless there is a change. How was this accepted by them at this meeting? I -- because -- in all honesty, that is going to be one of the biggest weighing points. What was their take? Was there any feedback from them in this meeting saying they liked it better? They still hate the idea?

MR. FINLEY: You can't talk, but you can look at -- look me down if I say something wrong.

UNIDENTIFIED SPEAKER: You can't have them speak for us, for the neighbors.

JAMES MARTIN: I don't want to turn this into a Public Hearing.

JOHN HELLABY: That is not what I'm trying to do. Because in all honesty, I don't know whether or not to tell you to go ahead in my view or not, and I just, Kip (Finley) -- as I said before, I think you're trying to cram something down people's throat when this is meant to be buffer between the heavier commercial and the residential. I still am having a hard time accepting it.

MR. FINLEY: I think the most I can say is that it seemed like all of the issues were understood. They asked questions, we answered them. I think -- I think.

JOHN HELLABY: Just because they're understood doesn't necessarily mean they're happy with it.

MR. FINLEY: We felt the meeting went pretty well, but we can't say.

JOHN HELLABY: I understand. I appreciate that. I have guess at that point, it is only all I really got at this point, unless I think of something else.

GEORGE BRINKWART: Refresh my memory. Are there any changes or additions to the interior with regard to a conference room or something like that? Or things of that nature, or is it pretty much the interior layout is identical to the --

MR. FINLEY: At this point, we're proposing basically the same type of facility. I think we did talk about once there being one of the suites usable as a conference room if that was desirable. We haven't given so much thought to the program for the building because we wanted to get an idea whether we should go ahead further or not, but I mean generally we have the business area, the work area we showed.

MR. MEHTA: We have considered taking one room and making a board room, so that it would be 51 units, a board room and an exercise room, a business center and a guest laundry, a breakfast room outside of our rooms, and the back of the house for the operations.

GEORGE BRINKWART: Nothing further at this point.

DARIO MARCHIONI: Keith (O'Toole), Counselor, can I ask a question without it being reprisal?

KEITH O'TOOLE: Do you have a fear of reprisal from me, Dario (Marchioni)?

DARIO MARCHIONI: Not from you, sir.

KEITH O'TOOLE: Of the applicants?

DARIO MARCHIONI: Yes.

KEITH O'TOOLE: Certainly.

DARIO MARCHIONI: Thank you. Now that that is settled.

What made this thing all of a sudden change so drastically, Kip (Finley)? I mean you were set there that economically it wasn't feasible, and anything less than that, also the height or else you build a flat roof. Now all of a sudden we see all the entrance is 30 feet, and now all of a sudden we got 40 feet. What made this thing completely different now?

MR. MEHTA: To speak of the economics, all parties have gotten together who are involved in it and we're making some considerations to -- in order to make the economics and numbers work. I have a facility of similar scope, as we spoke about, in Allegany that does very well. So I'm sure we can make it happen. Now we got into that project at a lower cost and that is effectively what we're doing here. I'm not sure what you're speaking about in regards to 40 feet. I don't know. Maybe you can help me out there.

DARIO MARCHIONI: There was an article here in the -- in one of the papers, Kent Gardner from the GCC Chiefs -- CGR Chief says that Monroe County, the declining population and its limited potential for business travel do not support the building of additional hotels in the area. And it goes on here, giving all of the statistics, how many hotels there are in Monroe County, the vacancies, okay? Just -- now how do you address that, sir?

MR. MEHTA: Well -- that is certainly one person's opinion. We have had a traffic -- we had a business case study done, two feasibility studies done on this project. Both came back favorably.

I make a living building hotels for a living. I have been very successful at it. I think it's a good location.

The gentleman who -- who you're referencing, I don't think he owns or operates any hotels. It is simply his opinion.

DARIO MARCHIONI: Correct. But he has some facts here that should be looked at.

MR. MEHTA: So do I.

DARIO MARCHIONI: I have another question. You said you met here. You know, we have a petition of over 170 people here. How many of these people did you invite to this?

MR. MEHTA: We invited almost every -- I don't know how many homes are on Shrubbery Lane, but we invited a number of the Shrubbery Lane neighbors.

DARIO MARCHIONI: How many?

MR. MEHTA: We sent out, and I would have to bring my list, probably 16, 17 invites in total, everybody who is directly near the property on both sides. And we had three families show up.

DARIO MARCHIONI: You mentioned here that representatives of both developers and the Town of Chili will attend the meeting. Now you're saying to me it was just the Supervisor and Chairman of the Zoning Board.

