

CHILI PLANNING BOARD

April 13, 2004

A meeting of the Chili Planning Board was held on April 13, 2004 at the Chili Town Hall, 3333 Chili Avenue, Rochester, New York 14624 at 7:00 p.m. The meeting was called to order by Chairperson Don Faso.

PRESENT: John Hellaby, Dario Marchioni, James Martin, John Nowicki and Don Faso.

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

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

PUBLIC HEARINGS:

1. Application of Thomas Hebrock, owner; 151 Chestnut Ridge Road, Rochester, New York 14624 for resubdivision approval of 2 lots into 3 lots in the Burns #2 Subdivision at properties located at 580 Chili Scottsville Road and 437 Humphrey Road in A.C. zone.

Bob Avery and Thomas Hebrock were present to represent the application.

MR. BOB AVERY: Good evening, Bob Avery, Avery Engineering. I'm here with the applicant and property owner, Mr. Thomas Hebrock in the red here (indicating). I will explain to you what we're purporting to do. Mr. Hebrock currently owns Lots 5 and 6 of the Burns Subdivision Number 2. These are currently both 20-acre lots. Lot 6 is over on the Humphrey Road, current division line is shown dotted right here (indicating) in the middle. The westerly lot fronts on Route 386 and is currently Lot 5 of the Burns Subdivision Number 2, also 20 acres. The proposal before you this evening is to borrow 10 acres from the back portion of Lot 5, adding it to Lot 6, creating a 30-acre lot, and then to divide the remainder of Lot 5 into two 5-acre lots fronting on Scottsville Chili Road. I believe our division complies with the zoning requirements, and I had given you a little supplement on a legal size when we submitted this. We had not had a chance to go out and locate the newly constructed pond and pole barn that is on the Lot R-6. I distributed those prior to beginning here this evening.

DON FASO: What is the purpose of creating a 30-acre lot?

MR. BOB AVERY: I believe Mr. Hebrock wishes to have a larger size lot he will build his house upon. He has already started, as you can see, with a pole barn up at this time. It is my understanding the Hebrocks are dividing the 5-acre lots equitably. There is a dissolution of the marriage and this is part of the process, to divide the holdings.

We had comments back from the DRC indicating that there is a portion of federal wetland on the property which is shown on the map.

DON FASO: Give us a second. These showed up tonight. So we have not had a chance to look at County comments tonight.

MR. BOB AVERY: I'm at Item Number 1.

JOHN HELLABY: Does the existing farm house sit on 5-acre lots?

MR. BOB AVERY: No. The existing farm house is to the north. I believe it is on R-3.

DON FASO: Bob (Avery), have you had an opportunity to look at County Comments?

MR. BOB AVERY: Yes.

DON FASO: Anything jump out at you?

MR. BOB AVERY: We have shown the federal wetlands on the drawing. Obviously, you

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know, during the site plan -- we're producing the site plan for any of the lots and we will be starting on one for Mr. Hebrock on Lot R-6 shortly here. Obviously we'll be taking that into consideration as required at that time, but we have shown it on the drawing.

DON FASO: You will not alter any existing drainage facilities?

MR. BOB AVERY: No, we will not. Item 2, yes, there is. I don't know who currently farms it.

MR. HEBROCK: Paul Steimer does, but he will not farm it this year, so nobody is farming it.

MR. BOB AVERY: The stream we have shown on the drawing, there is a standard note about disturbance along the street corridor. Obviously we would be taking that into consideration on the site plan for any proposed house on Lot R-6. We have not even started the placement of the proposed house yet on that.

We have already done the monumentation. Comment over on State highway.

DON FASO: Those are standard notes.

MR. BOB AVERY: Yes. Just the standards notes on there.

JOHN NOWICKI: What about comment about contacting the Monroe County Agricultural Protection Board?

MR. BOB AVERY: I believe that has become kind of standard note when you're in an agricultural use area.

JOHN NOWICKI: I had a question on there -- why it is on there and what it means to the applicant and also to us.

MR. BOB AVERY: What it might mean is at least a portion of the properties if they become developed will go out of farm production.

JOHN NOWICKI: Is this in an Ag District?

MR. BOB AVERY: Yes.

DON FASO: But the property is not included in the Ag District?

MR. BOB AVERY: No.

JOHN NOWICKI: Did you have to file an Ag District statement?

MR. BOB AVERY: I believe I did file one.

JOHN NOWICKI: Did we have one filed, Mr. Kress?

DANIEL KRESS: It wasn't filed with this application. If I remember correctly, it was filed with the original subdivision.

MR. BOB AVERY: When I divided it originally, the 20-acre lots.

JOHN NOWICKI: You're not sure of that?

DANIEL KRESS: I don't have paperwork in front of me.

JOHN NOWICKI: I would like an answer on that somehow.

MR. BOB AVERY: We would be glad to submit one.

DON FASO: All right.

JOHN NOWICKI: Are there any existing real estate contracts for Lot 5-A and 5-B?

MR. BOB AVERY: I have to defer to the property owner.

MR. HEBROCK: Which are 5-A and B?

DON FASO: West side north and south.

MR. HEBROCK: Where the 5-acre lots are, no. I'm sorry. When you say land contract, you mean for --

DON FASO: Anything existing.

JOHN NOWICKI: Any potential sale coming up?

MR. HEBROCK: The only thing, when we sold the farm house to the north, that person has first right of refusal on those lots. That is the only thing.

DARIO MARCHIONI: I have a thing about the stream here. When John Caruso came in with the project on Humphrey and Scottsville Road, we asked for an easement for that stream that went through that property. I'm wondering if we could have an easement in here. I don't know if the policy has changed now -- these are main streams, and they're -- they affect the upstream and lower section for water flow, and in the past, where we didn't have an easement, in some of these main streams, we had difficulty in going to do any maintenance if it was really, really necessary. I was wondering if we could get --

MR. BOB AVERY: I don't believe we would have a problem granting a 20-foot, 30-foot

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easement on that. I would note it is not a classified tributary, though.

DARIO MARCHIONI: The County thinks it is an important issue here.

MR. BOB AVERY: I don't believe it has a classification, though, Dario (Marchioni).

JOHN NOWICKI: Do you know if it is listed in the County drainage manuals, Volume 1 and 2?

MR. BOB AVERY: Not to my knowledge, but we would be glad to provide an easement of whatever width you --

DARIO MARCHIONI: Yes. Just typically in the past, the landowner says you can't come in, it is my property -- but if we have an easement --

MR. HEBROCK: If I can address it. That stream is in name only. That land is farmed completely through. That stream exists right now while it rains. Other than that, it is corn, beans or whatever else.

MR. BOB AVERY: It is farmed right across it?

