

CHILI PLANNING BOARD  
April 10, 2007

A meeting of the Chili Planning Board was held on April 10, 2007 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, John Hellaby, John Nowicki, Jim Powers and Chairperson James Martin.

**ALSO PRESENT:** David Lindsay, Engineering Representative; Keith O'Toole, Assistant Counsel for the Town; Dennis Scibetta, Building & Plumbing Inspector.

**JAMES MARTIN:** The first applications we'll hear tonight are applications that were actually heard at a public hearing on January 12th of 2007. They're the applications under Old Business of Metalico Rochester, Incorporated, owner.

**OLD BUSINESS:**

1. Application of Metalico Rochester, Inc., owner; 1515 Scottsville Road, Rochester, New York 14624 for preliminary site plan approval to erect a mechanical metal shredder at property located at 1525 Scottsville Road in G.I. zone.

Kip Finley and Warren Jennings were present to represent the applications.

**JAMES MARTIN:** Since we heard these applications at a public hearing in January, I would ask at this time either the applicant or the representative, have there been any substantial changes to the application since we heard these in January?

**MR. FINLEY:** I'm Kip Finley, the engineer.

**JAMES MARTIN:** Come up to the podium, please.

**MR. FINLEY:** Sure. I should know to do that.

I'm Kip Finley with Avery Engineering. Warren Jennings with Metalico. And we haven't had any substantial changes since the last time we were here.

**JAMES MARTIN:** One of the issues that we had talked about in January was more detailed analysis of the phasing of the operation. Have you had an opportunity to, you know, really work out a more detailed description of the phasing of the project?

**MR. FINLEY:** Yes, we have. And I actually took another look at it tonight so we could talk about it. I guess I -- if you can show me what to do to get this (indicating) running, I could show you our phased diagram.

**JAMES MARTIN:** Put the document under there and let's see what shows up.

**MR. FINLEY:** Okay. This reminds me of the overhead projectors. I don't know which way --

**JAMES MARTIN:** Like reading it to you is the way to put it up.

**MR. FINLEY:** In the packages of supplemental information we provided after our last meetings, we had asked to have some homework or you had given us some homework. We came up with a three-phased schedule. Phase 1 has quite a bit of the work, and it's actually sub phases. Some of the most notable things would happen in Phase 1. I will move this to the road.

This is Scottsville Road (indicating). On the site we had previously had approved some parking improvements. Right now this is a gravel parking lot (indicating). That will be paved.

We'll be adding some guest and customer spots (indicating). And then down -- it's here and to the road (indicating) we'll be doing some parking expansion and restriping and paving there.

Another major thing, one of the issues with our site is that we have -- one of the things with our site is that it is muddy, and we're going to be taking our first phase to start to alleviate that. This is the first corner of the warehouse (indicating). These are the loading docks that we have right now with the concrete apron (indicating). This whole area will be paved (indicating) and the drainage improvements will be done in the first phase. That should start to really take care of any of the mud on Scottsville Road.

Now, moving southwest on the property to where the shredder is --

**JOHN NOWICKI:** Can I ask a question before you go -- as you go through the phases, could you possibly give us a time frame?

**MR. FINLEY:** Sure.

**JOHN NOWICKI:** Thank you.

**MR. FINLEY:** So far what we have talked about was in the Phase 1-A, and I'm still talking about 1-A, which would be spring, as soon as we take care of our engineering comments, we would have our approvals, and move ahead, and then into the summer and late summer of 2007, and what we're calling Phase 1-B will go through the winter of 2007, 2008, and then Phase C would -- 1-C would still be part of Phase 1. That's in the spring of 2008.

That's all the big push to get the shredder and all these conditional uses up and running.

Phases 2 and 3 are finishing off other parts of the site. So that's why Phase 1 is large. That's the shredder, auto dismantling, paving, getting most everything done.

One of the first things associated with the shredder would be late this summer, or early fall,

and that would be to have the footings put in.

The shredder itself takes almost a year for all of the parts to be manufactured and put together and so the first thing is to have the -- all of the underground work. There's an electrical control building or the control station, the operator tower, all of those things will come after, but the ground work will be done in the -- in the summer.

Um, on the north part of the site, we have the railroad on the left, to the west. The storm water basin will get put in with all of the other site drainage in the first phase so we can start taking care of that, all of the drainage for the site. The area where we have our metal turnings, that part of the concrete pad and the drainage for that will be taken care of.

So basically, Phase 1 is quite long, and takes care of most of the key items on the site.

Phase 2, which would be summer of next year, we'll start taking care of other paving on the site. This part of the yard will get paved (indicating).

Then Phase 3, which is really quite a ways down the road, is right here (indicating). This -- it was noted in our engineering comments, we did have it marked Phase 1, so you may have seen that on your plans. That is really Phase 3.

That's a building to sort out the non-ferrous materials, the copper, aluminum, things like that. So basically I don't think there are any changes since what we gave you on February 6th other than the shredder footings will be fall, on here. The item for the shredder footings will be in the fall versus summer. It will be late summer.

Does that help?

JAMES MARTIN: Thank you. Anything else?

MR. FINLEY: No.

JOHN NOWICKI: Can I see that letter you just showed us? So the actual processing, your first day of operation will occur what year, 2008?

MR. JENNINGS: Yes.

JOHN NOWICKI: Thank you.

MR. FINLEY: Anything else for us up here?

JAMES MARTIN: I think that is a good update at this point.

As a result of the hearing of the Planning Board back in January, we did find the application to be a Type I action under SEQR. We declared our intent to become lead agency and requested a coordinated review by all affected agencies. Um, and the application was tabled at that time, pending result of their review. The 30-day review period closed in February. There were no objections to the Planning Board acting as lead agency in regard to these applications.

Um, at the request of the applicant, um, the applications were tabled at the February 13th and the March 13th of 2007 Planning Board meetings. In order to insure a thorough and objective analysis of all of the environmental issues surrounding this project, the Town of Chili -- Town Board authorized the Planning Board to hire a consultant to undertake a review of the SEQR process associated with the applications. The Planning Board contracted with FES Associates for this review, Dr. Frank Sciremammano -- and I always have trouble with that name -- I'm sorry, Dr. -- is here to present their findings on this review.

So Dr. Sciremammano, I will turn it over to you, and I guess I would ask that you start with your credentials at this point before your review.

MR. SCIREMAMMANO: Thank you, Mr. Chairman, Board members. My name is Frank Sciremammano, and I have trouble with it also. And I am a principal in FES Associates, environmental consultants. I have approximately 30 years of consulting experience, engineering and environmental. I have a Bachelor's, Master's and Ph.D. degrees in engineering from the University of Rochester. And I have been on the faculty in the College of Engineering at RIT for 26 years.

Hopefully that's enough credentials.

JAMES MARTIN: That's fine.

MR. SCIREMAMMANO: Thank you. You have before you a revised Part 2 of the environmental assessment form. Part 1, of course, is prepared by the applicant. And as a result of our review of Part 2, a number of issues were identified as potentially significant that needed to be looked at in more detail in Part 3. You also have my Part 3 analysis in front of you. And I would like to go through that with you.

And feel free to stop me at any point and ask questions on any of this.

Specific issues addressed as identified from looking at the materials, from going through the public record and Part 2 of the EAF were impacts to the land, impacts to -- due to drainage and storm water quality. Impacts on air quality. Impacts to the local transportation system. Impacts to public health and safety including waste water treatment. Impacts to cultural and recreational resources and noise impacts. And I will briefly go through each of those. Obviously there is a more extensive write-up, but I don't want to read the whole thing. In terms of land impacts and that is basically any changes to the land -- changes here consist primarily of impervious cover be added to most of the site. The installation of the shredder and the -- some excavations for the storm water management system.

In general, the excavations will be relatively shallow, 10 to 12 feet maximum. I'm reading from the plans. Should not impact or penetrate the wastes that are reported to be under the site. Potential impact to that sub surface materials from the project, including any vibrations or mechanical disturbances, in my judgment would be nonexistent and negligible. They're already running a lot of heavy equipment on that site. I don't see running the shredder and installing the shredder as causing any mechanical problems with the waste and causing a problem with release.

Um, in general, the addition of the impervious cover will help that and I will discuss that a

little later. So my conclusion in terms of impacts to land and the materials buried under the site is that they will not be significant and they will be outweighed by the benefits of the project.

I think the major concern on this site is drainage and storm water quality. Um, under existing conditions, drainage from the site is subject to very limited controls on volume, basically a couple culverts in the front and essentially no controls with respect to storm water quality. Um, given the nature of the on-site operation, that means that there is probably a significant amount of pollutants that do find their way out with the storm water and are discharged to the Genesee River in particular.

Along with the installation of the shredder, the project includes the installation of concrete and pavement over most of the site, as you just heard prior to my getting up here, and upgrade of the existing storm water conveyance system and the addition of a collection system. And the installation of a treatment process of some sort for storm water collected on the back end of the site. I would like to note for your information that the upgrades to the storm water management system are required, both for the construction of the project under New York State DEC regulations and New York State DEC general permit, and also for the continued industrial operations. Under a recently approved general permit, that regards storm water discharges from industrial activity. And that actually went into effect on March 28th of this year.

So they're going to need to comply with both of those. As a result, the applicant submitted drafts of what are called Storm Water Pollution Plans, SWPPPs, for both the industrial permit, as well as for the construction permit. The primary elements of both of those SWPPPs include the installation of the concrete and pavement surfacing over the landfill, the storm water collection system and the expansion and berming of the pad that is utilized for the metal turnings and the installation of the detention area and storm water filter.

At this point I have to report that the plans really do not -- are not complete and don't comply yet with the detailed requirements of the storm water permits. Um, the storm water permit for the construction activity and the one for the industrial activity have some contradictions or inconsistencies and, in addition, the plans don't reflect everything that is put in the text. Um, I'm not going to go through all of the details. I have cited a couple of the major points here regarding the design. It really does not yet meet the requirements of the New York State Storm Water Management Manual.

There are some questions regarding the details of the design of that system. And in addition, the water quality filter that was discussed, the four bay for the storm water detention area, and certain other elements are not yet shown on the plans.

However, I'm assuming that for the purposes of the environmental review that those elements will be upgraded, the plans will be revised and the entire project would be brought into compliance with both the construction permit requirements as well as the industrial activity requirements because the DEC requires that. And they won't issue them their construction permit for storm water or allow them to continue with their industrial activity without it. So for purposes of the environmental review, I think you can rely upon the DEC as well as your own Town Engineer and his final review of the site plan to make sure that the storm water system is brought up to the current standards.

With that, I think there will be no negative impact on the environment and most certainly will be a positive impact on the environment in terms of drainage and storm water because it will be a real upgrade for the site.

JOHN NOWICKI: Question.

MR. SCIREMAMMANO: Yes.

JOHN NOWICKI: In regards to the DEC now, um, you're indicating that there are things that have to be done to these drawings to bring them up to snuff here a little bit.

Um, is this being done with DEC? Is it going through our Engineering Department here or our Building Department or is that directly with DEC?

MR. SCIREMAMMANO: It will be done directly with the DEC, but you can certainly require -- well, let me -- it is done directly with the DEC, but everything they do has to be reflected in their site plan, which is subject to your approval, and to your Engineer's final review. So -- but the permit is issued directly by the DEC. My assumption is they will go back and forth with the DEC in terms of revision of the plans.

JOHN NOWICKI: Are we notified in any way to the Town that these things have been done or corrected? Are --

MR. SCIREMAMMANO: Only to the --

JOHN NOWICKI: -- or do they respect our position here and bring us up to speed on what they're doing?

MR. SCIREMAMMANO: That is a hit or miss. In -- I think in this case it would be wise to condition your site plan approval on the applicant providing documentation to the Town that they're in compliance with the DEC requirements and have their permits in hand.

JOHN NOWICKI: That would make sense. Thank you.

MR. SCIREMAMMANO: The next topic I looked at was air quality. Um, and there are really three potential new or increased sources of air emissions that might impact air quality. These are the increase in truck traffic to the site due to the installation of the new equipment. Direct emissions from the new equipment, the shredder and the likelihood of increased fugitive dust emissions. That is dust that is brought up in the yard due to the course of activities.

The applications indicate that trucks will increase by approximately 50 trucks per day, bringing a total up to about 245 per day. If you break that out over an 8-hour workday, there is less than seven additional trucks per hour. In terms of area quality emissions, that is very minor

compared to the approximately 16,000 vehicles that travel on Scottsville Road over a day.

In addition, there are no sensitive air receptors. That would be primarily residences that are in the immediate vicinity. The closest are across the river in the Town of Brighton and up the road near the intersection of Paul Road. By then any addition -- any increased emissions from vehicles would be disbursed. In terms of direct emissions from the shredder facility itself, the applicant has stated that the equipment incorporates a closed loop zero bleed system. Now, I'm not as familiar with the details of that, but my understanding is that it implies that the air system, the dust and so forth is completely sealed in the equipment.

Um, however, there is also a water soap solution that is injected into the shredder, and it has been stated that that will evaporate. Well, just from conservation of mass, then it says that they're going to have to vent this machine at some point to release either the steam or the dust or some combination thereof. The DEC has also highlighted this, and in their letter of the 8th of March they again ask for measure of calculated emission information. That should be available from the manufacturer of the shredder. Um, and that they will require that information before they will approve the installation of that equipment.

In terms of impacts due to those kinds of emissions. There are really two mitigating factors. The chief one is that the DEC will require compliance with what is called Article 19, which is the Air Pollution Control Act and a permit would be required if emissions will occur from that shredder. If there are emissions, then there will be controls put in place to assure there is no air quality degradation as a responsibility of the DEC. The other alternative is they could provide emissions data that shows this is exempt, meaning it is a very small emission rate, which is exempt from the Clear Air Act, and in that case, you can be assured that there will be no air quality impact because it is a very small emission. I think in either case the fact that the DEC again will look over their shoulder and require a permit or at least an analysis of the emissions I think will cover the fact there will be no significant air quality impact. The other factor in that again is there are no receptors near the site.

JOHN NOWICKI: And this information again, there will be a provision in place that we will be notified of those decisions?

MR. SCIREMAMMANO: Well, you won't automatically, but if you have it as a condition on the site plan or of approvals, I think that is a reasonable thing to do.

JOHN NOWICKI: We want what the DEC decisions or permit processes are brought back to this Town.

MR. SCIREMAMMANO: I think that is a very reasonable thing to do.

The third potential source of air emissions is fugitive dust from the surfaces within the site. This is dust that is kicked up due to machinery and operations. Um, obviously with the paving, that should be greatly reduced over existing conditions. So I think an important component of this project is the paving and the concrete work which will reduce that fugitive dust emissions. So with all three of those looked at, I don't think any of them will lead to any significant environmental impacts in terms of air quality.

In terms of impacts to the local transportation system, traffic, um, again, the applicant has stated that 50 additional trucks per day to a total of approximately 245 trucks per day will access the site, once the equipment is installed and the installation is complete. Again, this is roughly seven additional trucks per hour. Right now on Scottsville Road, again, over 16,000 average vehicles per day. This is a fairly small percentage, about 1.5 percent.

In the site vicinity, Scottsville Road has three travel lanes, two northbound, one southbound and a fairly large paved shoulder. Therefore, trucks entering the site will not slow down the flow of traffic. Northbound trucks making a left, there will be the right lane available for cars and other vehicles to go around. Trucks slowing down coming southbound making a right turn in can utilize the shoulder, and directly in front of Metalico there is an expanded shoulder that they put in, I believe, which the trucks can utilize to slow down and make the turn in.

So given the rather good geometric conditions, the fairly small increase in traffic, I don't see a large impact in terms of transportation.

JOHN NOWICKI: Are you again -- are you aware of any particular plans that New York State Transportation Department would have for any improvements along that stretch of Scottsville Road?

MR. SCIREMAMMANO: I'm not aware of any, but that doesn't mean there aren't any.

JOHN NOWICKI: Okay. The question I have for transportation issues comes into the point of the turning lanes, getting in and out efficiently. Um, and I think what you're saying is you feel comfortable that the shoulders are of such width that they can accommodate the trucks going southbound turning in so they don't really hold up or affect traffic patterns.

MR. SCIREMAMMANO: I am on the southbound. On the northbound -- there is a left -- not left-turn lane, but two lanes of travel. So they could utilize the left lane and not block traffic.

JOHN NOWICKI: Again, the owner might have to ask this question, but I would like to ask it again, knowing the site, are there staging areas to accommodate if, for example, five or six or seven trucks happened to show up all at once?

MR. SCIREMAMMANO: They have some limited stacking in front of the scales. Um, if they had to back out into the road, there is a wide shoulder. Um, I -- I have not done a complete traffic study, so I am not aware of any times when they might be backing out. Casual observation, because I do pass there regularly, I have never seen that.

JOHN NOWICKI: Okay. Thank you.

MR. SCIREMAMMANO: Um, in terms of public health and safety, I also looked at three

potential significant impact areas. These are the sanitary sewage treatment and disposal, the risk of fire and risk of contaminant release from the underlying wastes that were previously deposited there.

In terms of sanitary sewage, the applicant states that there is no public sewer system available to serve that site.

JIM POWERS: Could I ask a question?

MR. SCIREMAMMANO: Sure.

JIM POWERS: I know at the public hearing I asked about the sanitary system in the front yard there. And somewhere in the back of my mind originally that was built to handle, I think, 26 personnel, and now we're talking in the neighborhood of 70.

MR. SCIREMAMMANO: Yes.

JIM POWERS: And I don't know, in this big pile of literature that we have received in the last couple of months, was there any indication that Metalico was going to look into the sanitary system, sanitary sewer system that the night club down there on Scottsville Road is tied into? I don't --

MR. SCIREMAMMANO: Well, I can tell you I went through the file and actually it was the opposite. They said that it was quote, unquote, an unconventional arrangement by which the night club was attached to the sewer. They led us to believe they could not attach to that. I saw also in the file the statements that the system was designed for many fewer people than will be using it now.

However, I did go out and look at the septic field, the septic field. It's a raised sand filter. I didn't see any indications of failure or problems. My assumption is the additional six employees which will be added for this will not cause that system to go over capacity. If it does, there is a simple remedy; that could be easily rebuilt or expanded. There is plenty of room out in the front, and that's -- so I'm -- my belief is that that sanitary system will probably suffice, and if it doesn't, they can easily expand it.

There will be -- this particular project, with the six employees, is not going to add really significantly to the flow. And, again, when you design those systems, there is always a factor of safety in there, and a lot of times the flows are based on substandard DEC factors which may not hold for this kind of operation. That's the best I can offer on that, because I just don't think that is a big problem here.

Um, so that is the sanitary waste.

Um, the other issue regarding the waste water I have alluded to. The shredder does have process water. Um, if that doesn't evaporate and it has to be drained, it -- the DEC has stated in its letter of March 8th that it cannot be discharged to a storm water system because it is industrial process water, has to be treated. Once again, I think you're going to have to rely on the New York State DEC, their review of the general permit for industrial activity for some assurance that that water will not be discharged to the storm system and that if it has to be treated, it will be brought into some sort of treatment process before it is discharged.

Again, the applicant has stated there is no discharge from there, so I think that is a detail that will have to come out as part of the DEC review, and they have keyed in on that and they have specifically asked for that information.

So again, that issue remains somewhat open. However, I believe it is not going to result in a significant impact. This waste water stream, if there is one, will be required by the DEC to meet their SPDES discharge requirements. That means other treatment or bring it into the septic system, or not allow a release. So I think any discharge associated with this is not going to have a significant impact on the environment. It will be carefully controlled and treated.

Another aspect of public health is the risk of fire or explosion. For this I really rely on the Fire Marshal's review of the site. I went out there. He -- he submitted two letters to the record for this. One was December 29th, 2006. He recommended four items be included in the site plan. My assumption is that they have been included.