MR. MEHTA: Zoning Board, correct.

DARIO MARCHIONI: Who is all these representatives of the Town -- or -- I'm just reading what you said.

MR. MEHTA: Representatives? I'm sorry?

MS. BRUGG: Betsy Brugg. I will just comment on the meeting. I did not attend the meeting, however, I was involved in organizing the meeting. The meeting was organized as an effort on behalf of Jett (Mehta) and the Town to communicate more directly with the folks that are most directly affected. Those people in the neighborhood, not people who live across Town who may have valid comments and can speak at a Public Hearing, but really to give the residents and Jett (Mehta) and the Town an opportunity to really communicate and flush out what the concerns and issues are and see if there was some opportunity to move forward. It's something that is commonly done in other towns. It is just something that happened to have occurred here, but it could have happened at a local library or -- you know, people do this. Applicants do this all of the time as a way to really communicate with the people that they're -- this is how you find out if somebody wants a tree behind their house, if somebody wants, you know, something in particular done in connection with your project. It's an opportunity to really have that kind of intimate one-on-one kind of conversation and an opportunity to present an alternative that they worked very hard to come up with and see what the feedback was.

I guess one thing I would like to throw out -- and I know it is late in the evening and we appreciate the opportunity to be here tonight -- there is no law or rule that would preclude the Board from allowing residents to speak at this meeting, so we are offering and more than willing to sit here, and if the Board is willing to give the residents an opportunity to make a brief comment, we would not be opposed to that. Understanding, of course, if you want to put a time limit or something because it is not a Public Hearing.

DARIO MARCHIONI: This meeting was strictly for invitation only. It wasn't posted here there was a meeting here. It wasn't for -- the general public was not notified.

MS. BRUGG: I do not believe it was. If --

DARIO MARCHIONI: Who posted this meeting? The Supervisor did? I have a question about that. You know, I get to an age where --

MS. BRUGG: It's not uncommon for an applicant to call and ask for a list of nearby residents and send out a letter and saying we want to meet with you, come on down if you're interested and let's talk.

DARIO MARCHIONI: May I? What role does the Supervisor have in this application? Is there any special interest he has in this application? Is there something here between the property owner and the Supervisor?

SUPERVISOR DUNNING: Excuse me. Once again, David Dunning, Supervisor for the Town of Chili. I think as a representative for the Town of Chili, we have a responsibility to the residents of this community, and when this -- when this particular applicant came back to the Town with their application, I thought we owed it to the residents who -- who spoke the loudest, which were the people who lived in the Shrubbery Lane area, had the opportunity to meet with the developer and discuss this prior to a developer coming, trying to come back into Town and spending a whole lot of money in a project that the neighbors were still going to be very uncomfortable with. And I think I owed that to those neighbors to at least allow a space, put a space -- and it could have been in my meeting room, it could have been in this room, and like Ms. Brugg said, that could have been over in a room in the Library.

We happened to provide a room in the Town Hall where people were familiar with, opened this room up for them to be here. And it was so that those residents could be heard.

DARIO MARCHIONI: I just wanted to clarify that you don't have a special interest in this project.

SUPERVISOR DUNNING: Absolutely not. My interest in this lies with the Planning Board, whatever the Planning Board decides with this application. I did the responsible thing so that the residents of this area could be heard and that they could be heard very clearly in a very open and informative session.

MS. BRUGG: I guess I will offer to the Board, if you would like us to hold an additional meeting, and invite everybody on your list, we would be more than -- we would be more than happy to do that if that is something that the Board feels necessary.

JAMES MARTIN: I'll speak to that. I think that would be highly inappropriate because a lot of the names that are on the petition live nowhere near the location of this particular project at this point.

Mr. O'Toole, obviously you had a side bar conversation with Ms. Brugg that if I chose, I could allow perhaps a very limited input, all right?

KEITH O'TOOLE: That is correct. But there is no requirement to do so.

MS. BRUGG: Our goal is to be as open and forthcoming with the information that this Board or any of the residents would like to hear. We make ourselves available to you at your discretion.

KEITH O'TOOLE: If I may just quickly. Sometimes it gets lost in the process. We have to have a Public Hearing. This is a brand new application, and at a Public Hearing anyone who wants to speak can speak. I don't care if they live in Chili on Shrubbery Lane, if they live in the Wheatland border or they live in Tim Buck Tu, and no one has suggested denying anyone the opportunity to speak. And I would agree with Ms. Brugg, and I'm not here to advocate for Ms. Brugg or her client, that it is actually fairly common for developers to meet with neighbors.