MR. HEBROCK: It is plowed right over it. There is really no stream per se.

DARIO MARCHIONI: I'm worried about development upstream, this whole area.

MR. BOB AVERY: It is, however, drainage course, yes.

KEITH O'TOOLE: If the Board is going to require an easement over the stream, I would ask that the developer's attorney draft it. I would suggest that they want to consider referring the rights to cross the stream for purposes of installing a driveway or some such crossing.

DANIEL KRESS: Apart from following up on Mr. Nowicki's question, which I will do, nothing further.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

BEVERLY NEDER, 82 Attridge Road

MS. NEDER: I would like to address the issue of the stream in name only right now. True it is probably being plowed up when they're farming, but in future years if they don't farm, that may be a problem because we have that situation in our own neighborhood, where land was farmed at one time, and now it is not farmed, and it floods in rain storms like this, and there is no easement for the Town to get in there and clean out the stream.

DON FASO: Pending your information, John (Nowicki), what is your feeling on waiving final?

JOHN NOWICKI: I would like to see the Ag statement in my Town mailbox. I would like to be able to read it.

DON FASO: Do you want to waive final and I won't sign it until that is done?

JOHN NOWICKI: That is fine, as long as I have assurances that statement will be in my mailbox.

DON FASO: Anybody else have a problem waiving final?

JOHN NOWICKI: And the condition of the easement Dario (Marchioni) suggested.

DON FASO: You did not want engineer's approval?

LARRY NISSEN: No, sir.

The Board discussed the proposed conditions.

MR. BOB AVERY: Mr. Chairman, I want to know what the width would be so I can properly describe it.

DON FASO: Larry (Nissen), 20?

LARRY NISSEN: Make it 20 feet.

DON FASO: I will write that in the conditions.

Don Faso made a motion to declare the Board lead agency as far as SEQR, made a determination of no significant environmental impact based on materials and testimony presented at the hearing, and the Board all voted yes on the motion.

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

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1. Provide a 20' wide drainage easement to the Town of Chili.
 2. Applicant shall file an Agricultural Data Statement with the Building Department.
2. Application of Teresa Regan, owner; 217 Stottle Road, Churchville, New York 14428 for preliminary subdivision approval of 3 lots to be known as Regan-Stottle Subdivision at property located at 217 Stottle Road in PRD zone.

Bob Avery and Jack Goodberlet were present to represent the application.

MR. BOB AVERY: Bob Avery, at Avery Engineering. I'm here for this proposal. With me is Mrs. Regan's nephew, Jack Goodberlet, who is a member of the family, and I would like to describe what we're purporting to accomplish here.

Mrs. Regan currently owns a nearly 15-acre lot located at the northwest corner of Stottle and Bowen Road. Her house is located in the middle of the parcel, Number 217 Stottle Road. We're proposing to divide it into three lots all of which would be obviously less than 5 acres if we're not starting with 15 acres to begin with. The north lot to be 4.6 acres. The house lot and the lot on the corner to the south to be 4.4. We tried to divide this so we would have a minimum deviation from the 5-acre requirement. We placed the line on the north side of the house parcel basically at 51 feet. 50 is the minimum and we struck that line in there, creating the north lot, because we had to maintain 50 feet.

Then we basically took the remaining acreage and split it in two.

It is my understanding that the two vacant lots will go to members of the Goodberlet family; is that correct, Jack (Goodberlet)?

MR. GOODBERLET: My daughter and sisters.

MR. BOB AVERY: We have application pending before the Zoning Board of Appeals for what we consider minor variation from the 5-acre requirement.

At this time, there are really no plans to build on either of the lots, at least for five years down the road is my understanding, and it would probably be the north lot, and I believe it would be Jack (Goodberlet)'s daughter that would be getting that lot.

We are planning on appearing before the Zoning Board at this month's meeting on this one.

DON FASO: You were the engineer of record for the subdivision, the Bowen Road subdivision, weren't you?

MR. BOB AVERY: Which?

DON FASO: How do the lots conform to the west?

MR. BOB AVERY: To the west -- on Bowen Road?

DON FASO: Yes.

MR. BOB AVERY: They're all quite a bit less than 5 acres. I did a study. I submitted the little study I did with my Zoning Board application of the lots in the area. Our findings indicated they're all much less than 5 acres in this vicinity.

DON FASO: All right.

MR. BOB AVERY: That was in with the paperwork I submitted to the Zoning Board.

JAMES MARTIN: The lot to the west, does that extend all of the way back to --

MR. BOB AVERY: They extend back to the lot line, but they're very narrow over here, I believe.

MR. GOODBERLET: Coming off Bowen Road?

MR. BOB AVERY: Coming off Bowen Road.

I have the tax map here. Here is the subject parcel right here (indicating). Mr. Avery used the tax map to explain to the Board the issue at hand.

It is a minor deviation area. There are at least 17 parcels located immediately south on Stottle and also on Bowen that are two acres or less in size.

In addition, 13 of the remaining 18 lots which run on the north side of Bowen Road, on the entire stretch, all of the way to Union Street are less than 5 acres with the average width of all those parcels being only 120 feet.

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We certainly -- the main consideration on the two vacant lots is to be able to have enough to place a septic system on them.

JOHN HELLABY: Do you know where the existing septic system is? Is there enough clearance between the property lines of --

MR. BOB AVERY: I believe the septic system is behind, right to the west of the existing house?

MR. GOODBERLET: Right. It is behind and to the right.

MR. BOB AVERY: There would be proper area for expansion if we needed it.

JOHN HELLABY: There is enough?

MR. BOB AVERY: I can place the approximate location on before we file the map.

DARIO MARCHIONI: Once we subdivide these, would they have to come back before us for site plan approval, or would you just issue building permits?

DANIEL KRESS: We're going to need a site plan at some point if they want to put a house on these lots.

DARIO MARCHIONI: Will they come before the Planning Board, is my question?

DANIEL KRESS: Yes.

DARIO MARCHIONI: Even the other three lots that -- the other lots that we just subdivided, the 5 acres?

DANIEL KRESS: Yes.

DARIO MARCHIONI: Thank you, sir.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

MR. BOB AVERY: We did have a few comments, but we had the DRC.

DON FASO: I just read them.

MR. BOB AVERY: There really was nothing there except for Item 2. There is a monument close by at the corner. We show it on the map. It is not on our property, but we already have the protection note listed on the drawing there anyways because it is in the vicinity.

Don Faso made a motion to declare the Board lead agency as far as SEQR, found this to be an unlisted action and made a determination of no significant environmental impact based on the materials and testimony presented at the hearing.

The Board all voted yes on the motion.

The Board discussed the proposed conditions.

DECISION: Unanimously approved by a vote of 5 yes with no conditions.