Um, one -- with that he went back out there and issued a letter of February 8th, and in there he stated that with those conditions in place, there would be no issues with this business as far as the office of Fire Marshal is concerned and in his opinion, um, they would have an excellent operation without any negative concerns. So I would have to rely on the Fire Marshal, his expertise regarding fire and explosion, but he seems satisfied.

The last item regarding public health is the fact that this is reportedly built over a former landfill. As such, there is a concern that the excavation might cause additional contaminants to run out. In general, again, the applicant has stated that their excavations will be very shallow and will not penetrate the waste. Um, so there will be no direct exposure of waste to storm water and runoff. The other release pathway might be through an increase in filtration water through the surface, carrying pollutants out of the landfill. Again, the paving of the site and the concrete coverage should actually eliminate that and, in fact, that is a standard technique for remediating land fills, is to cap them, which is essentially what they're doing. So, if anything, I think that will result in an improvement and a less chance that there would be a release of contaminants from the waste underneath. On the basis of reviewing those things, I doesn't see a significant potential for impact with respect to public health and safety.

I have two more items. I apologize. I know I am taking a lot of time.

We also identified potential impact to cultural and recreational resource as potentially significant. The New York State Office of Parks and Recreation and Historic Preservation issued a letter of January 3rd, in your file, where they stated there will be no impact of this project upon cultural resources in or eligible for inclusion in the State and National Register of Historic

Places. So basically no impact on historic resources. I also expect there to be no impact on prehistoric cultural resources, artifacts, since this site has been extensively disturbed already and, in fact, was used as a landfill in the past.

Um, the last item under cultural and recreational resources is the fact that this project is a -- adjacent to the Genesee Greenway Recreational Trail and that is probably the reason it is a Type I action, because it is adjacent to that. The Genesee Greenway Trail, that location runs down Scottsville Road, is on the shoulder. Um, so we want to look at what impacts it might have on that.

On weekdays -- I'm a bicyclist, and know people do not use that road on weekdays with bicycles because there is a heavy volume of traffic, so I don't see any impact of the additional 50 trucks per day on that. What is of concern to bicyclists on that trail and that section is the debris in the road. You're riding on the shoulder. There is a lot of debris from that operation and from the adjacent Dewitt in the shoulder. With the paving of the site, with the additional paving on the outlets of the driveways coming out, it is hoped that that would be greatly reduced and with that, you would actually see an improvement in terms of the recreational trail. So, again, I don't see a negative impact here on the Genesee Greenway Trail.

The last item is noise, and the applicant submitted a noise study where they went and looked at sensitive receptors in the area and took direct noise measurements. In general, it was found that the transportation-related noise sources dominated in that area, as you might expect, traffic from Scottsville Road, traffic on East River Road because they went across to the residents over there, and the airport. Um, when they factored in the noise from the shredder, and then projected that out to the residences, which are quite a distance away, the increases were less than one decibel. The New York State DEC has a document assessing noise impacts and anything below 3 decibels in terms of an increase is concerned negligible and not even noticeable. So the noise should also not result in any significant environmental impact.

So --

JOHN NOWICKI: That is based on manufacturer's specs on the shredder?

MR. SCIREMAMMANO: Specs on the shredder. That is my understanding, yes.

So on the basis of that, I felt comfortable in preparing for you a draft negative declaration. I do not feel there will be significant impacts resulting from this project, especially with the DEC overlooking and their permitting process coming into play.

So again, I won't read this entire thing unless you want me to, but the negative declaration basically distills down what was in the EAF Part 3, in terms of the impact areas and then at the beginning has the mandated language that you don't find a potential for a significant environmental impact and, therefore, a draft environmental impact statement does not need to be prepared.

JOHN NOWICKI: Can I ask you one more question?

MR. SCIREMAMMANO: Sure. Ask as many as you like.

JOHN NOWICKI: Impacts to the public health and safety, I think you made a misstatement here, for the record, that any explosions or fire were basically going to be taken care of by the Town Fire Marshal, his interpretation or his input on that. You -- what is your rationale on that?

MR. SCIREMAMMANO: My rationale is he is the expert on that, and that I rely on his review, and in addition, there aren't any sensitive receptors in that area, so even if there is a small fire or explosion, I don't see a problem with -- for public health.

JAMES MARTIN: If I recall, back in January, when we reviewed this project, the fact that there is this water soap injection into the shredder essentially consumes available oxygen within the unit itself, which is a significant explosion prevention activity within the shredder, if I remember the technical details that were given to us in January.

MR. SCIREMAMMANO: Yes. That was in the record. In the written record also.

JAMES MARTIN: Other questions for Dr. Sciremammano at this time?

JOHN NOWICKI: On the environmental issue?

JAMES MARTIN: On the environmental issues, yes.

MR. SCIREMAMMANO: I will sit back down and be available for questions.

JAMES MARTIN: Thank you very much. Your extremely thorough and complete analysis of all of the issues, and --

MR. SCIREMAMMANO: Hopefully it's helpful.

JAMES MARTIN: Thank you on behalf of the Planning Board.

Mr. O'Toole, procedural question. Can we proceed with a SEQR declaration at this time prior to going ahead with the applications themselves, or do we go through the applications and then at the completion do the SEQR declarations?

KEITH O'TOOLE: By going through the applications, what exactly do you mean?

JAMES MARTIN: I'm sorry?

KEITH O'TOOLE: By going through the applications, what do you mean? Do you mean approving the applications?

JOHN NOWICKI: Each one of the ones on the agenda here.

JAMES MARTIN: We would need to do SEQR, SEQR declaration in order to approve or -- you know, move ahead with the applications if we desire, right?

KEITH O'TOOLE: Correct.

JAMES MARTIN: We should go through the applications at this point. Is that what you're telling me?

KEITH O'TOOLE: If you mean review the applications, you may do that at this point. If

you mean approve the applications, then we need to deal with SEQR first.

JAMES MARTIN: I think what I would like to do is there was some concerns that we listed in January at the public hearing, and I would like to go back and review those.

Just for the record.

Um, basically at that time, um, conditions that were put in place was pending Town Engineer approval, which again has been reiterated tonight.

Um, all of the Fire Marshal requirements shall be satisfied by the applicant, and based on information that has been provided to us, I believe that that condition has already since been taken care of.

We talked about the height of the scrap piles themselves, that they were not to exceed 25 feet to a ground elevation agreed to by the Building Department and the applicant, and we were asking that poles be installed with a delineation mark indicating the height limit of the piles so they could be easily observed to be sure that is in compliance with the height limitation.

Um, we had asked for a timeline of the construction phases to be supplied to the Planning Board, which was reviewed briefly tonight. There was a -- there was an issue that we wanted to be -- to insure that everything was in compliance with the national flood insurance regulations. That was the other condition that was discussed at the January meeting.

I guess at this time I will open it up to the Board and side table for questions and issues regarding the applications themselves.

JIM POWERS: Just, we should incorporate some of the conditions into the applications that the Doctor spoke of.

JAMES MARTIN: We heard certainly prior to any building permit, if this is approved, prior to any building permit issued, we have to have complete documentation from DEC that all their approvals are in place, if I understood the issue here.

JOHN NOWICKI: And we need verification of that through the conditions.

JAMES MARTIN: Pardon?

JOHN NOWICKI: And we need verification of every one of these permits and approvals through the conditions that are imposed on the project.

Prior to any building permit being issued by the Town of Chili, all pertinent -- listen to me as I am writing -- all pertinent DEC approvals with documentation will be supplied to the Building Department and verified.

I will read that again to make sure I have captured that correctly.

JOHN NOWICKI: Before any --

JAMES MARTIN: Prior to any building permit being issued by the Town of Chili, all pertinent DEC approvals with documentation will be supplied to the Building Department and verified.

GEORGE BRINKWART: DEC permits. Copies of the permits, as well.

JAMES MARTIN: I'm sorry, I didn't hear you. I have a head cold.

GEORGE BRINKWART: Should we ask for copies of the DEC permits issued, as well?

JAMES MARTIN: For the Planning Board?

GEORGE BRINKWART: To have on file here.

JAMES MARTIN: I'm assuming that they would supply copies of all of the permits and approvals at the time they apply, all right, and that they would be held on file. Okay.

JIM POWERS: I just want to make sure that the comments from Lu Engineers --

JAMES MARTIN: Oh, yes. We will get into that in a minute.

I will let Mr. Lindsay talk about that.

JOHN HELLABY: Well, I have a few questions, and Kip (Finley), if you would bear with me, I just want to read down through these. The only reason, I guess -- a lot of this information came about after the January meeting, so I would just like some -- first of all, thanks for going through the schedule, but it is unclear that per the schedule, when do you actually anticipate this shredder being in service?

MR. JENNINGS: The shredder won't be running until 2008. It takes a year to build.

JOHN HELLABY: 2008 is a long time. What part of 2008?

MR. JENNINGS: Um, spring. Spring, summer.

JOHN HELLABY: So you're telling me you propose to have the auto dismantling hut and everything on line ready to accept vehicles prior to this thing being started for use, according to your schedule?

MR. JENNINGS: Yes.

JOHN HELLABY: Um, your site plan is proposing an awful lot of asphalt pavement. I guess I want to ask, has any consideration been given to concreting the entire area just for the fact that you have heavy equipment and it's not quite as porous as the asphalt?

MR. FINLEY: Well, there's two parts. There is Warren (Jennings)'s part to answer and then my explanation of what we're doing with asphalt.

MR. JENNINGS: I have used asphalt for 20 years and it never seems to cause a problem. Um, we have used it extensively in Port Newark, New Jersey where we boat load ships and dig off with grapples. Never have been an issue. Concrete with us is a significant luxury. It costs a lot of -- lot of money.

MR. FINLEY: With that said, my part is that we have concrete in the areas that will be heavily beaten up with equipment and we have asphalt in the areas that won't be as heavily abused. We also have in our pavement section, we are putting some -- it's a pretty good geotechnical -- or geotextile mesh in the stone. Since this is on soil that is not really a good weight-bearing type of soil, we added reinforcement to the sub base. So the asphalt is kind of a

wearing surface and it can also be paved over after some time if it really gets --

JOHN HELLABY: You have a geotextile fabric under this?

MR. FINLEY: What we have spec'd is called Tensar Geogrids. It looks like black construction fence. It almost doubles the effective depth of the stone.

JOHN HELLABY: I'm familiar with it.

JOHN NOWICKI: Good point you brought up. I'm just wondering if he wouldn't want to have conditioned for -- the applicant would submit to the Board and the Building Department their specific mix designs for the asphalt and the concrete, what type of stone, what is going into it, the strength, the coarsement ratios, the whole bit, make an official submission for the designs for both products.

MR. JENNINGS: We -- we're just going to use basically 5 inches of asphalt, 3 inches of a coarse binder with an inch and a half of finish topcoat. Depending on what the engineer -- not -- depending on what the paving contractor and our engineers go through, we figured we're going to use 8 to 10 inches of stone. So -- because again, we're -- just -- just let me finish. We are going -- we're changing our equipment as now we're -- we're going more to rubber tire equipment. The more asphalt you put down, the more you don't need Grouser cranes. So we're thinking -- our experience, it really isn't necessary to go overboard on the concrete. And that --

JAMES MARTIN: I have a question. You plan to continue to use the track equipment that you have on site at this time, which can be pretty rough on asphalt surfaces.

MR. JENNINGS: I understand.

JAMES MARTIN: But you are going to continue to use it?

MR. JENNINGS: Some of it we have retired. We have now two rubber tire loader cranes, we're going to a third as we speak, and we'll be retiring two Grouser cranes.

MR. FINLEY: Our drawings do show the type of asphalt, the type of stone in that, and -- so it is basically just the same things they use on the roads in parking lots. As far as the mix design, it is what is in the DOT book for that number.

GEORGE BRINKWART: Having said that, I think what John (Nowicki) was alluding to is you reference DOT specs on the materials. That might cover that.

MR. FINLEY: I can't remember if we did or not. Usually we write sub base, DOT type, three or four, but that's just something -- that is a detail on the thing.

MR. JENNINGS: We don't want to spend money on something that is going to fall apart, obviously.

JOHN HELLABY: A letter from -- in a letter from Ward, Norris, Heller & Reidy dated March 28th, in Section A, um, they seem to take great care to explain tire retreading facilities, and the statement is made that it's more intense than this shredder operation, I guess is what the statement was, but yet I see a significant lack in the correlation on how it is similar to your operation, other than the unsightly mess that is outside. Is there any more correlation on how you feel a tire retreading operation corresponds to a shredding operation?

MR. FINLEY: Actually, probably what we should do is have one of the authors of the letter come up. This is Bob Feldman with that firm, and I think his associates actually signed it, but he's was part of that.

MR. FELDMAN: Thank you. The -- the response to the question is that we were looking for illustrations that might be relevant to similar processing operations. The -- the 115.18 B of the zoning code refers to processing and we looked to see in the definition section what other processing operations were affected by that provision. And we used that -- obviously it is a process that involves large equipment, that involves various other aspects of the development of the process itself, and we used that as an illustration. I'm not suggesting, nor would I, that it is exactly the same as that which we are now using, but the 18 -- 115.18 B says you look for properties -- or excuse me, you look for processes that are similar. It may be a stretch, but nevertheless, it was our intention to suggest that there are processings -- processes that do take place that are acceptable under 115.18 B.

JOHN HELLABY: All right. From that same letter, in Exhibit C, Item 2, it makes mention to a missing discharge notification sign and some daily inspection records that could not be found. I guess I'm a little unclear on -- is that the outflow from the septic system to the river that that is alluding to? Section -- Exhibit C. Excuse me. Item Number 2.

MR. FELDMAN: Exhibit C.

JOHN HELLABY: Item Number 2.

MR. FELDMAN: Number 2.

MR. FINLEY: I never saw --

JOHN HELLABY: At the very end, Item 2.

MR. FINLEY: That was one where -- I never saw it referred to as Exhibit B at that point. I did read that letter. That is the letter from Metalico discussing -- maybe that one I can answer.

MR. FELDMAN: Would you?

MR. FINLEY: It takes a few of us to get this all taken care of.

All right. Well, clear -- bear with me. All right. I'm sorry, what was the reference again?

JOHN HELLABY: Well, the last of Section 2, it says that the discharge notification sign at the outfall has been removed or destroyed, and the records of daily visual observation and of the discharge and annual monitoring reports were not readily available. I guess the question is, I'm not sure exactly what they're referring to. Is that the outfall to the river?

MR. FINLEY: Yes. This -- actually, this would answer the question by Mr. Powers also.

Um, this is actually giving you more information that was referenced from another letter that came into the Town that we saw and we thought we needed to give some information.

On this case, the -- the waste system, sanitary waste system is a sand filter system in the front yard. It was actually designed for a certain number of employees, and now with more employees on site, there was a question of could it actually handle it. Part of this question was making sure that everyone understood that a lot of the employees are truck drivers. They come in and drop off their car and leave. Because Metalico has 75 or 6 employees, they aren't in that building using the bathrooms. They're out on the road. Some of the mechanics are in the mechanics' room. Some are across the whole property. So that would answer part of the discrepancy in numbers.

As far as we're concerned, the system is capable of handling the people that actually do use it.

Now, the outfall goes into what used to be the old sewer discharge from the Gates-Chili Ogden plant. If the plant overflowed, it would go right to the river. That concrete structure and those pipes were all there, so the County allowed it to be tied in and a SPDES permit was issued. This is the clear water, after it is filtered, you either discharge it to a -- another leech -- leeching basin or an absorption bed. You can discharge it to a creek. You can discharge it to a pipe that goes to a creek or the river, but when you do that, you need a permit. So there was a permit issued when that was all done.

It wasn't tied into the sanitary sewer because the sewer that the night club is tied into is actually a forced main from Henrietta, and the County Pure Waters really never liked that arrangement. It was basically you would have a check valve keeping a 48-inch force main from going into the club. So it was an unusual case. They permitted it because the building owner really needed relief from their sanitary needs, but they don't like the situation and they're probably glad it's not being used right now. There is no chance that we would ever get the opportunity to tie into that forced main. So if that helps any, what that unusual situation was, is -- it is just something that the County would be nervous about having a lot of connections to a forced main.

JOHN HELLABY: Are these daily visual inspections required as part of the permitting?

MR. FINLEY: As far as surface discharge, SPDES permit, you're supposed to keep records on discharges, sample them. They're supposed to be an outfall sign. This system discharges into a deep manhole that goes down into a shaft and then into the outlet structure. If there was once a sign there, I think when Monroe County dug up that whole area and did some work on the man holes, the sign is gone. What we need to do is get back on track with finding -- I -- we couldn't find the records in time for them to write this letter after -- we were trying to respond. We do need to get up to date on the SPDES permit. That is another thing the DEC will be looking at as they're reviewing permits for the whole property.

JOHN HELLABY: Um, some of the other questions that -- and I guess were somewhat -- not real clear, according to the January meeting, one of them is what will be done with the tires off the autos that are gone in there? One statement says they will be removed and sent back to the people that bring the auto. One statement says they can go through the shredder. One statement says they can't go through the shredder. I guess I'm a little unclear on what we're actually doing with these things.

MR. JENNINGS: It's a game of economics. If they want to leave the tires, they take a price discount. If they want to take the tires home --

JOHN HELLABY: Do they actually go through the shredder or come off --

MR. JENNINGS: They can go through the shredder.

JOHN HELLABY: Are they going through the shredder?

MR. JENNINGS: Yes, they will go through the shredder and goes out as waste. It is not an objectionable item.

JOHN HELLABY: Part of the shredding operation, unclear in the January meeting, there is a lot of fluff contained apparently in the upholstery and head liners. At some point that ends up in a landfill at some point in the game; am I correct? Can you just enlighten me a little further on how this fluff, so to speak -- and I understand it is wet when it first comes out, but eventually it has to dry out. How is that contained from blowing all over the neighborhood?

MR. JENNINGS: It goes into a three-sided bunker bin. It doesn't move as much around as people would think. So then it is loaded out. We load it with a loader into dump trailers and then it goes to a landfill. So it is just in a three-sided building -- three sided bunker, I should say, and it is kept -- it will not be in harm's way as far as wind or anything else necessarily.

MR. FINLEY: Describe it. It is kind of like that table, only tall walls out of concrete.

MR. JENNINGS: It is in the drawing.

MR. FINLEY: Are you familiar with what he means -- the bunker?

JOHN HELLABY: Like the salt storage.

MR. FINLEY: That would be a good example.

JOHN HELLABY: We touched on the DEC's two comments and information they're still looking for. At the January 9th meeting, a question was asked about the number of autos being stored at any one time. Um, there was never a real response as far as number. I think it was simply answered that we had the property to store it on. If this is approved tonight, I would like to see it made a condition there is a specific number of autos at any one time that are stored on this site.

MR. JENNINGS: 25 feet.

JOHN HELLABY: Not height. I want actual numbers.

Also, there was discussion about the hours of operation. You had mentioned in January that you were running two shifts down there, yet you didn't anticipate the shredder running more

than two or three days a week, and probably not for probably 6-, 8-hour periods, I believe. I don't have it right in front of me, but that is another thing I would like spelled out clearly, the exact hours of operation, so this thing doesn't turn into a 6:00 a.m. to midnight operation down there, if approved. That's all I got for right this minute.

JOHN NOWICKI: Have we received from the applicant a disclosure statement of who owns what here and what is going on? Who the owners are?

JAMES MARTIN: I would say we received a statement to that effect. Metalico Incorporated basically owns the site.

JOHN NOWICKI: Is it a corporation that owns this site? Who is behind all this?

MR. FINLEY: Are you referring to -- at one time it was called Metalico Acquisition, and now they have incorporated for Rochester, so it is Metalico Rochester, I believe that is the owner.