And I realize there is a history here and people are a little sensitive, but earlier this evening we had a developer over on Buffalo Road who apparently had met with his neighbors to the rear to discuss landscaping and fencing and drainage and you heard that on the record earlier. So while I realize everybody is a little bit edgy about the history, there is nothing wrong with having more conversation.

DARIO MARCHIONI: Well, the point, sir, is that the Supervisor is playing a big role in this whole thing here. This is what bothers me. He is supposed to be representing the people of Chili. So special interest is another thing. I mean --

KEITH O'TOOLE: And that may or may not be true, but here today, what we're really talking about is the real estate development and the rights of the applicant as well as the rights of the affected property owners in a bind and how we balance those interests, and I think that is within the scope of the jurisdiction of this Board, and I realize that there may be other issues dancing around the edges that people are concerned about, but that -- you got to stick to what is within your jurisdiction.

JAMES MARTIN: All right. In an effort to balance the equation, I will solicit input from those people who attended that meeting and what their feelings are and coming away from that meeting at this point. Kind of like to limit it to maybe 5 to 10 minutes of, you know, the discussions that were held that night and how you came away from that particular meeting with the applicant.

So at this point, I will open it up to that comment -- or, you know, limited period of time at this point. Anybody care to speak from that issue?

DAVE CROZIER, 21 Shrubbery Lane.

MR. CROZIER: I wish she would identify herself so we all know who she is.

MS. BRUGG: I'm sorry. Betsy Brugg. I'm sorry. For the record, Betsy Brugg. I'm the attorney for the developer. I apologize.

MR. CROZIER: Thank you very much.

We didn't really come prepared to speak tonight, but off the top of my head, I can say that there has been some significant changes. There is no doubt about that. I think a lot of the concerns you as a Board had during the SEQR review would still be concerns with any motel

proposal on that spot. A couple of the concerns may be somewhat diminished, but I think they would still be concerns.

JAMES MARTIN: Okay. Thank you.

TIM HUNTER, 41 Shrubbery Lane

MR. HUNTER: My only comment is I would have loved to have attended that meeting if I had been invited. Although I don't live directly behind where the proposed hotel is going, I live very close to it. That's all I have to say. I was not invited.

KATHLEEN DANISZEWSKI, 19 Shrubbery Lane

MS. DANISZEWSKI: I was not invited.

JAMES MARTIN: I understand.

Other comments?

Mrs. Brixner, I asked for people who were at the meeting or directly affected by this project. I'm sorry. You will have a chance to speak at the Public Hearing.

MR. CROZIER: I would like to say one more thing. I asked that night who had been invited to that meeting and I was told just the bordering residents, which is like half a dozen of us, and -- and us, because we're one lot removed from it. Now, they said 16 or 17 tonight. I was told that night about half a dozen.

MR. MEHTA: 16 and 17 including the businesses. We invited a list from Shrubbery Lane and then businesses from the plaza. I will bring my submit -- or I will submit that to the Town. We have all of the addresses, both business and residential, that received the mailing.

MR. CROZIER: None of the business people showed up.

MR. MEHTA: That's true.

MR. CROZIER: And 50 percent of the neighborhood showed up that was invited.

50 percent is a heck of a lot more than zero.

JAMES MARTIN: Okay. I appreciate your comments and I appreciate your feedback.

Any other comments from anybody at that meeting or directly impacted?

MS. BRIXNER: Those people were not at that meeting. Neither was I.

JAMES MARTIN: Ms. Brixner, please. I set the ground rules for this input. I will not hear any more at this point. Thank you.

Mr. Mehta?

MR. MEHTA: I just thought somebody should be at the podium while you're doing this -- from the application while you're doing it, so.

JAMES MARTIN: Okay. All right. Well, I mean certainly, you know, there has been obviously major modifications. It appears there is still some concerns on part of the neighborhood. I guess it's your choice at this point whether you want to move ahead with the project, okay? And obviously you're subject to all of the scrutiny that you went through the first time around. Certainly reducing the number of variances is a positive. There are a couple other things that are certainly positives. You designed to the new code. All of those things have been done.

There is no guarantee except death and taxes in life, so at this point in time, I guess it is your decision on what you decide you want to do, all right? Anything else? Any issues? Seeing none, I adjourn the meeting.

DECISION: During the brief discussion had regarding the project, it appears there are still some concerns and issues that will need to be addressed.

The meeting ended at 10:35 p.m.