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

3. Application of Monroe County Water Authority, 475 Norris Drive, Rochester, New York 14610, property owners: M/M Christian Austin & Kenneth Siegel; for preliminary subdivision approval of 3 lots to be known as Austin-Siegel Subdivision at property located at 202 Morgan Road and 250 Reed Road in A.C. & FPO zone.

Bob Avery, Mr. Austin, Ken Siegel and Mr. Tom Easley were present to represent the application.

MR. BOB AVERY: Bob Avery from Avery Engineering. I'm here with the property owners Mr. Austin, Mr. Siegel and Mr. Tom Easley from the Monroe County Water Authority. If I can explain to you what we're purporting to do.

Okay. The Austins are the owners of an existing 36-acre parcel basically running from Morgan Road, around this corner, exception parcel, down along the Rochester & Southern Railroad back to the point of beginning along with a 17-acre triangular parcel that is part of that land lot on the northwest side

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of the railroad.

Indicating that the farm was obviously severed back when the railroad was constructed.

So they own that existing parcel. Their house is located down in the southeast area at Number 202 Morgan Road.

The Siegels own the existing vacant 40-acre parcel to the west, which goes all of the way over to the Reed Road. Right here (indicating). It is vacant.

Basically, what we're purporting to do is the Austins have entered into an agreement with the Siegels to sell them in this triangular 17-acre piece so that would become part of the Siegel property.

JOHN NOWICKI: The 17 acre piece -- this piece or this piece (indicating)?

DON FASO: This piece (indicating).

JOHN NOWICKI: To the right of the railroad track you're selling off?

MR. BOB AVERY: To the left I'm selling off, the triangle, 17 acres. Did I misspeak? 17 acres would go with the existing 40 acres that the Siegels own, creating a 57-acre parcel. The triangle is 17 acres. Okay?

JOHN NOWICKI: Will you make that one lot?

MR. BOB AVERY: Yes. To make that one lot. Bounded on the east by the railroad, on the west by Reed Road, south by Morgan Road, currently vacant. That would become Lot 2.

Also as part of this application, the Water Authority is interested for purposes of placing a future booster station -- and Tom (Easley) will be able to speak to that in a moment, create a 2.7-acre right-of-way, 3-acre parcel to center line located on Morgan right next to the railroad. That would be indicated as Lot 3 on the drawing. Lot 1 would be what is remaining of the Austin property and that would amount to 16.7 acres to center lines, 16 acres to the right-of-way.

The Water Authority as a county quasi governmental agency is exempt from the local zoning ordinance, to my knowledge, and I believe they have indicated that in a letter sent to Mr. Kress, which he has received.

DON FASO: Zoning, not subdivision.

MR. BOB AVERY: Well, we're here for subdivision.

DON FASO: We have a few County Comments.

MR. BOB AVERY: Well, the parcel -- obviously it has some environmental issues to it, it always has.

We have 100-year flood areas located on both sides of the Rochester & Southern Railroad, which we have indicated on the map. Okay?

Large 100-year flood area here (indicating), and smaller one over on the other side of the railroad.

We also have DEC designated wetlands, CI-12 and CI-41. We have shown those on the drawings. 41 is over here on the east side of the railroad (indicating), and 12 is over on the other side of the railroad, all of the way up to Reed Road.

Note about the woodlands -- I believe we do have some wooded acres here (indicating), but really it is kind of just growth to my knowledge. I don't recall any large, original mature hardwoods on this property, so I'm not sure what area they're talking about here.

There also are smaller federal wetlands, but they're located totally within the State drawing. I don't have them on the drawing, but they're -- I will put them on the inventory map. They're wholly contained in the State wetlands, either in -- either within 12 or 41.

We did have the agriculture note again, but to my knowledge, the parcel is not farmed, and I'm not sure whether we have any nearby farming operations to my knowledge. I don't believe we're in the Ag District.

MR. SIEGEL: On the north there is some farmland --

MR. BOB AVERY: Down on the Krenzer area, Ken (Siegel)?

DON FASO: Can I have your name for the record?

MR. SIEGEL: Ken Siegel.

JOHN NOWICKI: You filed the Ag Data Statement?

MR. BOB AVERY: Yes.

DARIO MARCHIONI: Since you talked about boundaries of wetlands, this wetland here, that

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crosses Lot 3 and 1, is that a federal wetland?

MR. BOB AVERY: I don't show the federal. I show the State. This is a State (indicating), and this is a State (indicating).

DARIO MARCHIONI: The 100-year boundary for the State wetlands?

MR. BOB AVERY: I don't have the buffers shown. I don't have the buffers shown.

The federal wetlands are contained within the State wetlands. I would be glad to plot them on there prior to final per the inventory.

There is a stream, and I will be glad to show that on here, too. This stream is hard to come up on inventory maps. Half show it, half don't. There is a small stream that meanders its way along the southeast side of the railroad and comes out actually right on the railroad property of Morgan Road right there. It wanders all over the place. It shows up on the tax map. Very slow moving. It does have a designation to it, though.

I will show the Chairman. This stream they're talking about is right here (indicating). It comes out and goes out under Morgan Road, right within the railroad -- the culvert there.

JOHN NOWICKI: What is the intent of this piece?

MR. BOB AVERY: What is the intent for the westerly parcel?

MR. SIEGEL: If anything, it is hunting. If anything at all, it would be to hunt.

JOHN NOWICKI: What access do you have to -- if you want to get to that back piece there, that is not -- I assume it is not in the wetlands here, but where is the access?

DON FASO: They're erasing that line (indicating).

JOHN NOWICKI: That is what I am asking.

How do you get back to that? You have wetlands all over the place.

MR. BOB AVERY: I don't believe there are any plans at all for development on that lot.

JOHN HELLABY: There are some farm lands or something that come in off Reed Road, existing farmland.

MR. SIEGEL: That is all it is.

JOHN NOWICKI: There is no access.

MR. SIEGEL: There are no plans to develop it. It is wetland, and wetland, wetland, wetland.

JOHN NOWICKI: I just want that on the record.

MR. BOB AVERY: You're correct, there is no access in an upland area.

DON FASO: You will not do any wood harvesting or anything?

MR. SIEGEL: No. Dead fall is all we would take out of there.

DON FASO: I would like to hear what the Water Authority is doing.

MR. ROBINSON: Our only definitive plans are to use that for a temporary booster station site, sort of as a backup redundancy to our existing.

DON FASO: Along Morgan and Union?

MR. ROBINSON: Exactly. It is located right on a transmission line. There are a couple transmission routes to the Union Street tank, and this is one of two. Some day it could be a permanent booster pumping facility, but we don't plan on that now. We just want a little parking area there in the high ground away from the wetlands and a couple connections to the existing water main at grade, and if we had to in an emergency, we could bring a portable pumping unit and move water from a tank closer to the city near the street tank.