JAMES MARTIN: But it is under the umbrella of what? Metalico? What is your primary -- what is your corporation headquarters and name and all of that?

MR. JENNINGS: It's in Cranford, New Jersey, Metalico, Inc. is our -- is our headquarters. We have a Chairman of the Board, Carlos Aguero; a Vice President. I can get you the whole --

JAMES MARTIN: That's not necessary. Under the umbrella of Metalico, Inc..?

JOHN NOWICKI: Metalico, Inc..

JAMES MARTIN: Are you nationwide at this time or primarily northeast?

MR. JENNINGS: Yes, we are.

JAMES MARTIN: Primarily nationwide.

JOHN NOWICKI: The other question, I just want to make sure for the record we have them on record, this particular shredder facility is a permanent structure. And this is something that I want to make sure that when the Assessor comes around and sends up a tax bill, we're not going to have a little problem.

MR. JENNINGS: I guess it depends on what the tax bill is. I can't tell what that is going to be until I get a tax bill. So everything is open to negotiation, right?

JOHN NOWICKI: Historically we had some other issues, but this one here, this is a permanent structure. I assume it would be assessed appropriately for its value.

The other thing I had here, is when we get into the engineer's approval here, um, based on the phasing here that we have seen tonight, um, I would like to see some kind of either letters of credit for the various forms of site work involved, the asphalt, the concrete, whatever it may be, that we have protected ourselves in some form or shape here, that this will get done in a timely fashion and if it is not done, we'll have a letter of credit to support getting one.

MR. JENNINGS: That will be a big letter of credit.

Well, I guess then we'll come back to something that John (Nowicki) had said in reference to the hours of operations. I think Karen (Cox) had said in the first and the last meeting, is that the Board -- you can't really dictate our hours of operation because we're an industrial site and that you really can't get into that and tell us how -- when we're going to operate.

JOHN NOWICKI: We can't?

JAMES MARTIN: I don't recall that comment.

Mr. O'Toole, is that a correct interpretation?

KEITH O'TOOLE: No, I'm not familiar with that.

MR. JENNINGS: So --

JOHN NOWICKI: He is not familiar with that.

JOHN NOWICKI: That doesn't help us, but -- we --

MR. JENNINGS: Well, I have to understand, I guess, what the condition -- what the hours of operation are going to be restricted to, because we do have energy consumption concerns, so I can't necessarily run the shredder only on peak power necessarily, so I guess we'll have to figure out what you guys are looking for. I mean, I can tell you what I would like, the ability to run 6 to 6, 6 to 2 on Saturday.

JAMES MARTIN: Request is for 6 in the morning until 6 at night. That -- would that be Monday through Friday?

MR. JENNINGS: Right.

JAMES MARTIN: And then 6 to 2 on Saturdays. I --

MR. JENNINGS: Right. Because I never know when I might have a breakdown or something goes wrong and I still have to continue to produce.

JOHN NOWICKI: Make it a condition.

JAMES MARTIN: It doesn't sound unreasonable. Applicant requested hours of operation to be Monday through Friday, 6:00 a.m. to 6:00 p.m., Saturday 6:00 a.m. to 2:00 p.m. You still feel you may not run every day of the week; is that correct?

MR. JENNINGS: Right. Uh-huh.

JAMES MARTIN: Just needed a clarification.

MR. JENNINGS: Well, I think the operation can stay open longer. It's the machine that can't operate. So we can run 24 hours a day, but we can't run the machine but for 6 to 6.

JOHN NOWICKI: What would you run 24 hours a day?

MR. JENNINGS: We have gotten where we have sorted non-ferrous metals in the warehouse. We have been doing this on and off in the past. It depends if we get behind. For instance, Kodak comes up with a big job and they want to drop a couple buildings to get them off the tax books so they don't have an issue. They want to move them off. They inundate us and we have to stay open to get that processed. I can't turn the material away.

MR. FINLEY: In a case like that, they really can't monitor their pile height. They have to run around the clock to get it on railcars and get it on trucks to get it out to get -- that part is kind

of a catch-22.

MR. JENNINGS: Then also if I have to do maintenance if the machine is down, I can run maintenance at night.

JOHN NOWICKI: The shredder?

MR. JENNINGS: Yes. That is not noisy. It is nothing really. Just routine maintenance.

MR. FINLEY: Would it be good to clarify we're talking 6 to 6 is shredder running, crunching steel versus the plant might have to be open all of the time to maintain the shredder at night and things like that?

JOHN NOWICKI: That part is quiet.

JAMES MARTIN: A lot of industrial activities go 24 hours a day. Kodak Park is 24 hours a day.

MR. JENNINGS: The planes land pretty regularly there, too.

JOHN NOWICKI: Other than the engineer's recommendations, um, you know, that he has made so far that we have to have engineer's approval on, there is also the -- the Conservation Board is not present tonight.

JAMES MARTIN: No. Pat (Tinsdale) called me. She's ill.

JOHN NOWICKI: They made a statement here. We should probably address that.

JAMES MARTIN: I was going to, but go ahead.

JOHN NOWICKI: Um, have you seen this at all, the Conservation Board's request?

MR. FINLEY: No.

JOHN NOWICKI: In reply to Applications 1 and 2, the Conservation Board would first like to see Metalico address the west property line. We recommend cleaning up the recycled metal and repairing the fence that is falling down. The Conservation Board is concerned about improving the addition of a shredder when the property is not being maintained. Therefore, we recommend that Metalico be granted a one-year conditional use permit. So. We bring that to your attention.

JAMES MARTIN: That was a comment -- when we went out and inspected the site, obviously the fence in question is on railroad property, if I'm not --

MR. JENNINGS: Yes. We have a lease -- we have like either a gentleman's agreement or lease with the Railroad.

JAMES MARTIN: That was my understanding, but we were told that fence will be straightened up, that there will be some action to, you know, restore that fence to a more viable condition. It is a pretty dilapidated state at this point in time.

MR. FINLEY: I did remember talking with the head of the Conservation Board on that. It's -- I guess somewhat the railroad for -- serves as a de facto trail because people don't really want to go out along the busy road, so they do notice that back there some of the fence is falling down. I had reported that to the -- to the Facilities Manager to let them know that that was a key thing. Just general upkeep as a good neighbor.

As far as having a one-year renewable on a --

JAMES MARTIN: We'll deal with that issue.

MR. FINLEY: That is a little different, but definitely a good neighbor.

JOHN NOWICKI: The other question I had, too, I was a little concerned with a 24-hour operation. The lighting. What kind of lighting do you have on site? Is this going to be a problem for us?

JAMES MARTIN: Well, due to security issues, there was an awful lot of additional lighting installed over the whole facility with surveillance cameras, et cetera, et cetera. I don't perceive there is any significant lighting issue on the site.

JOHN NOWICKI: So it is not a change or anything?

MR. FINLEY: No. What is there will stay there. There is only a couple lights that point out down into the yard.

JOHN NOWICKI: And the landscaping plans have already been approved and on file. Do we have a landscape architect plan on file?

JAMES MARTIN: That has not been commented on by the Conservation Board. I don't know. I don't have any answer to your question.

Do you know if you have an approved landscaping plan?

MR. FINLEY: I did talk to them about that. The landscape that we did for the parking project that we had approved before, I remembered it was something like we only had to put in a few thousand dollars worth of landscape, but because it is the front and it is the screen along the road, we put in, I think, 20 or \$30,000 to really beef up the front of the property and they felt that is really about the best that could be done, is work on the front of the property under what is approved and then from the other views, you really -- it's not as big of an issue. It's a concrete plant, the back of a parking lot and woods. There are comments in our engineering letter to do a little more on the berm, to put a mesh on the steeper slopes and put in some type of more low maintenance ground cover like crown vetch or something, but the Conservation Board was okay with having what we had already approved as part of the Phase 1 and that would take care of their concerns.

JAMES MARTIN: And that work is going to be done prior to Phase 1 when you do the front parking area and --

MR. FINLEY: Yes, as far as I know.

MR. JENNINGS: Yes.

JOHN NOWICKI: That plan is on file.

MR. JENNINGS: Yes. That one was approved, I think, November.

JOHN NOWICKI: Again, I would like to see that included in the letters of credit, along with the other site work.

JAMES MARTIN: One other comment on that. If you look at -- I got to get my directions straight here.

I guess it would be the north side of the warehouse buildings, there are a lot of dumpsters that are lined up on the back of that building. Um, I wish there was a way that those could either be enclosed or shielded or something because it is very unsightly from Scottsville Road, looking down along that building and looking at all those dumpsters sitting out there. So I would -- I'm going to put that in as a condition, some sort of shielding be put in place so there is no visual siting of those dumpsters along that north side of the warehouse.

GEORGE BRINKWART: Just a couple of questions. You said Nationwide Metalico. How many Nationwide Metalicos have this kind of shredder that you know?

MR. JENNINGS: This will be our first. We have three -- excuse me. We have five scrap operations in Western New York; Niagara Falls, Buffalo, Rochester, Syracuse and Rochester downtown.

GEORGE BRINKWART: Kip (Finley), I had a question --

MR. JENNINGS: We have tried to buy other shredders and buy other pieces. We were pretty close to getting something done with Union, but it fell apart. Which I think the Town of Chili probably would have liked to have someone like us purchase Union, but it just didn't work out, and that's why we're putting a shredder in Rochester.

GEORGE BRINKWART: You talked about that forced main that runs along the north side of the property. I notice on the plans there is also a 36-inch sanitary line. What is that?

MR. FINLEY: I think there is more lines in there than I even really can find record drawings for. There was an outfall that was coming from the plant to the river. Then there's the forced main that comes under the river from Henrietta over to what used to be Genesee -- or the Gates-Chili Ogden now gets pumped to VanLare.

There is also a couple of other small County sewers or relief lines or something in there that could even be fiberoptics. I'm not sure what all of those are, but from Don Avery doing the engineering for the night club to get that connection, he gave us a history of at least what he had dealt with just to get that. But I don't know what some of the others are. Some of it may be storm drainage. Right along the side of the building is one of our storm drainage lines.

GEORGE BRINKWART: The upshot is the storm lines in that Gates Ogden Chili sewer easement, there is nothing there that you can tie into?

MR. FINLEY: No.

GEORGE BRINKWART: Where do you stand with that buffer area to the DEC wetland? Did you get that resolved? Are you in process with DEC on that?

MR. FINLEY: We're in the process with that. One of the latest comments or repeat of a comment was they need to know before the emissions from the shredder to know if that affects the wetlands. They started a new process at DEC where if you put any application in, they tell you everything they have ever wanted to tell you about the project. So we sorted through that. We have a joint application for permit to Army Corps and DEC. We have put that somewhat on hold, as we put on some of the engineering details until we at least knew more about the conditional use versus going and spending hours and hours of work on that. Once we give them the information on the emissions, the railroad tracks and the ballast and all of that embankment is in the 100 -- the buffer, the 100-foot adjacent area, and our work is even closer on our site to that. So I don't really think that it's going to be a problem. I think we just need to wrap it up.

GEORGE BRINKWART: Good luck with the DEC.

MR. FINLEY: We have had pretty good success.

GEORGE BRINKWART: I have no further questions.

KEITH O'TOOLE: You may recall one of my concerns was the legal basis for the applicant moving forward as to whether they were to going to treat this as a non-conforming use, conditional use permit and so on. Counsel for the developer has pointed out that pursuant to General Municipal Law Section 136, sub 2, the definition of a junkyard actually contains an exception and distinguishes it from metal processing facilities. So, frankly, I'm comfortable with their application as far as the conditional use permit is -- as their application is before the Board, if you wish to make that finding. Nothing further.

JAMES MARTIN: David (Lindsay), I know you have a host of issues that you have put into your letter from -- you know, from the Town Engineer perspective. Given the comments by Dr. Sciremammano and what has been stated so far, are you comfortable that those comments will be adequately addressed? Or do you feel we ought to go through those on a one-by-one basis or are there some that are more important than others that you would like to emphasize?

DAVID LINDSAY: I think given our review and the review of the permitting agencies such as the DEC that we'll be able to work through my comments that are called out in this letter as well as anything subsequent.

JAMES MARTIN: Thank you.

MR. FINLEY: May I ask a question before you formalize your conditions?

JAMES MARTIN: Yes, sir.

MR. FINLEY: It seems like we took care of hours of operation, and there were two things that were mentioned, were number of cars on site and a letter of credit. Will we have an opportunity to discuss that before you formalize the conditions?

JAMES MARTIN: Um, certainly if there is some quantification that can be provided around that. I know it is kind of an open-ended kind of thing. I wouldn't know how to answer it

myself. I guess at this point --

MR. FINLEY: I would just like to take them together.

JAMES MARTIN: I know the answer was the pile won't be any higher than 25 feet, okay, but it could be 2,000 feet long. So, you know, I don't know how to -- how to address that, you know. Is there some estimate on what kind of inventory number you would need in order to continue a --

MR. JENNINGS: I'm working on it.

JAMES MARTIN: -- an operation?

MR. FINLEY: If he comes up with a number, we can bounce it off you.

JOHN NOWICKI: A number for what?

JAMES MARTIN: How many vehicles can be stored on site? That was something that Mr. Hellaby brought up, and we -- one of the conditions is going to be applicant to provide the number of vehicles to be stored on site. If they can come up with a number.

MR. FINLEY: We can give it a try tonight. Kind of on the spot.

JAMES MARTIN: That would be fine.

MR. FINLEY: The other question was letter of credit. I can understand letter of credit for things that will be dedicated to a town or municipality, landscape to shield the citizens from whatever is being built in the back. I guess I would like the opportunity to discuss what other types of letter of credit. A letter of credit on a multi-million dollar shredder, if they put in the footing and you put up a couple pieces and don't finish it, is it that important to the Town that it comes up or stays down, or a bond for a couple million dollars piece of equipment, that just doesn't -- that doesn't seem like it would benefit the Town.

JAMES MARTIN: I think a concern primarily was around the paving of the site, which, you know, has been spelled out as, you know, a significant benefit both environmentally from the site itself and the tracking of mud and debris out onto Scottsville Road. I think that's the primary concern, as I understand it. I will ask Mr. O'Toole if it would be proper to require a letter of credit on a capital improvement project like this as far as the site is concerned.

KEITH O'TOOLE: The letter of credit is designed to potentially shield the Town from the negative impacts of the paving not being installed, so I would think so, yes.

JOHN NOWICKI: Thank you.

JAMES MARTIN: I'm sorry?

KEITH O'TOOLE: Yes.

JAMES MARTIN: I have a head cold and I cannot hear you, Mr. O'Toole.

KEITH O'TOOLE: Yes.

JAMES MARTIN: Thank you.

MR. FINLEY: So landscaping --

JAMES MARTIN: Counsel has indicated to us something, and I don't think -- okay. Clarification on the shredder itself, I don't think that's -- will be part of it. Just on the paving operation.

KEITH O'TOOLE: The paving would be appropriate, yes.

JOHN NOWICKI: Normally what we like to see, and correct me if I am wrong, Dave (Lindsay), because you're the engineering, and so are -- you will generally see an estimate as to how much concrete paving goes in place, how much asphalt goes in place, including stone basis, okay, quantities, mix designs as far as the cross-section and profile of those two pavements. And they go to our engineer for compliance to the drawings as far as quantities are concerned. Then you come up with the estimate as far as the letter of credit that is required.

DAVID LINDSAY: We'll get the information from the engineer. It will be a detailed breakdown of qualities and materials and costs. We'll review it for accuracy and consistency with industry standards and then we'll make a recommendation to the owner on the -- to the Town Board on the amount that the letter of credit should be established for. And just to clarify, we would like to probably see the landscaping in addition to the paving.

JOHN NOWICKI: We are going to include that. That is included.

MR. FINLEY: My question was just the division of what needs to be bonded for the protection of the Town and the citizens versus other things that are on the site that really have no bearing on it.

JIM POWERS: That might include storm water, too.

DAVID LINDSAY: Yes. I was just going to add that. The storm water features.

JAMES MARTIN: Storm water.

JOHN NOWICKI: They generally do that on any construction project. They generally do it this way. There is nothing unusual.

JAMES MARTIN: Storm water treatment, okay.

Let me read this to be sure I have everything captured. So you're clear on what we are asking. Applicant shall provide letters of credit for each phase of the paving operation, all right, to the Town of Chili along with landscaping -- letters of credit for the landscaping plan and storm water treatment. Did I catch everything?

JOHN NOWICKI: You got everything.

JAMES MARTIN: Thank you.

Now, have you come up with a number?

JOHN NOWICKI: That's up to the engineers to do that.

JAMES MARTIN: For the number of vehicles?

JOHN NOWICKI: Oh, vehicles.

MR. FINLEY: I guess that's a tough request on spur of the moment to figure out -- we're

trying to give a number and how much area that covers so that you --

JAMES MARTIN: I will leave it as it stands, applicant provide number of vehicles to be stored on site. Hopefully it will be something reasonable.

MR. FINLEY: Is that something we can bring back to the Board?

JAMES MARTIN: Yes. Provide it to the Board. You know, we'll take a look at it. If it sounds reasonable --

MR. JENNINGS: Is that like bring it back to the Board at the end of the meeting?

JAMES MARTIN: Any other clarifications?

MR. FINLEY: Is that -- I guess we're just wondering, we'll submit that in writing for your next meeting to consider it or something. Can you make your decision with that open-ended?

JAMES MARTIN: For the number of vehicles. Um --

MR. FINLEY: Because whatever we need to do to make a decision, if we have to take a recess, we'll figure out a number.

JAMES MARTIN: I don't know. That is one I have a problem with myself. I don't know how you're going to calculate that and --

DENNIS SCIBETTA: It's actually an area where we're struggling. It's an area of -- how much area they actually have with the height of the piles.

JAMES MARTIN: Right.

JOHN NOWICKI: You have 25-foot height. You're talking squished car or full body?

JAMES MARTIN: It doesn't make any difference. It is 25 feet.

MR. FINLEY: It has been an hour and a half. If you want to take a recess, we can figure something out.

MR. JENNINGS: If we said something like 4,000 cars, is that going to freak everybody out?

JAMES MARTIN: Yeah. I understand that.

MR. JENNINGS: Because you have to look at if I'm taking in, you know, the type of volume, and I have a two-week shut down, RGE decides the transformer goes kaput, I still have to put the material down for my customers. So --

JAMES MARTIN: With all due respect, I have a problem with how we can enforce that, number one, and how they're going to even figure out --

MR. JENNINGS: We have to have fire code. We have to have DEC code. We have to have everything under -- we have the risk. I can take in all of Kodak and chop it up and stack it up as long as it is 25 feet. I can fill up 9 acres. I don't have a problem, but because it is a car everyone. --

JAMES MARTIN: Except you can't drive it there.

MR. JENNINGS: First in, first out, I guess. Last in, first out.

JAMES MARTIN: I'm of a mind to take that one off for now because I don't know how we can enforce it.

JOHN NOWICKI: We have a height restriction, and you have an area.

JAMES MARTIN: You got an area.

JOHN NOWICKI: That's it. What you put in that area --

DENNIS SCIBETTA: If the piles -- the height and the width of the piles are clearly called out by the Fire Marshals.

JAMES MARTIN: Yes. The Fire Marshals.

MR. FINLEY: You can't stack cars as high as you can stack other things.

JAMES MARTIN: Dick Ide tells us that all of the time.

With all due respect, I'm going to take that one off.

JOHN NOWICKI: Can't win them all.

JAMES MARTIN: First item of business would be SEQR. At this point, I would make a motion that reads as follows:

Application of Metalico Rochester for installation of the shredder facility and other site improvements.

Whereas, the Town of Chili Planning Board has received an application for site plan, special permit and subdivision approvals for the installation of a shredder and other site improvements by Metalico Rochester at its facility at 1515 Scottsville Road;

And whereas, the Town of Chili Planning Board has determined that this is a Type I action pursuant to the provisions of the State Environmental Quality Review Act and its implementing regulations at 6 NYCRR, Part 617;

And whereas, the Town of Chili Planning Board, after notice of all other involved and interested agencies determined to act as lead agency for the coordinated environmental review of the proposed action;

And whereas, the Town of Chili Planning Board has reviewed the application materials and all public input received;

And whereas, the Town of Chili Planning Board has reviewed all potential environmental impacts of the project through the appropriation of Parts 2 and 3 of the full environmental assessment form.

Now, therefore, be it resolved, the Town of Chili Planning Board, acting as lead agency, determines that the proposed Metalico Rochester shredder project will not result in any significant detrimental impacts to the environment and adopts the attached negative declaration

Be it further resolved, the attached negative declaration shall be filed for the proposed action pursuant to the requirements under SEQR and 6 NYCRR, Part 617.

That is the motion.

Do I have a second on the motion?  
JOHN NOWICKI: Second.

The Board voted 4 yes to 1 no (John Hellaby) on the motion.

JAMES MARTIN: On the applications themselves, I have several conditions, but let's go through the applications themselves.

Whereas, the Planning Board of the Town of Chili is considering the applications of Metalico Rochester, Incorporated for site plan approval to erect a mechanical metal shredder at 1515 Scottsville Road in the General Industrial zone, and conditional use permit to allow an auto shredder and dismantling at 1511, 1515 and 1525 Scottsville Road in the General Industrial zone, and subdivision approval to combine three lots into one lot to be known as Metalico Scottsville Subdivision 1511, 1515 and 1525 Scottsville Road in a General Industrial zone. These are known collectively as the applications.

Whereas, to the application for the conditional use permit, we find that the proposed use is of the same general character as permitted use found at Section 115-18(B)(8). In that it is a processing use of a scope and impact comparable to those listed in 115-18(B), Section 8.

And whereas, while concerns have been expressed by opponents to the application that the proposed conditional use is a junk or wrecking yard, we reject this analysis. We find that the proposed conditional use, which may be better described as a metal processing and recycling, uses a source material which has already undergone a level of preprocessing off site which that prevents the Metalico facility from being considered a junk or wrecking yard;

And whereas, a public hearing was dually held and all parties in attendance were permitted an opportunity to speak on behalf of or in opposition to said proposed applications or any part thereof;

And whereas, the Planning Board, after due deliberation and upon review of the record before it, finds it in the best interest of the Town to approve said applications.

Now, therefore, be it resolved that the Planning Board of the Town of Chili hereby reaffirms and ratifies its previous decision to adopt a written negative declaration and approves the following application.

Preliminary site plan approval to erect a mechanical shredder at 1525 and 1515, 1511 Scottsville Road in the General Industrial zone is subject to the following conditions.

I will go through these again, because they're going to apply to all of the other applications.

So at our January hearing, on January 9th it was pending Town Engineer approval.

All Fire Marshal requirements shall be satisfied by the applicant.

Height of the scrap piles shall not exceed 25 feet to a ground elevation agreed to by the Building Department and the applicant. Poles will be installed with a delineation mark indicating the height limit of the piles.

A timeline for construction phases shall be supplied to the Planning Board.

And that the applicant shall review with the Building Department to insure that compliance with the national flood insurance regulation is in place.

The conditions that we generated tonight in addition to those are prior to any building permit being issued by the Town of Chili.

All pertinent DEC approvals and permits with documentation will be supplied to the Building Department and verified.

Applicant will submit mix design of all paving materials to be used on site referenced to DOT specifications.

Applicant will comply with prior granted SPDES permit for sanitary -- I'm sorry -- applicant will comply with prior SPDES permit for sanitary outfall.

Applicant has requested hours of operation to be for -- I'm sorry -- operation for the shredder to be Monday through Friday, 6:00 a.m. to 6:00 p.m., Saturday 6:00 a.m. to 2:00 p.m.

Applicant shall provide letters of credit for each phase of the paving operation to the Town of Chili in addition to letters of credit for the landscaping and storm water treatment.

Applicant to provide visual shielding of dumpsters on the north side of the warehouse building.

Those are the conditions I picked up.

JOHN NOWICKI: I just have one question, if I can.

JAMES MARTIN: Yes, sir.

JOHN NOWICKI: It's on the resolution. In the second, one, two, three -- the third whereas down, if somebody could explain to me, it says here, um, "which has already undergone a level of preprocessing off site." Can somebody explain that to me or give me a reason for what that means?

JAMES MARTIN: I will let Mr. O'Toole handle that question.

KEITH O'TOOLE: Well, as I noted earlier, the General Municipal Law distinguishes junk yards from general processing facilities. They're not the same thing. A junk yard, in the classic sense, as you see in rural areas, is an open field where old motor vehicles are dropped amidst the weeds and parts are slowly stripped off and vehicle fluids are allowed to drain out into the fields and provide an environmental problem.

As I understand it, it has been represented to me what this applicant does is he accepts -- does some of the processing off site. It is not a junk yard here in the Town of Chili. They will deliver vehicle carcasses that have already been somewhat -- I guess crushed would be the term. Perhaps they can explain it better than I. And so it doesn't happen here the way it might happen

in a junk yard. It is not the same thing.

JOHN NOWICKI: Is the applicant going to verify that?

MR. JENNINGS: I guess I can give it a try.

The reason we were going for the dismantling permit was to be able to take in full car hauls from the public. They will be mined at our facility through a processing before going through the shredder. We are not going to be selling any parts or -- necessarily stripping the car for any value. It won't be there to be picked by the public or anything else, and I think that is the difference with the junk yard. The junk yard allows that ability to continue to pick at the carcass of the car. We're not doing that.

JOHN NOWICKI: You're not storing on site tires?

MR. JENNINGS: No.

JOHN NOWICKI: There will be no tires stored on site?

MR. JENNINGS: No.

JOHN NOWICKI: So the level of preprocessing is really --

JAMES MARTIN: There will be some pre-processing off site and --

MR. JENNINGS: Our customers have the opportunity to take a -- dismantle the car as much as they want and sell it to the public. We can get a car that has next to nothing left to it.

JOHN NOWICKI: That's what I wanted to find out. Thank you very much.

JAMES MARTIN: However, the applicant did clarify some vehicles are brought to the site, and they will actually drain the fluids out and mine them, as he said, prior to any shredding of the vehicle itself. Does that clarify the issue?

JOHN NOWICKI: Yep.

**DECISION ON APPLICATION #1: Approved by a vote of 4 yes to 1 no (John Hellaby) with the following conditions:**

1. Pending approval of the Town Engineer.
2. All Fire Marshal requirements shall be satisfied by the applicant.
3. Height of scrap piles shall not exceed 25 feet from a ground elevation agreed to between the Building Department and the applicant. Poles will be installed with a delineation mark indicating the height limit of the piles to insure ease of visual enforcement.
4. A written timeline for construction phases shall be supplied to the Building Department and the Planning Board.
5. Applicant shall, by written verification, insure that they are in compliance with all National Flood Insurance regulations.
6. Prior to any building permit being issued by the Town of Chili, all pertinent NYSDEC approvals and permits with documentation will be supplied to the Building Department and verified.
7. Applicant will submit mix design of all paving materials to be used on site. Referenced to DOT specifications.
8. Applicant will comply with all previously granted SPDES permit requirements for sanitary waste treatment outfall.
9. The applicant requested and the Planning Board approved hours of operation to be 6:00 am to 6:00 pm Monday through Friday, and 6:00 am to 2:00 pm on Saturday.
10. Applicant shall provide to the Town of Chili letters of credit pertaining to:
  - A. Each phase of paving operation.
  - B. Landscaping plan.
  - C. Storm water management and treatment.
11. Applicant to provide visual screening of dumpsters along north wall of the warehouse building.

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

JAMES MARTIN: Yes.

On the conditional use permit to a -- subject to the conditions, I --

JOHN NOWICKI: Wait. Period of time.

JAMES MARTIN: Oh, I'm sorry. For --

JOHN NOWICKI: One year.

JAMES MARTIN: What's the feeling of the Board on one year?

JOHN NOWICKI: Conservation Board would like to see that, and I think we should test it

for a year and see how it goes.

JAMES MARTIN: I would say one year from commencement of operation, because it is not --

JOHN NOWICKI: One year from commencement of operation. I will go with that.

MR. JENNINGS: I guess I need to know what the parameters are of starting the machine up before I make an 8 or \$10 million investment. Do you have parameters what makes a good operation versus a bad operation?

JOHN NOWICKI: Comply with the drawings and specs.

MR. JENNINGS: That's -- it has --

JAMES MARTIN: It is awfully, awfully tight for a multi-million dollars --

MR. JENNINGS: I can't do it.

JAMES MARTIN: -- construction project.

JOHN NOWICKI: You're talking a year -- almost two years.

JAMES MARTIN: But from the time it starts. I --

MR. JENNINGS: I don't -- maybe I didn't understand the question.

JAMES MARTIN: Well, the issue is, we set a timeline on conditional use, okay, which says that at the end of that period of time you come back in for renewal, all right, of the use, conditional use, okay. Um, that's essentially the way it works. It's done obviously to insure that if we do grant a special use or conditional use, that there is no adverse impact that may need to be modified down the road for some reason or another. That's essentially what -- why we do that. The other thing is it is a use that we have to condition because of the way the zoning code is written. You know, they're spending millions of dollars on this.

MR. JENNINGS: We won't be spending millions of dollars. It -- it -- it won't be feasible. I can't put a machine in there and then all of a sudden find out it is a pink elephant after a year. I don't know what your parameters are.

JOHN NOWICKI: All it is is what you have done tonight, and correct me if I am wrong, Mr. Martin, whatever you agreed to, all these conditions that we have imposed on this project on your site plan --

JAMES MARTIN: If you comply with the conditions.

JOHN NOWICKI: -- all those conditions, and you operate a business in conjunction with all of that, then there is no reason to be concerned about renewing your conditional use. If you come back in after two years and you have done your homework and done your job and you're running a good business, we would probably go in and give you five years or ten years. It depends how you folks -- we have this going on all of the time in this Town. That protects the Town.

JAMES MARTIN: That is the key. If you comply with all of the conditions that we have listed tonight, okay, then -- you know, and there are no significant issues -- if there are things that are not done at that end of the period of time, then they will be conditional on renewal, there is no question about that. I'm still having problem with one year, I guess.

MR. JENNINGS: I won't be -- from date of running, that is fine. Because it is going to be sometime in, 2008, I guess.

JOHN NOWICKI: That is two years out.

MR. FINLEY: I guess the thing I notice, I have been at different meetings here where there is -- I think there is a woman on Chili Avenue with a beauty salon in her house or something and she comes in every year and after three or four years people are getting tired of renewing that, which probably costs her 3 or \$4,000 to stick in a sink and a chair or something --

KEITH O'TOOLE: Well, Kip (Finley), why don't you advise your client not to cut hair. Mr. Chairman, I -- I think the law speaks for itself. Conditional use permits with time limiting conditions are quite legal. Now, it may be appropriate to set a drop-dead date rather than have to figure at what point the applicant's operation is up and running. Just simply set a date right here and now when the permit expires so they will have adequate notice to come in and our code enforcement people will know when to send out a reminder letter as to it is time to come in and renew the permit.

MR. JENNINGS: I guess one other question. Is it one year every year?

JOHN NOWICKI: No.

MR. JENNINGS: Just one year anniversary and after that it is forever.

JOHN NOWICKI: Well, you come. The Board, or whoever, they could give you five years, eight years, ten years. Depending how your business is being operated and if you're -- you know, get an A every time.

MR. JENNINGS: I understand. I just didn't understand the question at first.

MR. FINLEY: It's just the fear factor of spending all that and thinking in a year it could be --

JOHN NOWICKI: It is just becoming a good neighbor.

MR. JENNINGS: I don't have a problem with that.

JOHN NOWICKI: We like to see you once in a while.

JAMES MARTIN: I have a suggestion from Mr. O'Toole that we look at, you know, a date when -- when we have adequate time. It could be construction delays or other things that occur that, you know, I'm -- I'm just a little leery of, you know -- is there a way that we could word this that gives them some flexibility, but also protects the Town from a conditional use standpoint?

If your proposal is that you will probably have the shredder up and running by what, June of '08?

MR. JENNINGS: Yes. Bearing any issues.

JAMES MARTIN: Pardon?

MR. JENNINGS: Yes. Yes.

JAMES MARTIN: Okay. So to give a little flexibility in there, should we say that the conditional use permit is valid until September of '09? That gives them a little bit of flexibility.

MR. JENNINGS: I guess the only thing I have is the final negotiations with the DEC. And I'm not quite sure of the time frame that that is going to take. Um -- any suggestion? Because I need to get all of the permits in order.

MR. FINLEY: I would think the permits will be here before you start any major work that is affected by it.

MR. JENNINGS: 60, 90 days with that?

MR. FINLEY: 90 probably. You can't start your parking lot --

JAMES MARTIN: I have a suggestion in front of us that we -- the conditional use permit would be valid 'til January of 2010.

MR. JENNINGS: Okay. Thank you. Does that -- Jim (Powers), comment on that?

JIM POWERS: Okay.

JAMES MARTIN: So permit will be valid to January 2010, at which time renewal will be requested.

Is there a clarification from the side bar discussion here?

MR. JENNINGS: The issues that were raised were points of conditional use by the Town that were outlined, so I don't really have a problem with what they have outlined.

MR. FELDMAN: Okay.

JAMES MARTIN: January 2010.

That's the time interval. All conditions that I have read previously.

DECISION ON APPLICATION #2: Approved by a vote of 4 yes to 1 no (John Hellaby) with the following conditions:

1. Pending approval of the Town Engineer.
2. All Fire Marshal requirements shall be satisfied by the applicant.
3. Height of scrap piles shall not exceed 25 feet from a ground elevation agreed to between the Building Department and the applicant. Poles will be installed with a delineation mark indicating the height limit of the piles to insure ease of visual enforcement.
4. A written timeline for construction phases shall be supplied to the Building Department and the Planning Board.
5. Applicant shall, by written verification, insure that they are in compliance with all National Flood Insurance regulations.
6. Prior to any building permit being issued by the Town of Chili, all pertinent NYSDEC approvals and permits with documentation will be supplied to the Building Department and verified.
7. Applicant will submit mix design of all paving materials to be used on site. Referenced to DOT specifications.
8. Applicant will comply with all previously granted SPDES permit requirements for sanitary waste treatment outfall.
9. The applicant requested and the Planning Board approved hours of operation to be 6:00 am to 6:00 pm Monday through Friday, and 6:00 am to 2:00 pm on Saturday.
10. Applicant shall provide to the Town of Chili letters of credit pertaining to:
  - A. Each phase of paving operation.
  - B. Landscaping plan.
  - C. Storm water management and treatment.
11. Applicant to provide visual screening of dumpsters along north wall of the warehouse building.
12. Conditional Use permit to be valid until January, 2010 at which time it will be subject to renewal.

JAMES MARTIN: On the preliminary and final subdivision approvals, combine the three lots into one lot. Subject to the same conditions. On the subdivision approval.

DECISION ON APPLICATION #3: Unanimously approved by a vote of 5 yes with the following conditions:

1. Pending approval of the Town Engineer.
2. All Fire Marshal requirements shall be satisfied by the applicant.
3. Height of scrap piles shall not exceed 25 feet from a ground elevation agreed to between the Building Department and the applicant. Poles will be installed with a delineation mark indicating the height limit of the piles to insure ease of visual enforcement.
4. A written timeline for construction phases shall be supplied to the Building Department and the Planning Board.
5. Applicant shall, by written verification, insure that they are in compliance with all National Flood Insurance regulations.
6. Prior to any building permit being issued by the Town of Chili, all pertinent NYSDEC approvals and permits with documentation will be supplied to the Building Department and verified.
7. Applicant will submit mix design of all paving materials to be used on site. Referenced to DOT specifications.
8. Applicant will comply with all previously granted SPDES permit requirements for sanitary waste treatment outfall.
9. The applicant requested and the Planning Board approved hours of operation to be 6:00 am to 6:00 pm Monday through Friday, and 6:00 am to 2:00 pm on Saturday.
10. Applicant shall provide to the Town of Chili letters of credit pertaining to:
  - A. Each phase of paving operation.
  - B. Landscaping plan.
  - C. Storm water management and treatment.
11. Applicant to provide visual screening of dumpsters along north wall of the warehouse building.

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

#### PUBLIC HEARINGS:

1. Application of Joe Gomes, owner; 2652 Chili Avenue, Rochester, New York 14624 for preliminary site plan approval to allow a parking lot for 11 vehicles at property located at 2692 Chili Avenue in R-1-15 zone.

Larry Heininger was present to represent the application.

MR. HEININGER: Good evening. Larry Heininger with HBMA Architects, Land Surveyors and Markus Associates. We're here representing Joe Gomes. I was present about two months ago and we discussed this project.

At that time, um, the center bay was quite a bit larger and then I talked to Dave Lindsay about it a few days later and we got our heads together that the bay would be 24 feet wide and that the parking stalls would be 18 feet deep, but the width would be 9 1/2 feet, so it gives you a little more width where you need it for opening the doors.

Um, we submitted that plan and then Dave (Lindsay) sent a letter asking for the site data, which has been added to the upper left corner. Um, do I need to do something to this to turn this on?

JAMES MARTIN: Sorry. Flip of the switch.

MR. HEININGER: Okay. So here is the site (indicating). The existing pavement is in the light gray. The dark is the new pavement. The existing building is 1450 square feet. The parcel is 90 feet wide along the Chili Avenue right-of-way. And in the back on Westside Drive, it's 76.39 feet wide. The entire parcel is 17,915 square feet. The front setback to the building is 60.7. I will get that back here (indicating). 60.7.

Side setback on this side is 16.8 (indicating). So we did add the site data. Up here (indicating). Added a few calculations tonight. For the R-1-15 zoning, it is 15,000 square feet. We're 179. The lot width is 90. We are 90 along Chili. If you look at it that way. The front yard is 60.7. Our side yard is 16.8. Our rear yard is huge. The lot coverage of the building, 1450 is less than 10 percent. It's actually about 8 percent. And 25 percent just for figuring out is about 4,400 square feet.

Dave (Lindsay) also asked that we add a detail of what the parking lot would be. Again, this is for cars. So we have Mirafi 500 X fabric, 8 inches of stone base that will probably be 7 inches of a heavy base, and then 1 inch of Number 2 stone with then 2 inches of asphalt binder

and 1 inch of asphalt top. So that will be the section of the parking.

And then there was a reference to the code about some type of screening, and that would be done with a -- either a fence or hedge or planting, and what we felt was best is since the existing neighbor has a stockade fence, it didn't make sense to put another stockade fence, so right now I have shown eight Arborvitae on the one side and six on the other.

As I sat here tonight, I thought Arborvitae may not be the best choice because they will tend to grow tall, and I think you want something that probably stays about 5 feet so you hide the bumpers and the grilles of the cars, but you still have some visibility. So I will probably substitute on -- on a revised plan either Juniper or a mix of Boy Girl Blue Holly. So they're all Evergreen species, but they won't grow tall like an Arborvitae. And then Dave (Lindsay), of course, said if final Planning Board approval is granted, he'd request it be contingent upon Town Engineer approval, and I don't have a problem with that at all. That's it.

JAMES MARTIN: That it.

MR. HEININGER: That's it.