DON FASO: Under what scenario would you need to do that?

MR. ROBINSON: Some failure in the system, some booster station or transmission main. Or during -- if there was a drought, during the summer. You know, sometimes in a dry summer.

DON FASO: If there was a break in one loop, you could close it down and loop over?

MR. ROBINSON: Yes.

JOHN HELLABY: 30-inch main that feeds Scottsville runs up through there?

MR. ROBINSON: Yes, you're correct. Right now it ends at Paul Road near the Chestnut Ridge Subdivision and then picks up again at Chili. It is second by smaller distribution mains, 8- and 12-inch mains. It picks up at Chili Road and heads south on Stottle. It is a 24 and becomes a 16 all of the way out to the Union Street tank. We want to fill that gap in from Perna's property on the south side of Paul Road and then across the tracks and by the school. That will be a long-term fix to getting a good supply of water out here.

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JOHN NOWICKI: Do you have any plans for any kind of a building on this site?

MR. ROBINSON: No immediate plans, but this is a good location if we ever did because that is right on the transmission main. We're planning to have a booster station in Gates right now where Route 204, the airport expressway, intersects 490, on the north side. That is the more immediate plans, but some day, you know, never knowing where growth, development will take us, this would be a good location, but we have no immediate plans to do that.

JOHN NOWICKI: I guess I want to word this question maybe this way: Are the courtesies or guidelines -- does the Water Authority use in -- when they build something in a town, do they allow the Town to see what you're doing?

MR. ROBINSON: Yes.

JOHN NOWICKI: To have control over this or what?

MR. ROBINSON: As a courtesy we come out to the Town officials to show them what is planned and we try to meet any requests they have.

DON FASO: I think, if memory serves me right, John (Nowicki), they were very cooperative when they put the station on Union and Morgan.

JOHN NOWICKI: Well, I was just hoping they continue that.

MR. ROBINSON: Yes. That is fully our intent. In fact, I brought pictures of that just in case you wanted an example. I'm glad you know about it.

DON FASO: I think most of us were around when that happened.

MR. ROBINSON: It wasn't that long ago.

JOHN NOWICKI: I have seen other works in other parts of the county that were significant. I just want to make sure Chili gets the best, too.

MR. ROBINSON: We just want the buildings to fit into the character. We listen to the neighbors and the Town officials.

JOHN NOWICKI: Glad to hear that.

DARIO MARCHIONI: You are aware, though, there is a 100-foot buffer between the federal wetlands, so in case you put a building, you would have to stay 100 foot away from that.

MR. ROBINSON: That is about all of the room we need, though. We wouldn't use the land in that zone there, between the tracks and that flood line. We would use the part to the east, closer to the 202. We would go for permits with the DEC and federal wetlands permits if they were required, which it probably would be.

KEITH O'TOOLE: Actually, as to -- I have no problem with Lot 3, but as to Lots 1 and 2, east of the -- excuse me, the rest -- west of the railroad right-of-way, they seem pretty much inaccessible. Lot 1, you can't get there without crossing the State road right-of-way. I'm sure they do that without permission of the railroad. I'm wondering if some sort of stub should be reserved to access Morgan Road up through to Lot 1 as well as into Lot 2 because the buildable area of the Lot 2 is primarily the wetlands. I know getting permission to build a driveway through wetlands may not be easy, but there is potential for remapping of wetlands, and I think that opportunity should be explored.

MR. BOB AVERY: Keith (O'Toole), we have frontage for Lot 1 on both Krenzer and Morgan Road.

KEITH O'TOOLE: I'm aware of that, but the back land across the railroad tracks, as I understand it, that is part of Lot 1, as well.

DON FASO: That is eliminating --

MR. BOB AVERY: We're eliminating this 17-acre piece. It used to be attached to this (indicating). It is going over this way (indicating).

KEITH O'TOOLE: My apologies.

DON FASO: So Mr. Siegel will have access from Reed Road?

KEITH O'TOOLE: Then I retract my comments.

CHARLES ROBINSON: The Conservation Board was concerned about the fact that the parcel was designated in federal and state wetlands. But after confirming with the Town Engineer on behalf of the Conservation Board, we have no comment at this time.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

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

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

1. Federal wetland boundary shall be shown on the final plans.

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

4. Application of Muirfield Development, LLC, 3313 Chili Avenue, Rochester, New York 14624, property owner: Joseph Klee; for final subdivision approval of 2 lots to be known as 2948 Chili Avenue Subdivision at property located at 2948 Chili Avenue in N.B. zone.

Brian Donnell was present to represent the application.

MR. DONNELL: Thank you, Mr. Faso. My name is Brian Donnell with Passero Associates, and I'm here tonight representing Muirfield Development. Some of the partners are out of town, so it is just me here tonight. But what we're looking for is just a final approval since we were back here about a month and a half ago. We had an action list of four or five items we have needed to take care of. We have since done all of those. I will run through them quick, and if there are any questions, I will be glad to answer them.

The first thing we needed to do is meet with the Conservation Board and get their approval on the project. We did so. It was a very good meeting, actually. They were pleased with the landscaping plan we had provided and after the meeting there were really no changes that they asked for. Since then, the three plans have been sent to Dick Schickler. I am not sure if he stamped them, sent them back to the Board or not, but they should be forthcoming.

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

DANIEL KRESS: I do not have that yet.

JOHN NOWICKI: When did that meeting take place?

MR. DONNELL: It was two meetings ago. I could tell you the date if I looked back in my files, but it was the meeting directly following our preliminary at the Planning Board meeting.

JOHN NOWICKI: Did you leave approved landscaping drawings here?

MR. DONNELL: What he did was they were happy with everything. He asked me to make three prints and send them to him. He said he would stamp one, send one back to myself, one for himself and one to the Planning Board.

JOHN NOWICKI: Did you get one back?

MR. DONNELL: I tried following up with him, but I believe Mr. Schickler was out of town or something. I tried yesterday and today.

DON FASO: What is the status of the Conservation Board approval?

CHARLES ROBINSON: The application is approved. All we need is the plans.

DON FASO: He said he dropped three sets off.

CHARLES ROBINSON: At the time of the ruling we had not seen the plans.

JOHN NOWICKI: We have not seen any plans either.

CHARLES ROBINSON: We haven't seen the plans.

JOHN NOWICKI: I don't understand this.

MR. DONNELL: They're somewhere. If I need to make more plans, I can. No changes came out of the meeting, so it -- there is really nothing to approve.

The second thing we needed to do was get this site in a Drainage District. We since petitioned for that. That petition was actually sent in in December.