JAMES MARTIN: I have a serious concern about snow removal and snow storage on the site, particularly to the east. My understanding is this past winter snow removal from the existing parking area was pushed to the east, damaged the fence of the residential property all right to the east. You're planting shrubs or, you know, the Evergreen things in that particular area to the east. I'm just not sure -- you show snow storage in the area, but I don't know how you will get it in there. Um, I -- I really feel that there should be some protection for the residential property, all right, to the east. I would like to see some sort of a chain-link fence or something put down along there that would prevent any snow or removal, if it is pushed into that area, from basically going over onto the property of the residential house next door or preferably no snow removal goes in that direction, that it goes in some other direction or is trucked off the site. I don't care what you do with it, but my understanding is it hasn't been a very pleasant situation with the residential property next to this particular parking lot, so I think from the standpoint of, you know, my perspective on this, that's -- that's a significant issue, and it needs to be addressed, and I'm going to put some sort of a condition on this if we move ahead with approval tonight.

MR. HEININGER: Okay.

JAMES MARTIN: I will go ahead with the Board at this time.

JIM POWERS: Now that you brought up the snow storage, um, with the storms that we have had here in Rochester, of course we do get snow. The fact that you're going to use each side of the exit onto Chili Avenue for snow storage gives me some concern, because I know coming out of some of the streets here in the Town the snow gets piled up in the corner -- corners and coming out of my own driveway, I have to do so with a lot of caution because of the snow being piled up from the snows we had this winter. And we have had worse, so that would be a -- that would be a concern equally as much as moving the snow over on the plantings along the Spuck property. I would be concerned that the visual distance coming out of that driveway might be quite limited if we get a good couple of storms here in the winter time. Otherwise I have no comments.

JOHN HELLABY: Is this all sheet drainage apparently? I see no catch basins or anything.

MR. HEININGER: Yes, it is.

JOHN HELLABY: The majority of the -- it is tough to tell just because it is so flat. Where do you anticipate the majority of that drainage ending up?

MR. HEININGER: The -- I forgot to mention before the new pavement is about 1100 square feet of pavement. Where it is going to flow is back alongside of the building and there's a low spot in the backyard, and I will pull this back this way (indicating). But there is this 93 contour here (indicating), which actually creates a basin in the backyard and that's where the water -- what doesn't go out to Chili Avenue, that's where it is going to go in the backyard.

JAMES MARTIN: Just for clarification, I know you have got the existing pavement outlined there. What is the intent? Is the intent to box out the added pavement, binder it and then top the entire lot? Are we going to try to match what is already there?

MR. HEININGER: Um, I hadn't really thought about that. I would leave that up to the paver, but I would think he would probably match it. He could -- he could then seal coat it and then stripe it.

JOHN HELLABY: I would like to see what condition that existing lot is in before we start piecing this.

Um, the striped parking spot at the front of the building I assume is the handicapped spot.

MR. HEININGER: Yes.

JOHN HELLABY: Handicapped sign is required, I assume. I don't see there is one called out.

MR. HEININGER: Okay. We can add that.

JAMES MARTIN: Could you go back to the rear of the building and the elevations that you're looking at there? I'm trying to figure out, you have 93, 94. What are we referencing here? Is this 593? I mean what --

MR. HEININGER: It's a relative database.

JAMES MARTIN: Relative to what?

MR. HEININGER: Um, it's obviously not tied into USGS because we would be up in the elevations 4 or 500 feet above sea level. It is relative datum. I would have to talk to the surveyor to find out where he set 100.

JOHN HELLABY: I would have to say it is the finished floor of the building.

JAMES MARTIN: I see that as 100, okay. So that depression in the back is 7 feet lower

than the finished floor elevation of the building; is that what I am interpreting from this?

MR. HEININGER: Yes. That is why you have a walk-out basement at 92.6.

JAMES MARTIN: Now I see that 93 hash mark goes over onto the adjacent property. Do you mean we're going to pool water on the residential property next to this particular building? I mean I -- that's what it says to me.

MR. HEININGER: The current drainage flow is from this property (indicating) into this property (indicating) and over onto the asphalt and ultimately down Westside Drive. So it's a very long, flat run down Westside Drive.

JAMES MARTIN: Back to my question. Put that back to where the 93 goes over across the property line.

MR. HEININGER: This side (indicating).

JAMES MARTIN: Yes. If there is significant pooling in that particular area, and a lot of it is caused by let's say snow melt or whatever, all right, from the paved area and whatever happens on this particular site under question at this time; in other words, there is going to be some pooling of water in the adjacent property. That seems inevitable to me.

MR. HEININGER: Okay. Actually, we can add additional topo, but I think the low spot is -- is about here (indicating).

JAMES MARTIN: Well, I don't think that, you know, the applicant has a right to cause pooling of water on somebody else's property.

MR. HEININGER: I understand.

JAMES MARTIN: Okay. That's --

JOHN NOWICKI: Just refresh my memory a little bit. The zoning on this property is R-1-15. What kind of variances do you have to run a business here?

MR. HEININGER: I would have to ask Mr. Gomes.

MR. GOMES: We got a permanent variance to operate a real estate insurance office.

JOHN NOWICKI: Use variance.

MR. GOMES: Yeah.

GEORGE BRINKWART: Refresh my memory. How are we dealing with the narrowness of the parking area? We have 18 instead of required. Are you going to be seeking a variance?

MR. HEININGER: Um, yes. When -- when I was present in February, um, the previous plan had a 30-foot drive bay and I questioned that and I spoke with David (Lindsay) -- David Lindsay several days later and we agreed that 18 by 9 1/2 was an optimum size for depth of car and width to open the doors. And that that would be an appropriate variance to request. And on -- the question on snow storage is that these -- the landscaping is supposed to be placed 2 feet off the edge of property, which leaves 6 feet for snow storage.

One of the things that Joe Gomes pointed out to me tonight is this parking space number 7 would also be used for snow storage during the winter. So that if there was excessive snow, that some of these parking spaces would be lost during the winter. But right now they have five parking spaces. This plan moves it to 11, and that includes the handicapped. We're not double counting the handicapped. There are ten spaces plus the one handicapped, and then the striped back.

GEORGE BRINKWART: Are you proposing any changes to the drainage patterns or are these basically the way they were prior to your increase --

MR. HEININGER: Not proposing any change. The area is basically, you know, I will say flat. You go out there now and park on the grass if you wanted. We're going to replace that grass with the minimum amount of asphalt to accomplish this. Actually, there's going to be an elimination out right here (indicating) of asphalt. This is asphalt that will actually be eliminated, in this area right here (indicating). Because right now the drive lane comes in not -- not 90 degrees to Chili Avenue. So that's going to be cut out.

Back to your -- I guess your thought in the backyard, the one thing that comes to mind here is a calculation could be done as to the change of imperviousness for the approximately 1150 square feet from a runoff of we'll say 20 percent to a runoff coefficient of 90 percent, relative number. And that would generate a volume of runoff for a 10-year storm or a 2-year storm, and we could actually create a bit more of a depression in the backyard to accommodate that additional volume of water.

Could also be done by expanding the 93 or actually creating a little bit more of a hole in the backyard. But that's how you would go about figuring out how much additional runoff and how much volume you would need to store that runoff.

GEORGE BRINKWART: I guess I just want to be sure, and I will just ask you again. So you're not actually changing the existing drainage patterns?

MR. HEININGER: Correct.

GEORGE BRINKWART: You're going to utilize the way the water flows?

MR. HEININGER: Yes.

GEORGE BRINKWART: Before you make the improvements?

MR. HEININGER: Right.

JAMES MARTIN: I guess, Dave (Lindsay), could you comment on this? I'm still concerned about what is going on here, from a drainage perspective and where that water is going to be going, where it is going to collect. Is it going to flood into the Spuck property next door? I mean, I'm just not comfortable with what is being proposed here is actually going to do anything to really work.

DAVID LINDSAY: We haven't seen any calculations or work-ups on the amount of water --

JAMES MARTIN: Could you speak louder?

DAVID LINDSAY: We have not received any calculations or drainage work-ups on what is the additional volume to water that might be generated by the limited increase in pavement. Certainly what the applicant suggested as far as creating a depression in the backyard, centered on his property, would likely suffice in addressing drainage concerns, and as George (Brinkwart) mentioned, he is not altering -- he is not altering the drainage patterns at all with the improvements, but I would suggest or recommend that as part of our approval, or our review of this, we'll be looking for some spot elevations in the backyard or some improvements to handle any increase in drainage so that it stays on their property.

JOHN NOWICKI: Can I ask another question?

JAMES MARTIN: Go ahead.

JOHN NOWICKI: Dave (Lindsay), would you think that this particular application for pervious pavement would work?

DAVID LINDSAY: I think -- I think the book is still out somewhat on pervious pavements in Upstate New York, and in situations where you have snow storage and -- they tend to -- I have limited experience with it. Some of the problems in Upstate and areas like this is they tend to clog and become a maintenance problem.

JOHN NOWICKI: All right.

DAVID LINDSAY: The applicant could suggest such things such as a rain garden and direct the drainage into that. It is a small -- similar so what he has here with Arborvitae. You can create certain plantings along the edge of the parking area in a depressed manner that would accept all of the rainwater off the parking lot area. That would be a suggestion.

JOHN NOWICKI: It is directed toward the back of the house, right?

DAVID LINDSAY: It looks like it is -- you know, one side is directed off to the -- I guess it would be the east side, maybe directed off to the edge of the parking and then to the back. You could intercept it at the edge to the east. And then on the west edge, some sort of a rain garden.

MR. HEININGER: Are you talking about a rain garden in the backyard?

DAVID LINDSAY: Along the edge.

MR. HEININGER: Yes.

DAVID LINDSAY: As opposed to just planting Arborvitae there. You could establish some sort of rain garden like they now have in Chapter 9 of the storm water design manual.

MR. HEININGER: We could also do a bit of rain garden in the front. We could also have some small diameter piping that takes it from the rain garden in the front to the rain garden in the back. So it is a double-staged thing. I was just using my calculator on my cell phone and I calculated a cue, if I didn't slip a digit, of the difference between 90 percent, 20 percent is .7 times 4 inches per hour times .026 acres would be the change of imperviousness. And it comes out to a cue of 0.07. So when I get back to the office, we'll run it through, but it is a fairly small amount of water that would have to be stored.

DAVID LINDSAY: Rain gardens are -- George (Brinkwart) can probably attest. They're common practice, they're accepted by the DEC for applications such as this, small parking lot, small impervious areas such as this, and I --

JOHN NOWICKI: Yes. It actually makes an improvement.

JAMES MARTIN: Would you include that in your approval letter, all right, to -- that they install something of that nature? All right.

DAVID LINDSAY: Yes. We'll --

JAMES MARTIN: I won't capture that as a condition. I will rely on you to include that as condition of your approval.

JAMES MARTIN: Subject to engineer approval and you will request a rain garden.

DAVID LINDSAY: Nice rain garden.

GEORGE BRINKWART: What is the verdict on the parking lot size? Will he have to go to the ZBA?

DAVID LINDSAY: The code requires 19. The code requires 19, I think, by 9 1/2.

#### COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: Just to clarify a couple points, this gentleman has a Land Use Variance; am I right?

JAMES MARTIN: That's correct.

MS. BORGUS: For a specific purpose?

JAMES MARTIN: I don't have the Land Use Variance in front of me.

DENNIS SCIBETTA: I don't have it with me. I believe it's to -- a real estate office and an insurance office, the two or three that are included, and an apartment in the building.

MS. BORGUS: That's my point, though. Is it a Land Use Variance for an insurance real estate office?

JAMES MARTIN: Dorothy (Borgus), I don't have it in front of me. We can certainly provide you with a copy of of that. As far as I know, he is operating legally with the Land Use Variance granted.

MS. BORGUS: How many businesses are in that building?

JAMES MARTIN: Mr. Gomes, how many businesses do you currently have in the facility?

MR. GOMES: There's two. Part of Max's (phonetic) does work for us, and maybe you

would consider that to be two. But --

MS. BORGUS: Two. Okay.

Um, I think all of the points that have been brought up by the Board are very legitimate. I would feel very, very upset if I were the neighbor and I had that parking lot that close to me. They have a fence there, true. But there is the -- the -- the problem with headlights, especially in the winter. They have them facing right at their house, half of them would be, more than half.

I would be very concerned about the water issue. When you pave almost as many square feet in parking lot as you have in the building, that's a huge parking lot. And I agree wholeheartedly with Mr. Martin's observations that this is going to drain water off on other neighbors, and I did not think that in this Town that was permissible. I would be very upset if I were a neighbor and this Board allowed him to put in this huge parking lot, which for the life of me, I don't see why he needs that many parking spaces, but nevertheless, I would be very upset if this Board approved it and I ended up with his water because of it. It doesn't seem fair or right, and then to think he has to get a variance to do this besides is -- it just adds insult to injury.

Mr. Powers' point about the snow storage is absolutely the truth. You have got snow piles on both sides of a driveway, and I don't care if you use one of those parking spots for snow storage in the winter or not. If we get some -- a really severe winter here, that is not going to be adequate storage for snow. There's no way. You can't pave the whole front yard and still have room left for the snow. I don't believe this gentleman wants to get it trucked away. Maybe he does. Maybe you can make it a condition. But he certainly doesn't have any room to store it. So I guess I don't see the point in this. I have seen this gentleman come before this Board again and again trying to squeeze out parking spaces, you know, all kinds of things out of this little piece of property. I don't think it can be done and do justice to the Town or the neighborhood. This is too much. He's just got to be content, in my opinion, with what he is able to do legally and without imposing hardship on the neighbors. And this isn't it. Thank you.

BEVERLY NEDER, 82 Attridge Road

MS. NEDER: This is a residential neighborhood, correct?

JAMES MARTIN: I'm sorry, what was the question?

MS. NEDER: This is a residential neighborhood?

JAMES MARTIN: Um, it is zoned R-1-15, yes.

MS. NEDER: Okay. I think that paving that much of a house in a residential area is really going to destroy the look. And all you have to do is ride down East Henrietta Road or West Henrietta Road and see all those houses that have been converted to businesses. It takes one and then the next one falls and another one falls until the whole residential area is gone. I think it's up to this Town to protect the residential areas that we have. There's plenty of places if he wants a bigger business to run a bigger business. There's lots of empty buildings available over at Chili Paul Plaza. I think it's up to the Town to protect the residents that are there, both from the water and both from the ugliness of looking at a paved parking lot that was originally intended to be a yard. Thank you.

JAMES MARTIN: Thank you.

DAN MELVILLE, 32 Wellington Ponds

MR. MELVILLE: My interest in this property, I mean I have an office there in that property, and we only have four or five parking spaces now and we really do need some more space for parking. I guess if you put it into perspective, if you look at what is there now and what is being added, it is really not that much more pavement being added. Because most of it is being moved to the west side.

As far as to the east side, there is very little pavement being added, but there is a lot of wasted space there now. So by moving the parking lot more to the west or moving the pavement, we can -- you can stripe that and actually get cars on both sides, but we're not adding a lot of pavement, as far as the new area. And it -- it is desperately needed. We don't fill it every day, but there are times when we can't get all of the cars in there because you never know when people are just going to stop in and they end up parking on the road or something and that's not a good situation either. Thank you.

JAMES MARTIN: Thank you.

Move to close.

JIM POWERS: Second.

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

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

MR. HEININGER: Can I respond to one of the observations?

JAMES MARTIN: Um, yes, you can respond.

MR. HEININGER: Okay. Just for the public, the reason that we are requesting the 18-foot depth of parking bay as opposed to 19 was to reduce the width, overall width by 2 feet, and have that extra green space at either edge of the parking lot. I just wanted to make that clear when it was stated that a variance was being requested, it was being requested for an environmental reason. And you will find that a lot of towns, some towns have 10 by 20 parking spaces, but it is also fairly standard that a 9 by 18 is a very commonly encountered space. And

when I was present in February, Wegmans requested 9 by 18 spaces in their lot. So the reason we went with the 18 feet is to reduce the depth and have that extra green at the edge.

JAMES MARTIN: Thank you.

James Martin discussed proposed conditions with the Board.

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

JAMES MARTIN: They have paid a fee for final, if we approve this, to let everybody know. So if it does get approved, what is the feeling on waiving final, if it gets approved?

JOHN NOWICKI: I think we have to debate it here and see what the Board is comfortable with here. I don't want to be standing half on this until I see -- what do you call these gardens?

DAVID LINDSAY: Rain gardens.

JOHN NOWICKI: Rain gardens. If there is any way possible to direct that flow of water into -- along those sides -- if you want to call those rain gardens there, into a back rain garden that is landscaped, I think this becomes a problem for landscaping and some clever design to make it work right. I'm not sure about dry wells -- what about dry wells?

DAVID LINDSAY: I'm not sure how they would work in this part -- I'm not sure what the soils are like there. I know we had problems in other areas.

MR. HEININGER: The soils are fairly sandy when I was in the backyard. There's -- there's plenty of pitch from the front yard to the backyard. If I was to use 3-inch or 4-inch piping, it could collect the water coming off the parking lot and easily take it into the backyard and get it into a rain garden in the backyard. Um, and again, as Dave (Lindsay) said, it's -- actually DEC really likes rain gardens quite a bit. So, um, I'm going from elevation 98 down to 93. I got 5 feet of fall. It's not a problem capturing water. It's pretty straightforward.

JOHN NOWICKI: I think you got a possibility here of doing something with --

MR. HEININGER: There is plenty of room in the backyard. It's a huge backyard.

JOHN NOWICKI: Again, some fencing might be required, too.

MR. HEININGER: Now, the -- the west side, there is an existing fence, and the east side there is no fence. If you would prefer a fence, that's -- that's not a problem either.

JOHN NOWICKI: I think you --

MR. HEININGER: Whatever -- if you would like a fence along the east side.

JAMES MARTIN: I left it -- applicant to provide adequate screening. That could be a fence. It could --

MR. HEININGER: It seems to me that that sounds like fence along the east side, and then -- and some -- some planting along the edge of the fence. And then --

JOHN NOWICKI: Get it all in the backyard.

MR. HEININGER: Pardon me?

JOHN NOWICKI: Get it all in the backyard. You got to get it back there. I would rather see that on a drawing before I vote on it.

MR. HEININGER: The other thing you can do is you can put your landscaping in the planting bed. It's slightly raised so it captures the water between the edge of the parking lot and the planting. So it -- that is why if I have 8 feet, I can do quite a bit with 8 feet.

JOHN NOWICKI: You have to work with creativity here.

JAMES MARTIN: Let me touch on that point for a second. You said you wouldn't approve this until you see the drawings. If the Building Department would not issue any permits until those drawings are supplied and reviewed by the Building Department and the representative from the Planning Board, would that be adequate, John (Nowicki), or do you want to go farther than that?

JOHN NOWICKI: I just want to make sure that this -- the people who are familiar with these gardens, it is done right and we get the right plantings in there. And then we get the right design so that the neighbors are protected from the water going in the property, and they're also protected from any -- some good landscaping. And the fence --

MR. HEININGER: Let me help out here. With 8 feet, on either side, I got 8 and 8.4. If I go down 1 foot in 4 and basically put the low spot halfway between the edge of asphalt and halfway between the property line -- make sense? I can pitch -- I have asphalt on both sides, so I can pitch the asphalt a little bit to get down. If I start out at Chili Avenue with 8 inches of drop and I increase my drop as I go towards Westside Drive, the water is going to sheet off the asphalt, hit the small swale and then move where it is picked up in a pipe and taken out to the back. So I have roughly 3 to 4 feet coming down from the asphalt and I have 3 or 4 feet going up to the property line, which is where the plant material can go. Make sense?

So now I'm going to go to the backyard, capturing water in pipes on both sides here, taking it out to this low spot where you put it in a rain garden. A rain garden is basically a depression that doesn't allow water to leave. It just goes into the groundwater where it will leave -- ultimately will be off in this corner (indicating), which is the low spot. The plantings in there will be things like -- that like wet feet. So one of them, from a tree standpoint, would be -- a red oak likes wet feet. A red maple, swamp maple, little leaf maple. Wegmans plants a ton of them. They have silver bark and bright fire engine red leaves and is a tree that likes wet. And then there are other plant materials in DEC's book that you can do in here. We're not talking about a lot of flow. When I was talking about .02 CFS for a 20-minute storm times 60, we're talking

about a very, very small volume of water that would need to be stored. To make any difference between today and tomorrow.

JOHN NOWICKI: You had a parking lot. I think you have a chance here to clean it up to make it look better, to be honest, if it is done right. If it is not done right, it is not going to work. You got to do it right. I just want to make sure it is done right.

MR. HEININGER: You can see where the existing parking lot is actually an expansion of probably a driveway that came in here (indicating) and bumped out a little bit and was expanded right here (indicating) for some bays.

DENNIS SCIBETTA: Mr. Chairman, I have a problem also. They brought -- Larry (Nissen) brought up a good point where they would rather replace -- Conservation Board made a recommendation to plant 6-foot high Arborvitae we see out to the street, which I don't think is a good idea. A, we have a rule about 6-foot high in front of the structure. But also with the line of sight as it comes to Chili Avenue. And I agree that he had mentioned going to 4-foot high, which I think would be more appropriate in this case. I think this is something that needs to be worked in and we come up with an understanding before any conditions are made on that.

MR. HEININGER: I would substitute, as opposed to something that grew tall, a yew or Juniper or Holly, which tend to stay waist high, because what you're trying to do is hide the cars, not create, like you say, a sight barrier. But we're looking for an Evergreen or combination of Evergreen material.

JAMES MARTIN: What I wrote, in conjunction with what you just said, applicant will comply with all Conservation Board requirements. Type of plantings to be agreed to between applicant and the Conservation Board.

DENNIS SCIBETTA: Still have to be agreed to. They need to -- Conservation Board needs to also understand that we can't allow these 6-foot high plantings that near to the road or in the front of the structure used as a somewhat of -- a living fence is what it is creating, so there is a rule about that in the code.

GEORGE BRINKWART: I think Dave (Lindsay) needs to get involved in that, too, because there are some good guidelines DEC has for development such as rain gardens. I think Dave (Lindsay) has a good handle on that.

JAMES MARTIN: Question or clarification. If this were to go through, with the additional front parking, will they need to go to the Zoning Board for a variance to allow the additional front parking on the site?

DENNIS SCIBETTA: I believe that question has come up several times and the reason you can deal with it is under site plan approval, if you choose to go that way and waive those conditions. So we have some latitude with that.

JAMES MARTIN: Okay. Thank you. Help me out here. Did I do SEQR on this? We got into a lengthy discussion after SEQR. I believe we did SEQR.

JOHN NOWICKI: I don't think so.

JAMES MARTIN: Just to be sure. I think we did. Help me out. Did we do SEQR?

JOHN NOWICKI: Nobody remembers..

MR. MELVILLE: You did do SEQR.

JOHN NOWICKI: All right. We'll take your word.

JAMES MARTIN: I'm sure we did SEQR.

So they have paid their fee for final, if we choose to waive it. And I will go through the conditions again that I have gotten here and then there is a request to waive the parking requirements. It is contingent on Town Engineer approval.

James Martin went over the proposed conditions with the Board.

JOHN NOWICKI: Is that far enough as far as taking the drainage down both sides in the back and creating the garden?

DAVID LINDSAY: I think you're covered by saying subject to Town Engineer approval. I have taken some pretty good notes on what your intent is. I am comfortable we can do a review in our office of both the rain garden and its design and be satisfied with it.

JOHN NOWICKI: All right.

JAMES MARTIN: It's contingent upon your approval.

JOHN NOWICKI: We're looking for a beauty.

JAMES MARTIN: On waiving final, if we approve that. Is that a yes?

The Board's indication was yes.

DECISION: Denied without prejudice by a vote of 3 for, 2 against (James Martin, Jim Powers). The Planning Board is a seven-member Board, and four votes are needed to constitute a majority.

There are several concerns regarding drainage from the site, snow storage, and adequate shielding of neighboring residential property. The applicant can request a rehearing before the full Board, or submit a new application with appropriate modification to the site plan per the discussion at the April 10th hearing.

JAMES MARTIN: Approved three to two (sic).

There was a recess in the proceedings.

JAMES MARTIN: Just a note of clarification on the vote on the last application. Since we only have five members of the Board present tonight and we have a seven-member board, an approval which -- constitutes four votes for and we only had three, so that really, in essence, constituted a denial of the last application. Just as a clarification for the record.

- 2. Application of John Cahoon, owner; 4090 Buffalo Road, Rochester, New York 14624. for preliminary subdivision approval of 4 lots to be known as 3 Circle Drive. Subdivision at property located at 3 Circle Drive in RAO-20 & FPO zone

Chris Kaurelis and John Cahoon were present to represent the application.

MR. KAURELIS: Good evening. My name is Chris Kaurelis. I'm the Project Manager for Passero Associates. I'm here on behalf of Mr. John Cahoon from Cahoon Construction.

As Chairman Martin introduced the project, it is an RAO-20 piece of property. The project proposes four additional new builds, single-family residential lots. The lots that were constructed out of the existing 53-acre parent parcel are all in -- approximately an acre in size. All have lot width, depth and all have shown the proposed building lot -- building locations compliant to the Town code for the RAO-20 district. The lot sizes are well in excess of what RAO-20 standard Town lot sizes are. I believe the minimum size is 6,000 square feet. On average, these lots are 1 acre or better.

The site is serviced by all major public utilities, sewer, water, gas and electric. All of the capacities within the systems have been told to us that access to the utilities are available. Um, as we reviewed through the Town Engineer and comments through the County agencies, there is a question about the County Pure Waters capacity and their sewer system. That system is at or near capacity. But with County Pure Waters' approval that will be required prior to any sign-off from the Town, and they have indicated to our office with the densities on this development it doesn't seem to be a perceived problem with the introduction of new services into the system.

The Circle Drive track you're looking at now, 53 acres, was originally conceived by the Town to be quite a different development plan. But this low density single-family development before the Town this evening is going to plan to kind of shape the residential feel to the existing Jemison Road and Greyson Road neighborhood that kind of terminates at Circle Drive.

The project is unique in the fact that it does have some sensitive environmental areas to it. Prior to any planning of this project there has been a delineation done by a wetland biologist. You will notice also in our review of the DRC comments, that they questioned that based on the DRC's record of State wetland on the property and the biologist's location of the wetland shown in the plan, that actually what we're calling out is the edge of the State wetland is not that. It is actually the edge of the Federal wetland and the State wetland is much further into the western part of the property. For the purpose of the public, the mapping we have, north is up, for the map. South is down, west to the left, east to the right.

So if I could, I would like to dig right into the Town Engineer's and the County comments that we received about the property.

JAMES MARTIN: Um, yes, why don't you do that, because obviously there was a lot of comments from the Town Engineer concerning the project.

MR. KAURELIS: Just so the Board is aware, too, and the public, there has been some work done on the property prior to this application. There were permits put in place for the Town for tree removal, to have select cut and fill done on the site. This lot is primarily, if not all together a wood lot. Again, I would like to reiterate portions of the property are wetland. The developed area, we had a wetland biologist -- the little flags you note on the plan work, those are actual field locations of the edge condition of that wetland. Those are surveyed markings to note the edge of that wetland. Um, this being a Federal wetland, we don't have a 100-foot buffer restriction, a 100-foot no-build area. We could grade up, if the property improvements were to need, right to the edge of that wetland. So those were kind of some due diligence works that were put in play.

Before any site plan was put before this Board, there was a fill permit that was granted to the applicant. It was a temporary-in-nature fill, but the fills that were available to the project's owner were to be brought on site for the purpose of this project. So we asked the Board, understand that during -- the permit was granted on a temporary nature. The intent was to have that be fill for the project site. Um --

JOHN NOWICKI: Has that fill permit been expired?

MR. KAURELIS: It was issued in October of last year. So the time frame for the fill operations and the conditions currently, the intent of the owner was after the fill operations are complete to stabilize the soils, meaning that he will seed it and restore it to a green condition. And, um, the weather didn't permit. Basically, by the end of the fill permit he was at the beginning of the winter season and no seed would take. So at the beginning of --

JOHN NOWICKI: The permit expired?

DENNIS SCIBETTA: 10/19 of 2007 is the expiration date.

JOHN NOWICKI: Good to October.

MR. KAURELIS: But again, if the Board sees fit to approve the project, we ask that those fills satisfy some of the needs for the grading on the site with the new homes, with the new build-outs. With that, I will go to the County comments.

Um, County notes that primarily, if not all together, the site is located within a flood way. Flood plain elevation of approximately 523 feet -- and a half feet, excuse me, is the flood plain mark on the site. If you note, all finished floor elevations are compliant to the Town's need to separate that finished floor elevation from the flood plain elevation. Um, also noted that the Town -- Town's wood land map shows this is primarily a wood lot. Um, notes that national wetland inventory. Notes Federal wetlands on the site. As well as State wetlands noted on the site.

JAMES MARTIN: Just before you -- so you're saying basically you will meet requirements for the National Flood Insurance Program?

MR. KAURELIS: Yes.

JAMES MARTIN: All right.

MR. KAURELIS: Yes. And the amount of fill materials that will be brought on site, there is really no need for compensatory storage areas. They're relatively minor, just the immediate to promote the grade and drain away from the new-builds.

Also notes on the site that there is a few protected stream corridors. If you look at the overall plan -- I will step to this map and keep talking. I will point it out for the public. There is tributaries along the western portion of the site, along the northerly portion of the site, and those are classified tributaries (indicating). The plans that are in place with the Town show no impact to these tributaries, nor their corridors. Riparian corridors that the DEC comments noted are not impacted with the project's plan. Also notes this is within the Airport Overlay District and the airport review of this project has been approved. Talked about the filing of the map, needing to go through the County Clerk's Office for review. That will be done prior to its filing.

And this gets to the point where I have discussed with you the State DEC talked about the discrepancy between the biologist's delineation that was done in the field along with the easterly part of the site and what is true on their record maps. John Cole from the DEC I was in touch with, and we're going to have an actual wetland biologist from the State come out and do the confirmation of the State corridor. What you see on this map is the -- the record map that John Cole sent me with the discrepancy. The dashed dot area you see along here (indicating) is the firehouse, Circle Drive and Jemison. The project proposal just north and south of the firehouse.

The State wetland had a discrepancy as to where our biologist found the edge. So John Cole sent us this is where their record is, and if you note, again, there is no impact to our project site with the record, and actually it is much further to the west than the development proposal.

Again, we have -- we had a chance to talk to the wetland biologist that did our delineation. He is very competent in what he does. He had numerous delineations verified from the DEC and the Corps of Engineers. And, again, we are assuming that his wetland delineation is the State wetland with our plan. So we have a buffer, 100-foot buffer to that wetland edge that again the project's proposal is not impacting. And John Cole had just asked that I make a point to recommend to the Board if any approval were granted, to just have that approval be contingent on the DEC's confirmation or delineation of their edge.

They questioned whether a SPDES, State Pollutant Discharge Elimination System, Phase 2 storm water permits will be needed for the property. With the project plan shown with the four-lot build-out today, we don't exceed an acre of disturbance, and with the fills that are currently in place and after them being stabilized this upcoming spring, this site will be well below the acre of disturbance that would need to have the State DEC's GPO 201 permit, the Phase II permit in place.

The next point made in the DRC review is regarding the State's historical society which they call archeological sensitive areas. I took the opportunity to show the project site, where it falls in relation to those. This is a GIS database the State has available. All of the gray areas are where they found some archeological significance and then 2,000 feet within that find they call those areas sensitive to the State's archeological, um, findings. Um, again, this white area (indicating) indicates our project site, which is again -- the four lots we're proposing development are outside of the sensitive environmental areas per that database. So I wanted to bring that to the Board's attention, as well. I left a copy of this with the Board and with the side table as well for the Town's files. And that was the closure to the DRC comments.

Um, the Town Engineer's comments were regarding the capacities available and Pure Waters' approvals and making sure that Pure Waters' approvals happen prior to Town sign-off with the project site. Also made mention that this project site in total is within a flood plain; have asked us to reference that in site data on the project site plan, again, 523 1/2 feet. And I will put the grading plan up here so the Town -- the Planning Board can understand the next comment.

Joe Carr, the Town Highway Superintendent and the Town Engineer had concerns. Currently the existing drainage on Circle Drive gets to this low point (indicating) and just sits there. Um, a lot of this back lot being wetland is primarily a large holding area for that area of Town. Um, so what the project plan is incorporating is storm drainage to collect and drain out the frontages on the project site as well as the right-of-way, and then collect and reroute to the wetland areas, which is currently the natural drainage pattern through a pipe system, the roadside drainage. And what Joe Carr, the Town Engineer, have asked us to do is investigate the possibility of having this be an open ditch rather than a closed system, a pipe. We would be happy to do that.

Um, also made the mention that the current property owner at the adjacent east property has an encroachment. Circle Drive's intent, I believe, from seeing some previous mappings, was to again come into the project site, have a more dense development than is currently planned and

this little area here (indicating) was supposed to be a right-of-way or at one time was planned to be a right-of-way. And the current driveway for the adjacent property encroaches on property that is owned by the owner. So the Town Engineer has asked if we'd put in place a cross-access easement so he has access and perpetual rights to get through to his drive. We'll make sure that is on the subdivision plat for filing.

I guess there was some clarification. A couple of the tax account numbers and information on adjacent -- where they show a Circle Drive address were supposed to be Jemison and Greyson. Those have been cleared up.

He also made mention that confirmation of the DEC and Army Corps of Engineers' wetland edges be done prior to the Town's approval. Again, that is something we have already investigated getting a biologist on site from the DEC out there and asking our wetland biologist if he has confirmation from the Corps of Engineers. Again, this is a gentleman who works in the field, very competent, been doing it for a long period of time. He asked about the clearing and filling and asked that the future plans show that clearing edge of the wood lot, what the plans are that will be in place, with this plan. Um, and asked about any approvals the Board will see fit to this evening be contingent on Town Engineer's approval and -- review and approval of the project plans.

As an overview -- I know it is a mouthful, but I will step aside; if there are any questions from the Board or the public at this point, I will be happy to answer.

JAMES MARTIN: Well, you clarified that jog in the lot line across the driveway, which obviously concerned everybody.

MR. KAURELIS: The shape to the parcel is very unique. I think the intent for this lot or this parcel was to be much more than it is currently today, with just the low density proposal. I have actually seen old deeded parcel maps that showed about 30 homes on this property.

JAMES MARTIN: I was out there looking over the site. There has been a substantial amount of fill brought in, Lots 4, 3 -- I don't know how much has spilled over onto Lot 2. Maybe Mr. Cahoon could answer some of these questions. Reviewing the fill permit, um, due to -- the rectangular area was supposed to be filled in primarily, I believe, on Lot Number 4, if I can remember the diagram, with topsoil for temporary storage.

MR. CAHOON: Right.

JAMES MARTIN: What I saw out there was not topsoil and certainly didn't look like temporary storage. It looked like gravel, chunks of asphalt in there, all kind of other things in there besides topsoil. I guess, for the Board's sake, I would like some explanation in what your intent is around that fill and what -- you know, why you're not in compliance with what you requested when you got your fill permit.

MR. CAHOON: Well, I was compliant, but the person that was hauling, wasn't, to be honest with you. And I have my watchdog, Bob, the neighbor alerted me to it. And once I found out what they were doing -- because I was told it was all clean fill coming, and -- and I put a stop to it immediately. Once Bob called me.

JAMES MARTIN: How -- I mean there must have been loads and loads and loads of stuff taken in there.

MR. CAHOON: Yes. It was on the weekend.

JAMES MARTIN: How long were they operating bringing that in there?

MR. CAHOON: It was about a week, right. Bob -- and if Bob hadn't alerted me to it -- I was ticked. Totally, totally ticked.

JAMES MARTIN: Who did the grading? Did they do the grading?

MR. CAHOON: They did the grading. It was RVA, was the company.

DENNIS SCIBETTA: That makes two of us. Because this is not in accordance with the fill permit that was issued.

MR. CAHOON: That was unknown to me. They had a copy of the permit. I was told all clean fill. It was supposed to be like a win/win situation. I was going to stockpile it and then move it. So -- and Bob, my neighbor, you know -- I -- I intended on -- what I originally wanted was five lots, 10-acre lots, give some land to the Fire Department, build a retirement home, because I'm looking to retire pretty soon from the airport.

And it was just an opportunity that came. I said, "Right here. You know, you can bring it here."

And so I set it up, because I knew I would need fill in areas so we were supposed to stockpile it. The next thing I know they're just hauling in and as soon as I found out, and that was -- because of Bob called me on -- what was it, Saturday morning, Bob, you called me? I ran right out there and put a stop to the whole thing. So --

JAMES MARTIN: So what is the disposition of the stuff that is there?

MR. CAHOON: The disposition. Well, I have got it, and I'm going to more than likely have to get some topsoil to fill in. But, you know -- as far as I'm concerned, the permit is done. I know it's a one-year permit, but --

JAMES MARTIN: So your intent is to dig your foundation holes and everything down through that fill and that will be the kind of -- the grade that you will end up with --

MR. CAHOON: Pretty much, well, I will have to see what the final plans are when everything is done.

BOB GUELZOW: There is quite a bit of clean fill there, but it has been covered over.

JAMES MARTIN: I'm sorry.

MR. CAHOON: In the beginning, when it first came out, I was out there, and it was clean fill.

JAMES MARTIN: That is buried under this?

MR. CAHOON: Yes. Then all of a sudden on the weekend, you know, it -- in came the junk. Then I was told by the owner, "Well, you got to take the bad with the good." I said, "No, I don't." I said, "It stops right now." So...

JAMES MARTIN: Planning any fill on Lot Number 1?

MR. CAHOON: I don't know what we'll need there.

MR. KAURELIS: He will need fill for 1. The reason being, again, the edge of the wetland doesn't impact the site, but the site is wet. So, you know, we want to promote as much of the drainage away from the structure as we can. So you see the planting -- we're probably in about 4 feet of fill around the house. That is just to promote drainage and keep the residence high and dry.

JAMES MARTIN: Most of that area is grassed right now. I think the Fire Department has probably been mowing it.

MR. KAURELIS: Yes. Pretty well maintained area.

JAMES MARTIN: All right. I will go to the Board at this time.

JIM POWERS: The area that is being mowed to the right of the firehouse, doesn't that belong to the firehouse, that mowed area?

MR. KAURELIS: To the -- to the back and to the south, yes. But they have a little bit of a maintenance area that over spills, Jim (Powers) is right, to the north and that is where he is questioning Lot 1, the siting of the home. Part of that front lot area is going to re-work some of the grades in that area.

JIM POWERS: On your map here you have got a storm water, 15-foot storm sewer easement. There is no easement at the present; is that correct?

MR. KAURELIS: No. No. Again, Mr. Powers, the current drainage from Greyson Road and Jemison Road, they find -- it finds its way onto the site. So the right-of-way drainage currently drains onto the project site. What we're doing with the project's plan is collecting that and just routing it to where it is currently going. This is going through a closed system. And what the Town Engineer is asking us to do is if we can put in a swale -- if we can go between the home sites for Lot 2 and 3 and create a swale rather than pipe it.

JIM POWERS: Where the -- where you would have fill now, you're going to put the homes on top of that fill. You're not going to take that fill and move it elsewhere, right?

MR. KAURELIS: Well, this is -- with conversations with David (Lindsay), um, what he had asked us to do and we are going to do is supply him -- the sequence of the way this worked, we did site survey. We had a biologist do the delineation in July. The filling operations happened right before the start of winter. So the project's plan you see, two, three and four, the fill is on it. I told you David (Lindsay) will go out and survey the fill piles so we show those in our plan. And then you know where grade makes sense, yes, we're going to excavate the basements and utilize the fill piles that are there, and--

JIM POWERS: Do you know what the elevation is of those fill piles?