The third and biggest item we needed to take care of was to establish the several zoning variances that were required for this project. On March 23rd, we did receive all of those variances, so

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that is out of the way. That is complete. That is sort of I think -- paves the way for this approval.

And the fourth and fifth things needed were the Board asked for -- you asked for a disclosure statement as to who the partners were.

DON FASO: I got that.

MR. DONNELL: Good. Everybody got a copy of that?

JOHN NOWICKI: Thank you for that.

MR. DONNELL: The last thing were building elevations of not just the front, but the side and rear of the buildings. I have those up here. I can point them out.

I think everybody has a copy of them, but they're going to try to make them look nice. They're going high end, up around \$200,000. They're looking to market them towards owner occupants. Not many land investors.

DON FASO: 200 K per building?

MR. DONNELL: Per building, yes.

Vinyl siding on the front. Architectural shingles. Two-car garages in each unit. 1500 square foot -- that is the floor plan he is showing. They are thinking 15 to 1900. There are some opportunities to make the living room bigger and bump a front porch up depending on what the purchaser would like to do. I think one of the other things that you will notice is on this elevation here, the garages are towards the center of the building. We sort of went back and forth with the developers on how they wanted to do that. I know the latest plan you have there shows the garages on the outside of the building. We put together a quick rendering showing them in the center, how they would quickly look. It is actually the same footprint, it is just inverted. If I were to take this unit (indicating) and mirror it, the garage would be on the outside, so there are no problems with meeting setbacks or anything like that. It is just their preference.

JOHN NOWICKI: Question on that, if I can. These are four units? Two duplexes, right?

MR. DONNELL: Two duplexes, correct.

JOHN NOWICKI: So you have two lots here. Two lots that will be sold off with a duplex on each one?

MR. DONNELL: Yes.

JOHN NOWICKI: If you bring those driveways in like that, will that be one large common driveway?

MR. DONNELL: What they planned on is a small 3- or 4-foot island in between them with some landscaping there.

JOHN NOWICKI: I can't envision -- how wide is that strip of land for landscaping?

DON FASO: 4 or 5 feet.

MR. DONNELL: It is similar to if you look at some of the units in the Chestnut Subdivision, in the townhomes they put there, the same thing is done between some of the center units there. There is just a small strip of grass.

That is all we were asked to come back with from the last meeting. So if there are any other questions, feel free.

JOHN NOWICKI: Were you present at the Conservation Board when they approved the landscaping?

MR. DONNELL: Yes, I was.

JOHN NOWICKI: Take a step up here and look at the drawing and tell us if there were any changes made to the plan submitted.

Charlie (Robinson), you weren't there, so you wouldn't know.

CHARLES ROBINSON: Irregardless of the plan, the Conservation Board would like to have them submit the plans and have them stamped. Until such time -- we recognize it has been approved and concur with him, but the Conservation Board still wants the plans and would still like to stamp them.

MR. DONNELL: I sent the plans in. I know I did.

JOHN NOWICKI: Are they any different from what I am looking at here?

MR. DONNELL: No.

JOHN NOWICKI: No changes across the back, no fences, no plantings?

MR. DONNELL: No.

JOHN NOWICKI: They moved this landscaping (indicating) out to change it for the driveways?

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MR. DONNELL: The landscaping would be the same pattern, but it is on the outside. It makes it nicer because you will see it when you drive in and drive by. The way it is now you don't see it until you're in front of the home.

JOHN NOWICKI: The only way I would like to see it dealt with is somehow we -- the Board members here get to see a landscaping plan before any permits are issued. That is how I want to see it. I want to see the landscaping plan.

CHARLES ROBINSON: Once again, I would like to reiterate before the Conservation Board would sign off we would like to see the plans to make sure what we discussed is exactly as indicated on the plans before we stamp it with approval.

JOHN NOWICKI: I want something in my possession, that when you build this project, I can go over there and I want to see the plants in the ground. If they're not in the ground, I will go to the Building Department and raise holy hell.

MR. DONNELL: The landscaping plan we agreed on is exactly what you see there. I was at the meeting myself.

JOHN NOWICKI: Let's make sure we get those plans.

CHARLES ROBINSON: Once again, it may or may not be, but until the Conservation Board signs off and it is stamped, I would not condone it, nor could the Conservation --

DON FASO: I won't sign it until we get them.

DARIO MARCHIONI: He has a good point. Once they're stamped, can't we all get a copy of them?

DON FASO: Sure.

DARIO MARCHIONI: That would be nice. I don't think we ever got any.

DON FASO: Technically -- do I have the conditions? The condition is actually landscaping plans shall be submitted to and approved by the Conservation Board. So in effect we kind of delegate them.

DARIO MARCHIONI: Even a smaller scale. John (Nowicki) is right. We go down and follow up on some of these after they're built and sometimes they look completely different than what I thought --

JOHN NOWICKI: Or they're not even done.

DON FASO: Can you submit the landscaping plans and a planting inventory to us?

MR. DONNELL: It is all included on our site plan already. Like I said, it hasn't changed since the meeting.

JOHN NOWICKI: When you go to the Conservation Board with the stamped drawings, would you make sure you have enough copies from the Planning Board --

MR. DONNELL: Mr. Schickler was going to stamp the drawing to show it was approved by the Conservation Board.

JOHN NOWICKI: Can you give him enough copies --

CHARLES ROBINSON: The Conservation Board requests three copies. This plan was approved, but it has to be stamped and we request three copies. One you get, one for the Building Department and one for us.

JOHN NOWICKI: We want more now. We want copies for the Board members now so we can follow through on the landscaping plans.

DON FASO: Why don't you get him to -- why don't you submit a mylar?

MR. DONNELL: I will put a signature line on them.

CHARLES ROBINSON: Before or after they're approved?

DARIO MARCHIONI: Even something on a smaller scale. When we go in the field, we need something to follow up.

CHARLES ROBINSON: That is different than what we do. Normally the Conservation Board asks for three. So now you're --

DON FASO: In this particular case, Mr. Schickler is going to get an original mylar with a signature line he can sign off on, and he will return it to the engineer who will then make as many copies as we need.

DARIO MARCHIONI: In the past, the plans have been submitted. I go out in the field sometimes and look, you know, and it is completely different.

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CHARLES ROBINSON: Right. The Conservation Board only requests from the applicant three copies. One for the Building, one for us and one at the pleasure of the Town. So...

JAMES MARTIN: I like the way they changed it.

JOHN HELLABY: I guess I will steal Larry (Nissen)'s note here. Who would actually have to approve the reworking of that guardrail? Joe Carr or the Town?

LARRY NISSEN: I will work with Joe (Carr) on it, but my understanding is that it is a W beam guide rail?