MR. KAURELIS: If I were to take a rough estimate, I would say approximately, roughly 6 to 7 feet.

JIM POWERS: I think they're more than that. You know the four blue boxes that are up on the --

MR. KAURELIS: Pole boxes.

JIM POWERS: I thought I would go out and move them the over day, and I couldn't move them. Are they anchored to something?

MR. CAHOON: No. They're not anchored.

JIM POWERS: What is the purpose of putting those up there?

MR. CAHOON: I had them across the drive bay because I was worried about people trashing. Right now, I'm trying to be a good neighbor. Mike and Carol, this is the first I knew their driveway is on my property.

JIM POWERS: These aren't on the driveway. They were way to the back of the fill. Were they put there for a purpose?

MR. CAHOON: To put the fill, not to go past -- beyond and everything. Then I threw them off the property.

JIM POWERS: On the property, on Lot 4, I think it is.

MR. CAHOON: The beginning three lots there. Next to Mike and Carol. Across the street is Jim and Kathy.

JIM POWERS: Your fill comes down and then it swings back. There is just a single driveway going up into the hill site now -- fill site now.

MR. KAURELIS: Yes.

MR. CAHOON: Yes.

JIM POWERS: That is very low and wooded.

MR. CAHOON: Yes.

JIM POWERS: Will that remain that way, or will you get fill there so you can run your driveway out that lot?

MR. KAURELIS: Are you talking about Lot 2, Jim?

JIM POWERS: Four.

MR. KAURELIS: That will be filled up. That will be filled just enough to grade it to the roadside. We want to -- again, we don't -- we don't want to keep any -- any grades really low on this site. We want to try to promote the drainage away from the homes, the new homes.

JIM POWERS: On Lot 1 there, I believe there is a small stream that runs around that --

that -- where that lot is going to be, and possibly goes back to that ponding area that is flooding up between that first lot there and the home there, the bottom of Jemison.

MR. KAURELIS: There is a small ditch just to the north.

JIM POWERS: That small stream was flowing pretty good the other day.

MR. KAURELIS: If you see the last grade line we show, Jim (Powers). I will point to the map.

Jim is discussing this drainage here (indicating). There is a ditch that runs from the roadside here (indicating) and then there is a stream that runs north and east. Along the side. This is the stream the DRC questioned (indicating), the classified stream, and this is the current drainage swale that exists (indicating), that you're right, is running from the right-of-way, west into that back woodland area.

JIM POWERS: Jemison, Greyson, some of the water goes to the river if I remember, and the rest comes back this way.

MR. KAURELIS: Yes. Again, it is a pretty good water shed that contributes to this back lot area on this project site. Our goal with the project's plan is just to collect and, you know, keep the same natural drainage course and not impact with the project's plan.

JIM POWERS: Behind the fill area there are quite a few trees that have been cut and dropped back there.

MR. CAHOON: Yes.

JIM POWERS: Are those going to just lay back there, or are they cleaned out?

MR. CAHOON: Cut up, firewood. Mike is cutting that all up. My neighbor. Before it was so thick we couldn't even get back through there, so I got a permit to cut trees. I had some of them, you know, taken out and stuff. Didn't clear cut. Just, you know, and -- and my neighbor Jim and Carol -- no Mike and Carol are next door. They're the ones that are the driveway has to be fixed. Jim and Kathy across the street, Jim is big into the Snowmobile Club, so I'm an honorary member. They use the property now. They go to the green belt, because this all backs up to the green belt.

JIM POWERS: Do you have any idea what the basement floor is going to be elevation wise?

MR. KAURELIS: I would assume 9 feet at least.

JIM POWERS: How far down?

MR. KAURELIS: 9 feet down, 13 course basement, 12 course basement.

JIM POWERS: 529, 530?

MR. KAURELIS: That's finished floor, so 520.

JOHN NOWICKI: Basement floor, right.

MR. KAURELIS: Uh-huh.

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

JOHN HELLABY: John (Cahoon), do you plan on living -- you don't live in that area presently, correct?

MR. CAHOON: No. I live at 4090 Buffalo Road, which is actually Ogden, but it's North Chili.

JOHN HELLABY: You plan on moving into Lot 4, the 31.2-acre lot?

MR. CAHOON: Yes. When I bought this property, I came to the Town, and I asked, "Any wetlands?" Came three times. They said, "No." And I bought it. And there's wetlands. So it changed all what I wanted.

Originally what I wanted to do, I wanted to do 5,10-acre lots and give the Fire Department at least 3 acres. And I hired these guys and they say you got wetlands; we got to hire a mitigator this, that. I don't make that kind of money at the airport. I'm a County worker. So things have changed.

JOHN HELLABY: Well, how have they changed? I mean, do you intend on living in any of those homes?

MR. CAHOON: Yes. I plan on keeping the one lot and wanted to live, you know, retire there.

JOHN HELLABY: Other things are being built as spec homes and sold?

MR. CAHOON: Well, I need to sell at least one to recoup some of the money that I paid out. I can't afford what -- what it cost me now.

JOHN HELLABY: The question is, though, are you going to sell the building lot or are you actually going to build these homes and sell them?

MR. CAHOON: Well, my son is a contractor, so he is going to build. He is going to build the homes. He is going to build my home.

JOHN HELLABY: So looking at this map, how does the property for the Fire Department come into play, or is it no longer viable?

MR. CAHOON: Well, once you approve stuff, then I guess I could subdivide the land behind it.

JOHN HELLABY: Are they even interested?

MR. CAHOON: I talked to them way in the very beginning when I first bought it, and they were interested. But like I say, you know, everything changed once wetlands. Wetlands messes things up. I was told by the Town they're flood zone.

I said well, flood insurance, I can pay. That I can deal with that. At the time it was Dan Kress and everybody, and everybody was very nice, you know, and I -- I've been going along with the proper procedure all of the time. I went for a driveway permit, they said, "Well, temporary, just go ahead and do it."

I said "No, let's put a pyramid."

I have been around public government enough that I know you do it the proper way.

And tree permits for cutting down trees. You know, they wanted to know how many. I had no idea, but I needed to get in there, see, and go back through the land, so I got a tree permit.

When this opportunity came, this -- this soil was all supposed to come from the airport. You know, and I said okay, it is a win/win situation. It's going to be all clean fill. Temporary stock. I was told I'm going to need some. So I went and talked to the Town here and everything and said, "I don't even know where it's going to be, but, you know, this is a way I can get some free fill. And then that turned into a nightmare. So we stopped it.

JOHN HELLABY: You say your son has a construction company or works for a construction company?

MR. CAHOON: No. My son is right behind. Cahoon Construction Company.

JOHN HELLABY: Has he built homes in the past?

MR. CAHOON: 11 years old, I had him on tape. We built several homes together.

GEORGE BRINKWART: Your meeting with the DEC to verify your delineation, do you expect -- do you expect that to change?

MR. KAURELIS: No. I don't expect the limits to change. Like I said, I anticipate from my experience is that -- even if you look to the ArcView record, the State wetlands more towards the western end on the property -- if you see even -- if you can go back to the sub map, you see all these other little flags to the west. Our survey crew picked up the edge of wetlands to the west of site. And what my thought process, I have actually asked John Cole to investigate if a delineation was done prior on this site. This looks like it pretty well mirrors the delineation from the ArcView record.

Again, this is not based on field evidence. This is based on what is called a quad map. The State of New York cuts up and does record maps on a macro level, but we justify it by a field delineation with a biologist, or the State, at each site. And this indicates to me -- it looks pretty close to it if not identical with exactly where the record was. We will have that done with the State DEC. It's in process with them already. It's just a matter of Scott Jones being able to schedule it. But again, do I think it is going to impact our development area on the project's proposal, no.

JAMES MARTIN: While you're thinking, I have a question. Did any of the fill spill over into the 100-foot buffer from the wetlands? Or the buffer that you have delineated on here?

MR. KAURELIS: At one point, yeah. Our survey crew had -- and it wasn't -- I can't tell you, Jim (Martin) it was measured, but our survey crew had noted here is the flags -- we're -- we're locating as these guys were doing the filling operations, and John (Cahoon) was made aware -- I mean asked him the day of, we had him call the contractor to halt the filling operation where they were. So it --

JAMES MARTIN: So there was impingement into the wetlands with the fill?

MR. KAURELIS: No.

JAMES MARTIN: No, there was not?

MR. KAURELIS: No. Again, the 100-foot buffer, this is a federal edge.

JAMES MARTIN: I know. Buffer, buffer, 100-foot buffer doesn't exist.

I know it is not -- so no wetlands were actually affected with the filling operations?

MR. KAURELIS: No. No.

JAMES MARTIN: That is what I wanted clarified.

KEITH O'TOOLE: A couple of things. You touched on a couple of the comments that Dave Lindsay had made in his letter. First with reference to the easement for Lot 37, you indicated that you're going to file that; is that correct?

MR. KAURELIS: Yes.

KEITH O'TOOLE: I would ask, if you could, to file the easement prior to asking for signatures on the mylars so that we know it is in place and we don't get into any arguments as to whether the neighbors signed it and that and so we have a record copy, and if you can reference it on the mylar by Liber and page.

MR. KAURELIS: We can do that.

KEITH O'TOOLE: Dave (Lindsay) also in his comment may have raised the issue of the triangular pieces of property. You indicated that you updated the map.

MR. KAURELIS: I believe, Dave (Lindsay), correct me if I am wrong, but these (indicating) are the pieces that you had questioned?

DAVID LINDSAY: Yes.

MR. KAURELIS: It's part of the property. They're part of this parcel.

DAVID LINDSAY: Part of?

MR. KAURELIS: The property. If I could have brought the deeded map with me, the old map I found that had like what the Town's maybe perception of what this parcel was going to be, originally there was another right-of-way configuration.

DAVID LINDSAY: So we'll want cross-access easements then for number 50 and 54, as well?

MR. KAURELIS: This area (indicating).

DAVID LINDSAY: Jemison.

MR. KAURELIS: Uh-huh.

DAVID LINDSAY: As well as Number 35.

MR. KAURELIS: Okay.

DAVID LINDSAY: Greyson.

DAVID LINDSAY: And maybe Number 33, if it -- it is hard to say how far that line goes out there, but it terminates at that edge of driveway. If you can take a look at that.

KEITH O'TOOLE: Have you sorted it out, Chris (Kaurelis)?

MR. KAURELIS: Yes.

KEITH O'TOOLE: What I was thinking instead is why don't we just straighten out the lot lines here instead of having this tangled easements. You could quitclaim over a little chunk of land that basically sits in front of 54, 50, 33, 35 and 37.

MR. CAHOON: That's what I was just talking to him about.

KEITH O'TOOLE: That will clean up things for the neighbors much better. You won't be landlocking them in any sense.

MR. KAURELIS: What will this -- just for clarification, Keith (O'Toole), will this be including those lots in the subdivision? Is that what you're anticipating? I -- I understand what you're saying, but these lot lines coming to right-of-way --

KEITH O'TOOLE: Extend those straight out. In fact, you might even want to do that here (indicating). Rather than do an easement and then do a quitclaim, why not just extend that over there (indicating)? Then you extend that (indicating).

JOHN NOWICKI: Good point.

KEITH O'TOOLE: That way you're done.

MR. KAURELIS: The only thing that would come into play is Lot 4, the frontage. The frontage on Lot 4 -- no. We should have adequate. I don't see why that couldn't happen.

I guess this process is -- the only thing I would ask -- would this be incorporated in these lots into this subdivision? Quitclaim you're saying by deed -- deed those areas to them.

KEITH O'TOOLE: I guess if you were adding to the subdivision, you would have to survey out their lots, which is an expense that -- that's not what I am asking. I leave that to greater minds than mine.

Do you follow what we're talking about?

JAMES MARTIN: I understand. You just want to extend the lot lines out to the road to get rid of all of the cross easements and then they really own the property, right?

KEITH O'TOOLE: That's right. And it wouldn't be subdivided. They could do it at some future date if they want, but it is better than where they are now.

JAMES MARTIN: So require them to come in with a subdivision request to us, or could they just do this by simple deed?

KEITH O'TOOLE: Quitclaim deed.

JAMES MARTIN: So no review by the Planning Board?

KEITH O'TOOLE: Exactly.

JAMES MARTIN: Okay.

MR. KAURELIS: Yes.

JAMES MARTIN: Understand that.

MR. KAURELIS: It's all surveyed, Jim (Martin). We can provide --

MR. CAHOON: I just as soon do that and be a good neighbor and give it to them.

JAMES MARTIN: I think it makes --

KEITH O'TOOLE: That's even better.

If I may add to that, they can come back with a revision showing that the strips of lands have been quitclaimed off and showing that the deeds have been recorded just as I discussed with the easement before so that negates the need for the easements. You just go straight with quitclaims.

JIM POWERS: If you go to a pipe system for that storm drainage, do you want to be as close as you are between Lot 2 and 3 to that house on Lot 3? Will you have to dig a little bit?

MR. KAURELIS: It's relatively shallow, Jim (Powers). Basically we're just keeping it a foot of cover over the pipe. I think with the 7- or the 15-foot provided, that would be more than adequate space to excavate a trench to get to that sewer.

JIM POWERS: If you're happy with that.

MR. KAURELIS: Yes. I don't perceive that trench being 2-foot off the side of the pipe.

JAMES MARTIN: Keith (O'Toole), do I need to capture that as a condition, the quitclaim procedure on those properties under question?

KEITH O'TOOLE: Yes.

JAMES MARTIN: All right. You will have to help me with the wording on that, if you would, please.

KEITH O'TOOLE: Happy to do that. Now?

JAMES MARTIN: If you want to write something up while we're finishing up and give it to me before the end of the meeting, that would be fine.

Anything else, Keith (O'Toole)?

DENNIS SCIBETTA: Because of the nature of the -- what we granted as the fill permit for temporary storage of the temporary stockpile topsoil, and the condition of the fill and where it was placed and everything, some of the things that went along with that was the installation of silt fence around the entire pile to make sure that nothing leached out. So what we would like is that the engineer verify to us with some test borings and test pits to the nature of that fill and its appropriateness for the area.

MR. CAHOON: What is that going to run me?

DENNIS SCIBETTA: I'm a little disappointed. I wasn't notified of any of these changes, and this caught me completely off guard, and --

MR. CAHOON: I understand. It caught me, too. Dennis (Scibetta). I'm -- I'm highly

ticked.

DENNIS SCIBETTA: Sitting here as a flood plain manager, you can understand I have a lot bigger things to worry about than the condition of that, so it is pretty important.

DAVE LINDSAY: I certainly think it is prudent to ask for. The original fill application said temporary stockpiling of topsoil on the site. Clearly the applicant stated that unacceptable fill material was brought in, from his standpoint. I think the Town would be best served if we conducted a series of test pits or test holes in there and then the applicant's engineer can verify what material was brought in and whether it is an acceptable fill material for this type of development.

GEORGE BRINKWART: Dennis (Scibetta), with the amount of fill on the site, does everyone think there is any need for compensatory storage?

DENNIS SCIBETTA: I would have to discuss that with Mr. Lindsay.

JAMES MARTIN: With regard to the silt fence that is not there?

DENNIS SCIBETTA: Yes.

JAMES MARTIN: There is a requirement for them to get one installed at this point or not.

DAVID LINDSAY: I think you would either have to stabilize the existing fill pile or establish the silt fence.

JAMES MARTIN: Okay. You understand that you either stabilize it or silt fence?

MR. CAHOON: Okay.

DENNIS SCIBETTA: I can't give you an answer right this minute, George (Brinkwart), but we're working on that. I understand the question and why you're asking it, and it -- and the appropriateness to that in relation to what was originally granted, that was something entirely different.

GEORGE BRINKWART: Okay.

DENNIS SCIBETTA: The reason why we're allowing that, Jim (Martin), so for the Planning Board's knowledge, is because they're going to have to bring the fill in for these lots with the site plan, so we'll take it as that. We'll work with that when we get the results of that.

JAMES MARTIN: Understood. Okay.

#### COMMENTS OR QUESTIONS FROM THE AUDIENCE:

BOB GUELZOW, 29 Greyson Road.

MR. GUELZOW: Bob Guelzow. I live at 29 Greyson Road. I have been there for seven years. This little triangle you're talking about, when Mike had the house built at the end of the road, they built it, Greyson Road was supposed to go straight out years ago and Jemison. He had problems when he built the house because the Town said they owned that little strip of land between -- which would be Circle Drive and his lot.

There is some dispute about getting the sewer, who is going to put the sewer on Town land between the sewer. I thought that was the way he told me that the Town had gave -- gave him that piece of land already. But that's beside the point.

I have talked to John (Cahoon). I have no problem with John (Cahoon), but I tell you right now if the Town let's that fill stay in as high as it is, somebody ought to be shot because we're going to suffer because we're all in a hole. The firehouse will be in a hole. The guy next door is going to be in a hole. We're all going to be in a hole. Okay. Now you look -- Jim (Powers) was there. I know Jim (Powers) told me he was there. If you see how high -- he told me "stockpile."

I said, "It's not stockpile." If that fill is going to stay that high, the back of the fill pile I would take a guess is 8-foot. Is that right, John (Cahoon)? Probably. If that is going to stay 8-foot to the back, he is 8-foot above the neighbor.

JAMES MARTIN: Certainly we recognize that the grading is going to have to be modified.

MR. KAURELIS: If I could, I can just kind of -- understand, if I can, I'll respond. The standing water on the site is at a set elevation. When we set these houses, finished floors, we don't necessarily -- are looking at grade per se that is going to be finished. If you notice, we drop right at the back of the house, so it's at or just above at finished floor -- at finished grade, what that 100-year flood elevation is, okay? But that basement elevation is critical. We're trying to keep that high enough so it is not encouraging any water laying in the back lots.

What governs the grade on the site is going to be the establishment of your basement elevation to insure it is higher than where you have standing water on the project site. That is kind of where the site grade gets established at the front yard from finished floor. But again, our intent is to make these not to have experience -- experience the problems that are currently in some of those lower-lying portions of the neighborhood. We're looking to promote these, get the drainage away from the homes and have these be suitable building lots. Okay.

JAMES MARTIN: Now, my assumption is you will be working with Mr. Lindsay to assure that grading and drainage and all those issues are addressed and you won't have any adverse effect on the neighborhood or neighboring properties. I agree with what the gentleman said, that fill pile is enormous out there.

MR. CAHOON: I can't refute it.

JAMES MARTIN: When I stood on the top of it and looked at the house next door, there is going to be a lot of water running in that direction.

MR. CAHOON: Well, it really shouldn't be finished grade the way it is. Intent was what I got the permit for. It was supposed to be stock piled.

JAMES MARTIN: I understand.

DAVID LINDSAY: Jim (Martin), if I could just jump in for one minute.

JAMES MARTIN: Yes.

DAVID LINDSAY: I think there is also perhaps a need to look at a requirement for any compensatory cuts and fills because you're filling within the 100-year flood plain on this site.

MR. KAURELIS: Dave (Lindsay), what would you have for I guess exceeding the threshold that they need it?

DENNIS SCIBETTA: It's an equal -- compensatory is equal to what the fill is being brought in.

MR. KAURELIS: So we would take grade at 521 up to 523 1/2 over that surface area and try to have an offset, because above 523 1/2 it is just irrelevant really because that water isn't going to have a need to compensatory store anywhere else.

DAVID LINDSAY: That's the intent.

MR. KAURELIS: I think he is talking about a small cut pond.

DAVID LINDSAY: Didn't bring it up in my initial comment, but I think it is something we have to look at.

MR. KAURELIS: If that were needed, we accomplish that here (indicating).

JAMES MARTIN: Well, it is subject to Town Engineer approval, so you will have to address that with Chris (Kaurelis).