MR. DONNELL: Yes. It is a Town road.

LARRY NISSEN: And it is going to be cut. It will be severed for the new driveway cut. There are New York State D.O.T. approved end sections. Basically just a transition at the end of any given length of guide rail. We just want to make sure we have an approved end section.

JOHN HELLABY: You or Joe (Carr) will approve that? My only concern is that little number that will be on the end, right in the end with an end section on it, if somebody comes off the road there they will have a bigger problem if it were just completely removed.

LARRY NISSEN: I will speak with Joe (Carr) about that.

JOHN NOWICKI: Thank you very much for the disclosure statement. I appreciate that.

DANIEL KRESS: I presume when we get the final version of this plan for signatures, it will show the new driveway configuration?

MR. DONNELL: Yes.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

BEVERLY NEDER, 82 Attridge Road

MS. NEDER: I'm confused on the landscaping plan. Does it have to be stamped by a landscaper and then submitted to the Conservation Board, or are they submitting a plan and the Conservation Board is stamping it instead of the landscape designer?

DON FASO: There is a landscaping plan showing where it is -- will be planted, there is a planting inventory, and it goes to the Conservation Board. Mr. Schickler or the Conservation Board will approve it. Mr. Schickler will sign off on it.

MS. NEDER: Was the landscaping plan done by landscaping designer?

CHARLES ROBINSON: Yes. It must be.

DON FASO: I'm sure Passero has a landscape --

MR. DONNELL: That wasn't a condition we spoke of at the Conservation Board.

CHARLES ROBINSON: We do not accept plans unless they're stamped by a licensed landscape architect.

DON FASO: That's in the code.

MR. DONNELL: No problem.

MS. NEDER: With the driveways that close together and plantings in between the driveways, what about snow removal and if snow gets over on those plantings, will it kill them off?

DON FASO: Probably.

MS. NEDER: Well, then what is the sense of doing this?

JOHN NOWICKI: I would assume it will be grass.

MR. DONNELL: There are a few bushes proposed there, and as far as snow removal, we anticipate -- I know if I was going to plow this, I would pull the snow away from the buildings and most likely it would be piled near the ends of the driveways and the side yard or even push it all of the way to the end of the private driveway.

DON FASO: There will probably have to be some sort of Homeowners' Association and everybody will have to pitch in and pay their fair share. That would probably be a covenant on the deed.

MS. NEDER: You can't make that a condition?

DON FASO: Of?

MS. NEDER: Of approval for a Homeowners' Association.

KEITH O'TOOLE: You can.

DON FASO: Yes, we can.

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MR. DONNELL: There is.

DON FASO: By law it doesn't meet the minimum criteria for a Homeowners' Association. The AG would issue a no-action letter?

KEITH O'TOOLE: Could you file for no action or CPS-7? Virtually the same thing.

DARIO MARCHIONI: Wouldn't each of these units be owned by one person?

DON FASO: It could be.

DARIO MARCHIONI: If the owner owns the two units.

DON FASO: No, no. One owner -- it is one lot. There are two do you know its on one lot. So it will be owner occupied and rental or two owners.

DARIO MARCHIONI: But there will be an owner of each lot that would govern anything about that lot and about that building. That is what I am trying to say. So he is the Homeowners' Association because he is the homeowner. I didn't say it right.

MR. DONNELL: There is an access easement that has already been prepared by the developer's attorney along the private drive for these two lots. So it is something they have thought of. They didn't want to create any Homeowners' Association for just two neighbors there, but they took the driveway into consideration and already drafted that easement.

DON FASO: I think I would like to see a condition on final that that be submitted to our Town counsel for review.

MR. DONNELL: No problem. I may have it tonight.

KEITH O'TOOLE: If that is what we're going to do, I want to see a copy of the Attorney General filing, either the CPS-7 filing or the no-action filing.

MS. NEDER: Is that going to be a dedicated road?

DON FASO: No.

MS. NEDER: Is -- the Town is not liable for plowing it. Okay. Thank you.

JOHN NOWICKI: Just a thought to take home. Those two strips between those driveways, they're 4 or 5 feet and they're grass. I can't imagine those things surviving all winter, okay? Maybe you go back and talk to your staff and see if they can come up with something aesthetically more pleasing maybe. Maybe pavers or something else, or interspersed --

JOHN HELLABY: Stamped concrete.

MR. DONNELL: Maybe that is something they would entertain.

JOHN NOWICKI: That will be a maintenance problem that will not turn out too good. I strongly suggest you go back and talk about that.

DARIO MARCHIONI: If you go to Canada, Toronto, they do it in different ways with a little split rail fence with roses on both sides. Different treatments.

JOHN NOWICKI: That is what I am saying. You have to do something. This will not work.

DON FASO: We took care of SEQR at the last meeting.

The Board discussed the proposed conditions.

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

1. Pending approval of the Town Engineer.
2. Landscaping plans shall be approved by the Conservation Board.
3. Furnish the Town a No Action Letter from the Attorney General or CPS 7.
5. Application of Muirfield Development, LLC, 3313 Chili Avenue, Rochester, New York 14624, property owner: M/M Richard Sylvester; for final subdivision approval of 16 lots to be known as 3360 Chili Avenue Subdivision at property located at 3360 Chili Avenue in R-1-20 zone.

Brian Donnell was present to represent the application.

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MR. DONNELL: Brian Donnell representing Muirfield Development. 3360 Chili Avenue Subdivision is pretty much at the last stage as the last subdivision we looked at. It is 16 lots on about 14 1/2 acres. Each lot will have a two-unit home. Same marketing. Actually, the same footprint and unit as the other subdivision. Marketed towards owner occupants and priced right around \$200,000 per lot.

DON FASO: Do you plan on flexing with the inside/outside driveways, or --

MR. DONNELL: Yes, we do. You see we show on one lot there, I believe it is Lot 5, we show the footprint inverted to show how it will work either way.

JOHN NOWICKI: So you're not sure which way it is going to go?

MR. DONNELL: Right now we're pretty sure it is going in the middle of the building. At the time we submitted this we were still not positive, that is why we showed it both ways.

DARIO MARCHIONI: What are you saying now? The same applies to the other lots?

MR. DONNELL: Yes, sir.

DON FASO: So they're all going to be on the inside?

MR. DONNELL: That is what they're planning right now.

DARIO MARCHIONI: I think maybe we should get a landscaping plan for that middle strip like John (Nowicki) said. We're going to have a lot of these.

JOHN NOWICKI: We better get a handle on this thing or there is going to be a disaster.

MR. DONNELL: We had a list of conditions before, and again, one of them was to go meet with the Conservation Board and receive their approval. We have met with them. We had a productive meeting. A couple things resulted from that meeting.