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

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

JAMES MARTIN: They have paid a fee for final on this, just to let everybody know that.

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 reviewed the proposed conditions with the Board.

The Board discussed whether to waive final.

DECISION: Unanimously approved by a vote of 5 yes with the following conditions:

1. Pending approval of the Town Engineer.
2. D.E.C. delineation of wetlands shall be verified.
3. Test borings of existing fill shall be undertaken for verification that the fill is appropriate for the site.
4. Existing fill must be either stabilized or a silt fence must be installed.
5. Applicant shall convey parcels of land in front of 50 and 54 Jemison Road and 33, 35, 37 Greyson Road to the respective property owners giving these properties full frontage on the public highways. The North-South lot lines of these properties shall be extended parallel to the existing North-South lot lines until they intersect the public highway. The mylar will show the liber and page of quit claim deeds recorded in the County Clerk's office conveying these parcels all in a manner approved by the Town Attorney.

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

FOR DISCUSSION:

1. Davpart Rochester, LP - proposed paint ball field at property located at 200 Air Park Drive in G.B. zone.

Geoffrey Allan and Chris Martello were present to represent the application.

MR. ALLAN: Good evening, gentlemen, gentlemen of the Board. Happy spring, by the way. Somewhere in America.

Geoffrey Allan Associates, representing the Davpart Rochester LP, which is out of Toronto, Canada. They own the seven-building parcel at the 1260 Scottsville Park Drive Complex just basically west of Powers.

I'm here on behalf -- we have the owner here, so any technical questions can be directed to him relative to the actual paint ball. We have done some due diligence with respect to the parcel. And just to refresh your memory, you have the acreage, but Scottsville Road I have oriented here toward the top (indicating), toward my side. 1260, this is the old Casablanca Party House, 1270 here (indicating). This is the parcel that we're talking about in the rear (indicating). It's -- right

now it's a vacant area, just adjacent to the 200 Air Park Drive, and it's pretty much of a drainage swale in there. This will not affect any kind of water mitigation or anything like that, but it is a field of basically vegetation that we cut regularly.

With this -- the reason I bring that up, gentlemen, is that it is absolutely unobtrusive from Scottsville Road. You basically can't see that paint ball area as you drive down Scottsville Road. I assume everybody has been at the site. The owners of the parcel, Davpart Rochester, LP are behind the program; in other words, they're amenable to this tenant using this area for a paint ball arena.

The market dynamics have changed over the last 10 years. Chris Martello has -- is located in -- a paint ball store in the 1250 building at this site right here (indicating). We have looked at this area before the owners decided to allow this. There is no effect on additional noise, parking, traffic flow.

We have also poled adjacent tenants. There will be no interference with their operations. This operation is slated to work in the evenings and on the weekends, which would be very minimal incursion, kind of the opposite of what the timeline would be for normal occupancy for doing business in the complex.

The other noise we have around the area is, of course, the police shooting the guns right next to us in the range there and burning the jet fuel for the -- for the firemen to practice.

Anyway, I won't protract any dialogue here other than to turn it over to the Board for any questions and I have a quick summation and we can get going.

JAMES MARTIN: How many, what do you call it, patrons will be utilizing this activity at any one time?

MR. ALLAN: I will put this up, as well. You have seen this before. This was in your packet. This is what a typical field will look like (indicating). And this particular parcel is only 250 feet by about 200, so, Chris (Martello), you would say what, you would probably get any more than ten people at a time in there?

JAMES MARTIN: Could you please stand up?

MR. ALLAN: Mr. Martello is the owner of the paint ball store and would be operating this particular venue.

MR. MARTELLO: Chris Martello. Evening or night. I would actually estimate more in the 25 to 30 participants because you also have a lot of teenagers that play. Their parents drop them off and the parents leave and the children are left there. So you do have -- you do have that going on, as well.

JAMES MARTIN: I'm going through the paperwork that you sent us here, and the one letter from Mr. Martello, "We agree the field would only be open on weekends, on daylight hours and on rare occasions during the week. If the field is in operation on a weekday, operation would be after 12:00 p.m.," basically what you said.

In the letter from Geoffery Allan Associates, you propose the hours of operation are evenings and weekends. Okay. So you know, what -- what are the proposed hours of operation?

MR. MARTELLO: The proposed hours of operation are -- I believe what I -- I pretty much said in the letter that I sent in. We can't -- we can't have anything happen during night because we're not putting any lights up.

JAMES MARTIN: So there is no lighting.

MR. MARTELLO: There is no lighting. We don't want to put any lights up. I don't want to work any more than I have to. The only reason why we ever said anything of -- maybe one day a week was I personally would like to leave in the evenings, as well, and go home, but if someone wanted a private party and I had to fit one in, then it was after 4 o'clock, because at that point in time people would be leaving and then if -- whatever time it gets dark, they have to shut down, but it would be three hours -- they rent the field for three hours and that's it. That time was not for open play, but for private parties only. The reason why we set it up to say very rarely was if someone really wanted a private party on that time and couldn't fit something on the weekend, it was to accommodate, but even then it was after 4 o'clock when the businesses left. Primarily that came from one of the businesses there asking that from me. And that was the people in the very end parcel that were closest to the field. They asked if that would be the case.

MR. ALLAN: So for the Board's record, Mr. Martin, it would be after 4 o'clock. That was one of the provisions that Davpart wanted to impose. This would not interfere with the normal operation of the complex.

JAMES MARTIN: Yes. Because when I went back there and looked, you know, the parking lot is pretty full back in there around the site. You don't have a lot of additional parking available. You're talking 25 or 30 people.

MR. MARTELLO: That's correct.

JOHN NOWICKI: Where would they park?

JAMES MARTIN: I mean is there -- there is parking -- you think there is parking available to accommodate --

MR. MARTELLO: The parking is there and available now. It is where the -- I believe the corner -- all those -- all those businesses are not -- they're not -- the parking lot is empty if you come after 4 o'clock or are there on the weekends.

JAMES MARTIN: I understand that, but you said some rare occasions during the week, but that would be after 4 o'clock, those types of things. But I think just to help us out, I mean do a little bit of a study around that to insure to us that there is adequate parking for this particular operation.

Um, is this a seasonal type of thing? You know, you -- mostly spring, summer, or fall?

You don't do much of it in the winter?

MR. MARTELLO: That is correct. It is like now I have people call me to say, well, if you have a field, when will it open? Even now I'm saying if we had a field, it wouldn't be until June anyway because the ground is wet and who wants to play in the mud.

JAMES MARTIN: Would you -- I mean, I looked at the site. It does have a little depression in it. Would you be regrading or doing anything to the site --

MR. MARTELLO: No.

JAMES MARTIN: -- to alter that?

MR. MARTELLO: No.

JAMES MARTIN: You're talking about installing six poles to have temporary netting erected, but they would be obviously a permanent cable on the top of the poles or a cable comes down by pulley mechanism.

MR. MARTELLO: Pulley mechanism. It is essentially a boat hoist. To pull a boat onto a trailer.

JOHN NOWICKI: How high is the fencing?

MR. MARTELLO: I would like to go at least 15 feet to contain the projectiles.

JAMES MARTIN: Okay. And that is only up when the -- when --

MR. MARTELLO: That's correct. I want the stuff down, as well. If anything, just because -- because of -- that area does get a lot of high wind because of the airport. It is an open field there. I mean even on the weekends, the wind came, the field would not be in operation because I wouldn't want to put the nets up.

JAMES MARTIN: Are these nets stored when they're not used or --

MR. MARTELLO: They're on the ground.

JAMES MARTIN: They're on the ground.

MR. MARTELLO: That's correct.

JOHN NOWICKI: Do you sell the equipment out of Building 1250?

MR. MARTELLO: That's correct, sir.

MR. ALLAN: Sell and service.

JOHN NOWICKI: Where do people mainly go?

MR. MARTELLO: The only place open is on University Street, indoor facility on University Avenue.

JOHN NOWICKI: The old post office.

MR. MARTELLO: Randy Kingsley closed two years ago. He was one of my customers that bought product from me.

JOHN HELLABY: Sears warehouse on Exchange Street.

MR. MARTELLO: That was Jack Potter. He used to also purchase from me. After his mother died of ALS, he quit paint ball. He had an outdoor field in Ontario. He shut that field down after his mom got sick.

JAMES MARTIN: Dennis (Scibetta), I mean if it is a temporary fencing situation, it needs some sort of a variance from the Zoning Board to go up 15 feet?

DENNIS SCIBETTA: Yes. I have several problems with this, as you are going along here. We have no facilities for bathrooms.

JAMES MARTIN: We're getting to that. That was going to be my next question. What are we going to do about those types of needs?

MR. ALLAN: There are common restrooms in the 1250 building and also a changing room in the 1250 building that Chris (Martello) is going to solicit the owners of the property to utilize. And that is in the rear entrance on the back of the 1250 building. Here (indicating). So people would then walk across the -- around by the 1260 building back out onto the paint ball field. While we're at this parking situation, too, Jim (Martin), and members of the Board, again, there was a transient people. People drop their children off. You know, obviously there is a certain age limit and then they're leaving. So there won't be parking all of the time.

Quest Communications is in this 300 building. This parking lot is -- they have five suites in this building and there is nobody parking over there.

JOHN NOWICKI: Which one?

MR. ALLAN: The 300 building, John (Nowicki). It is a little bit of a walk. It is just one building down. But Quest Communication has their switching mechanism in that building and there is only one person that deals with that.

JOHN NOWICKI: Do you supply all of the safety equipment?

MR. MARTELLO: Yes, I do.

JIM POWERS: Do you use the two -- can you actually load up 60,90 paint balls? Will those be --

MR. MARTELLO: To load up -- I didn't quite understand.

JOHN NOWICKI: How many paint balls can you put in?

MR. MARTELLO: I have those -- those hoppers that fit on the markers that usually hold 200 balls. Then there are people that hold the harnesses that hold even more than.

JIM POWERS: Will you have war games there?

MR. MARTELLO: Capture the flag, correct.

JIM POWERS: Are those pedestals (phonetic) fit to disburse them around the ground area? Are those permanent?

MR. MARTELLO: They usually break, but they're all biodegradable. What they are are big gel caps.

JIM POWERS: Do you carry insurance?

MR. MARTELLO: We have to.

MR. ALLAN: One of the other stipulations for Davpart that is imposed is that they would be responsible for cleaning up any of the material that went over the fence or through the -- or the netting or that kind of thing.

JIM POWERS: Is this netting such that if a ball hits up, it will not spatter, just drop down?

MR. MARTELLO: That's correct. It is ASTM certified.

JIM POWERS: It is pretty closed tight then.

MR. MARTELLO: It's -- what you see in the photos, that is what the netting is. The -- the photo not up there, not always included, whenever I give a packet to someone, there is one of a netting at Huntington Beach, and it is a great photo because you actually see the Pacific Coast Highway in the background. I played that event. It contained the balls there. They play on the beach. You know Californians. They are worse than we are. If there was a big environmental hazard, it would never happen. If the balls were flying all over, it never would have been on the Pacific Coast Highway. That is right there in the pure Huntington Beach.

JIM POWERS: Do you have supervision?

MR. MARTELLO: You have to have supervision. The insurance regulations require all referees in the field be certified and there has to be a certain number of referees for the number of players in field and that is all in the insurance rules.

JIM POWERS: And you store out there -- you have all of the different equipment?

MR. MARTELLO: What I am actually doing is my store sells the product. I'm -- I'm going to rent additional space to be able to store all of the rental equipment that people would rent if they're going to rent from us, and -- and operate a completely separate area to -- to just separate the paint ball playing aspect away from the selling aspect.

JAMES MARTIN: This picture you have up there now, these look like inflatable, I don't know what the term for them is, but is that similar to what you would be installing or would you have some permanent?

MR. MARTELLO: What I am doing is I'm going to put in this type of stuff (indicating). Although I have that type of a field, the -- what a lot of people don't know, unless you have done this for a long time, is I would like to go with the corrugated type piping. And the biggest reason why is the balls hit the corrugated pipe, they actually break. When you use the air ball bumpers, they look real nice and you take them down and roll them up and fold them up. But the problem is balls tend to hit them and bounce, and what happened was a number of years ago, and I know it sounds maybe off topic, but if this gives you an idea how much I really think about this stuff. There was an event held in Gettysburg, Pennsylvania and the Town Fathers said bring it on in. It's a national professional event. There is a professional series. I play in the series. They said bring it to Gettysburg.

All these people descended on Gettysburg. They set the field up at a facility that was a sports park. And all around it were all these wonderful abbeys from Gettysburg. The problem was they didn't think about the balls bouncing and the balls bounced everywhere, over the nets, over the complex. They destroyed almost everything that was there because they were bouncing everywhere and although the nets were a little short, only about 10 feet, but because of the bouncing it was -- made a big mess, and at those events there are like 2,000 people playing. So I wanted to use something that was -- that the balls would break on, not bounce over the nets. I want to try to contain the balls as much in the netting as possible and that is the best way to do it.

JAMES MARTIN: Do you anticipate running any kind of major competition event?

MR. MARTELLO: I will run small local tournaments, but nothing big.

JAMES MARTIN: What do you mean by a small local tournament?

MR. MARTELLO: Anything locally is a three-man event. Three- to five-man event. And most local events, they usually get -- the whole days was a whole different animal. Nowadays you get eight to nine teams. Most -- most of the play, because of places like the place on University, they have all -- because they're all very small, they have -- the support has gotten small.

The old days when I played a lot on the circuit, I played a ten-man series, so your teams were much bigger. The playing fields were all outdoor. Like the old post office is a really big playing area, real big. Nowadays it is all small, so the teams get smaller because not many people can play. So nowadays most teams in Rochester are all three-man, so that is what your draw is going to be.

JIM POWERS: How far do these things shoot?

MR. MARTELLO: If you have one -- well, it is even debatable now, because what happened is the old rules for the APL, which is American Paint Ball League, which provides the insurance, the old rules were 280 feet per second, but the new rules are lowering it down to 260. I know that a -- I have shot at 300 feet per second, which is the pro circuit, you can shoot a ball 300 feet.

JOHN NOWICKI: They hurt?

JIM POWERS: They sting, yeah.

MR. MARTELLO: But now they're going to limit it to about 260, so you really have to arc the ball -- I mean I really had to arc the ball to get 300 feet, but, you know, you're looking at least about 250 feet least. But you got to arc it to get that distance. But those -- but those speeds are all set in place by the APL right now.

JOHN NOWICKI: As fast as you can pull the trigger?

MR. MARTELLO: Actually, even worse than that. Nowadays the markers have assisted triggers and they're all electronic with computers in them. Although you physically are shooting

the guns at two balls a second, the computer says that gun is going to shoot 15 balls a second. So -- so it -- but even that has all been capped by the APL and now they're capping to 13. But I have sold markers that will shoot in excess of 30 balls a second for the pro players. But that's -- it depends on what your insurance is. So your insurance is -- tells you what you can do. So the fields speeds are now capped at 13 balls a second, and at 260 feet per second.

JIM POWERS: Does the easement across that property create any problem that you know?

MR. ALLAN: No, sir, not that we have found, Mr. Powers. The -- that's contained within the complex from Davpart. They do have some underwater easements in terms of the storm drainage which goes into the river, so nothing like that. This would be all above the surface, not disturbing anything underground like that.

JOHN NOWICKI: So Ron DiChario is out?

MR. ALLAN: He sold it two and a half years ago. He is happy with his four-story building and looking to come back to you for another building on site when economic conditions approve. Just to summarize --

JAMES MARTIN: Any questions from the side table?

KEITH O'TOOLE: Comments. Couple comments.

MR. ALLAN: There will be a couple comments, I'm sorry.

KEITH O'TOOLE: While recreational uses are something that the Town certainly enjoys having, the Town has had some difficulty in the past in terms of code enforcement. One particular one comes into mind without getting into names, and I won't.

Temporary facilities seem to me more the issue for the Town in terms of following up on them, port-a-potties, that sort of thing. And it may be appropriate to require some permanent facilities in that regard.

I note from the picture on their application, particularly the top one, that the grounds look like they have been beaten up fairly well, not like say a soccer field, but a soccer field typically has a grounds crew. Unless they're going to put in astroturf perhaps this will potentially turn into a mud pit.

In terms of the fencing, we also had a problem with fencing on a recreational use in the past and after a couple years out in the sun and the weather it doesn't look too good. So perhaps the Board would be a bit particular about what type of fencing they approve.

Nothing further.

MR. ALLAN: If I may have the opportunity to address, if I could, just to get to the crux of the matter. The GB district, of course, and Dennis (Scibetta) is very familiar with this, 115-16(C)18 is an allowed use, conditional use, obviously what we're looking at is because this is such a minor -- may not seem minor, but it's a minor operation.

The reason I'm saying that, very limited on timeline in the daytime. We're looking at maybe a three- to four-month period this is going to be operational. At that point the only thing that will be left is the six poles that will be standing and this had be done throughout the year. In other words, every summer it will be a limited use.

With respect to Keith (O'Toole)'s comment about the bathrooms, there are permanent facilities within the 1250 building, so we don't anticipate any Johnny-On-The-Spots. None of that kind of obtrusive look that is going to denigrate the use of the overall parcel which is an office flex space complex. So the owners of the parcel are very concerned about that.

This is a test market basically for Mr. Martello's group, and we were looking to solicit the Board instead of having to come back for a protracted conditional use permit, as this is such a limited and minimal effect on the area, such a limited use, if we could transcend possibly -- I understand the concerns about the fencing. I understand all of the dynamics of the zoning. Believe me, I have been doing this for a lot of years, as well.

This is not something that is going to be permanent. It's a very seasonal operation and it is something that we as the owners of the property, and there is a property management team on site as well, are very concerned about this going forward in the right direction. If this doesn't work out, Mr. Martello won't be able to do it next year, so he is on notice, as well. So I will leave it up to the gentlemen to consider that request for us.

JAMES MARTIN: We're going to do it the right way.

MR. ALLAN: Of course you are, sir. You always have.

JAMES MARTIN: That is going to be through proper application process.

DENNIS SCIBETTA: Conditional use permit is required. Temporary or not. You know. There is no saying it is going to be here next year. We're stuck with the scarred land site from it.

MR. ALLAN: Yeah, well, that -- that is a vegetated area. If it is disturbed for three months of the year, Dennis (Scibetta), you know it will go back to its fellow state. You know, it's nothing that is going to -- it's not like we're planting grass around a retention pond that is there now. We keep that in pretty good shape. And again, conditional use is what we want. We don't want anything more than just, you know, we'll try it out for the first year and if it didn't work for either the owners of the parcel or the Town, then it's a moot point.

DENNIS SCIBETTA: I still have concerns with parking and also -- the parking, the bathroom facilities and the general use of it. And the look to the other business owners on Scottsville Road.

JOHN NOWICKI: And the maintenance on it.

JAMES MARTIN: Yes. Address those issues, okay. And, you know --

MR. ALLAN: Okay.

GEORGE BRINKWART: I think you can probably address a lot of those comments we had by giving us a nice clear drawing depicting those issues, with pole locations, parking, access.

MR. ALLAN: We'll give you a site plan delineating that sort of thing. The only thing I would like to ask Dennis (Scibetta) again, and he indicated something about a variance. I mean that is going to take it three months away, so do we need a variance for a temporary fence when you consider it is just going to be a net?

DENNIS SCIBETTA: The word "temporary" in my book is 10 minutes. It's not applicable. It has to -- it would have to be dealt with.

KEITH O'TOOLE: The height of the fence is the trigger for the variance. There is no exception for temporary or not.

MR. ALLAN: Okay. Thank you very much. Appreciate your time.

The 3/13/07 Planning Board meeting minutes were approved as submitted.

The meeting ended at 11:00 a.m.