One of them was the spruce tree buffer here (indicating) along the south property line to buffer this project from the residents of Chili Avenue. We were proposing that originally, but we tightened it up, tightened the trees and made them closer together at the Conservation Board's request. They will be 15-foot on center now and staggered.

The other thing they wanted to see was along the west and south berm of the pond that will be required here, they wanted to see some sort of landscaping there so you just don't see a grass bank when you're driving down Chili Avenue and look at this project. We have done this before on similar projects. We have a couple of low lying plants and bushes that we expect to go along the side of that berm.

Those were the two things that came out of the Conservation Board meeting, and again, we're at the same point there. I did submit the three copies of this back to the Chairman and just haven't been able to get a hold of him. But those were the two things that resulted from the meeting.

DON FASO: Charlie (Robinson), comments?

CHARLES ROBINSON: Same thing. When the applicant came, it was approved, but we have not had the plans for stamping.

DON FASO: The plans you looked at were approved?

CHARLES ROBINSON: Yes.

DON FASO: You're saying they essentially have not changed from what we saw?

MR. DONNELL: Correct. I sent them to Mr. Schickler directly. He asked me to do that. He said he doesn't stop very often at the Town.

CHARLES ROBINSON: Bottom line, we have not received the plans for stamping to verify what was discussed.

DON FASO: Did you hear what Brian (Donnell) just said? Mr. Schickler asked that the plans be directly forwarded to him.

CHARLES ROBINSON: Yes, I heard that. I'm just stating to you right now, as of this time, the Conservation Board has not seen the plans as was discussed.

DON FASO: Okay. They're probably on Chili Scottsville Road.

JOHN NOWICKI: We have to see those drawings and I want copies of them.

MR. DONNELL: I have no problem. Exactly what is here is what was discussed. The foundation plantings were all on the drawings when we went through with them.

DON FASO: I will have a talk with Mr. Schickler --

CHARLES ROBINSON: Are you indicating that what he showed to the Conservation Board is not what the Planning Board has seen?

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DON FASO: No. He is saying what he submitted for signature was what we saw, and what you apparently approved.

CHARLES ROBINSON: But we have not seen them.

JOHN NOWICKI: All you're saying is you went to that Conservation Board with a set of drawings, landscaping plan?

MR. DONNELL: I went to the --

JOHN NOWICKI: You presented that plan and took it back with you, you didn't leave anything.

MR. DONNELL: Actually I left a copy there for the Board. With this subdivision, there were a few changes we had to make, which I just talked about. The spruce trees.

DON FASO: John (Nowicki), this is from the Conservation Board. Approved as submitted. Two more copies of the plans must be submitted to the Conservation Board. So they have one plan. They wanted two more. He was asked to submit them directly to Mr. Schickler, which I don't like because it leaves the Building Department out of the loop. I will call Mr. Schickler and tell him not to do that.

CHARLES ROBINSON: When the Conservation Board requests the plans to be stamped, we ask for three copies. One for our file, one directly --

DON FASO: I realize that.

JOHN NOWICKI: We'll go back to what we said on the prior application. We want copies for each member of the Planning Board.

MR. DONNELL: I have no problem with that, Mr. Nowicki.

DON FASO: I think the breakdown is on our part, not the applicant's, to be honest.

JAMES MARTIN: Sounds like it.

DON FASO: I will call Mr. Schickler.

CHARLES ROBINSON: Mr. Schickler?

DON FASO: Yes. I don't like by stepping the Building Department because Dan (Kress) has to know what is going on, where everything is and what stage of progress it is.

CHARLES ROBINSON: I don't understand where the breakdown in the Building Department is.

DON FASO: The engineer was asked to deliver the plans directly to Mr. Schickler without dropping them off at the Town because his reasoning was he doesn't get to the Town that often.

CHARLES ROBINSON: When we collect three copies of the plans --

DON FASO: They should go through Dan (Kress).

CHARLES ROBINSON: One is always going to the Building Department. That is protocol of day one, so what is different now?

DON FASO: He was asked to deliver them to Mr. Schickler.

CHARLES ROBINSON: Of which Dick (Schickler) would stamp them and one would be forwarded to the Building Department.

DON FASO: We don't have his signature.

JOHN NOWICKI: Here is the meeting and we don't have the plans.

KEITH O'TOOLE: Perhaps in the future a couple copies directly to the Conservation Board simultaneously to the Building Department so when the applicant comes quickly from meeting to meeting we always have one on file.

CHARLES ROBINSON: The breakdown is the fact the plans were not stamped in time for meeting of the --

DON FASO: We have a note you approved it.

CHARLES ROBINSON: The Conservation Board doesn't have the plans.

DON FASO: You want two more copies for approval. He is saying he submitted them. We don't know where they are.

CHARLES ROBINSON: None of the copies have been signed.

DON FASO: We don't know if they have been signed.

CHARLES ROBINSON: The Conservation Board collects them, stamps them and then disseminates them out.

DON FASO: We'll talk about it later.

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Go ahead, Brian (Donnell).

MR. DONNELL: There are a few more things. This project we also had to go to the Zoning Board of Appeals. There were a few area variances needed that we received on March 23rd. The applicant was asked to provide a disclosure statement which they have done for this. They were also asked to put this in a Homeowners' Association. They did look into it, and they provided a letter with their reasons why they did not think it was viable for this project. I think everybody has a copy of that.

The last thing that needed to be done was the project placed into a sidewalk and lighting district. Both of those were submitted last month. I also received copies yesterday from Larry Nissen at Lu Engineers. There are six or seven comments. I went through them today. They're all really purely technical and I don't have any problem taking care of them.

JOHN NOWICKI: Can I ask a question? I would like the Board's comments and feelings on it. You're going in with a lighting district, correct?

MR. DONNELL: Yes.

JOHN NOWICKI: I think I would like to recommend to the Board and the Building Department that we consider dark sky lighting in there, especially for the neighbors in that area, and that we get a -- submitted package of the type of fixtures and dark sky lighting that would be in there, what the poles would be looking like.

MR. DONNELL: A lot of the towns have been asking for that and we have a few nice specs back at the office that I think you would like.

JOHN NOWICKI: If there is any lighting proposed in the other project --

MR. DONNELL: There is no lighting there.

JOHN NOWICKI: Go back and do the dark sky lighting and come back with the proposal.

MR. DONNELL: Is that through the Building Department?

JOHN NOWICKI: Yes.

MR. DONNELL: They're similar to the colonial fixtures. The difference is you cannot see the bubble.

JOHN NOWICKI: I just want the dark sky lighting there.

Mr. Kress, will you make sure we get copies of that?

DANIEL KRESS: I'm sorry?

JOHN NOWICKI: He will make a submittal to your unit for the dark sky lighting fixtures and poles. Will you --

DANIEL KRESS: I would be happy to do that. Mr. Nissen has pointed out perhaps we should make sure Mr. Carr is A-okay with this, because he has an interest in this as well.

JOHN NOWICKI: There are lightbulbs in there. I'm sure he can see.

CHARLES ROBINSON: I have a question.

Why has the Planning Board never seen these plans before?

DON FASO: No, no, no. Charlie (Robinson), we have. Our condition was that they be sent to you for review and approval. We just have a breakdown in communication.

CHARLES ROBINSON: Okay. All right.

DON FASO: So he has gone to the Conservation Board with the plans and apparently, according to your letter, the Conservation Board comments, they have been approved.

CHARLES ROBINSON: That's correct. That is the knowledge. The question is, where are they now? Am I clear on that? I just need to be clear on that.

DON FASO: I will clear it up with you later.

JOHN NOWICKI: You will have the lighting district and the sidewalk district submitted to legal counsel?

MR. DONNELL: They have been submitted to the Clerk, I believe, to the Town Clerk. They go through the Town Board.

DARIO MARCHIONI: You have an easement on the pond for the Town?

MR. DONNELL: Yes.

JAMES MARTIN: You said there are no problems in meeting the Town Engineer comments?

MR. DONNELL: Not at all. They're legitimate comments, all technical in nature. We can take care of them all.

DON FASO: Keith (O'Toole), I have a question for you. On their letter regarding the

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Homeowners' Association, are you satisfied?

KEITH O'TOOLE: I don't necessarily agree with the analysis.

DON FASO: What do you think we should do? Homeowners?

KEITH O'TOOLE: I would think so. I think their representations have been inconsistent from the first time they arrived at concept until today. They had originally indicated that the property would be promoted to empty nesters who by definition won't be there. They will essentially be absentee landlords. I don't know it is necessary to have a Homeowners' Association so extensive that they're covering the exterior of the buildings, but certainly something for landscaping purposes. I don't believe you necessarily need a professional manager for that. I think this may be a large enough project where they could get that. You could hire a landscaping company and snowplow for annual maintenance. You get a small fee for that. It is not a big deal.

JOHN HELLABY: It said you received all your variances with one condition. What was the condition?

MR. DONNELL: One condition?

KEITH O'TOOLE: If I may, the condition pertained to the pond lot. It is currently drafted as a separate lot and the Town has policy --

DON FASO: Private ownership.

KEITH O'TOOLE: -- of not taking those. To my knowledge, Joe Carr has never approved this layout. So the condition was resub it with another house lot or get Joe Carr's approval that the Town will take dedication.

JOHN HELLABY: Where do we stand with that? It is up to the applicant to pursue it then?

KEITH O'TOOLE: It's their burden.

JOHN HELLABY: Have you done anything further with that?

MR. DONNELL: Yes. What he is talking about is this right here (indicating) -- we had two options for the area where the pond is here. One option was just to make it all right-of-way, which we talked to Joe Carr about. He didn't really like it, but he agreed with me at least it was the best scenario for this.

But the other thing the applicant is working out right now is a land deal with the owner of this property right here to actually purchase this land and have the land be part of their property, and then all of this would be under easement, drainage easement to the Town. But it won't be part of the right-of-way.

DON FASO: That was part of the discussion from last time.

JOHN HELLABY: I didn't know where they left it, though.

JOHN NOWICKI: As far as building the pond, who will build the pond?

MR. DONNELL: The developer.

JOHN NOWICKI: Then it will be an easement given by the new owner back to the Town?

MR. DONNELL: No. The developer can give the easement before the land transfer even takes place.

DARIO MARCHIONI: Which is it?

MR. DONNELL: They will give that land to the neighbor, or sell that land --

DARIO MARCHIONI: They are going to accept it? It is a done deal?

MR. DONNELL: It is not in writing. As far as they're concerned, it is a done deal. It will have to be a done deal before we bring these in to get signed off.

JOHN HELLABY: The only other question I have, this tail on Lot 13 shown on the drawings, is that the way it is, or are we lopping that off to sell it to the neighbor? I know there was discussion --

MR. DONNELL: We're giving this to the neighbor, too. That is at the same state. If that didn't go through, it would just remain part of Lot 13 here, but...

JOHN NOWICKI: Are you saying the road will be dedicated to the Town?

MR. DONNELL: Yes. It is a dedicated road, yes.

JOHN NOWICKI: Keith O'Toole, we have a disclosure statement here. In there they talked they didn't want to do the homeowners, but now we're talking about the homeowners. On the last sentence in the paragraph, you talked about uniform traffic restriction, but we're better off to go the way you suggested.

KEITH O'TOOLE: You can propose uniform tract restrictions on any subdivision. That doesn't

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DON FASO: No RVs in the driveways.

JOHN NOWICKI: Which way are we better off here? Are we going with Homeowners' Association?

KEITH O'TOOLE: I believe so. The problem with high density housing of this variety with absentee landlords, as certain municipalities have proved in the past, is maintenance goes to hell. The Homeowners' Association puts everyone in the same boat, almost guaranteeing the maintenance.

JOHN NOWICKI: Will we see deed restrictions for the Homeowners' Association in regards to say motor homes?

KEITH O'TOOLE: I think the Town retains the right to regulate those in another matter. My primary concern frankly is the grounds maintenance. If the Board thinks that exterior maintenance of the structures is important as well, you may wish to add that. Your call.

JOHN NOWICKI: We have to protect the neighbors, and we have to do something here. We have to make sure we're on the right footing. We have got this far. We have to go that much farther. Let's go to it and get it done right.

KEITH O'TOOLE: One of the issues they raise is the financing concerns, but at this price point, for what they're paying, it would seem to me they can afford it.

JOHN NOWICKI: You would want to protect your investment as far as I'm concerned. Let's do it the right way. Let's go the whole way on this one.

Larry Nissen, you're satisfied with all of the conditions in your letter?

LARRY NISSEN: Well, I will work with Brian (Donnell) to alleviate our concerns.

JOHN NOWICKI: You can do that?

LARRY NISSEN: Yes, we can do that. There are engineering matters that we'll take care of.

JOHN NOWICKI: The County Comments that we received back here -- I guess we got through all of that okay. No problems.

MR. DONNELL: I believe those were addressed at the last meeting.

JOHN NOWICKI: We're all set there. Okay. Do you know who was going to build these homes?

MR. DONNELL: I'm not sure who is going to build these homes.

JOHN NOWICKI: I would like to have some kind of a condition or statement -- or condition that the Town or the Planning Board is notified who the builder of these projects will be. I would like to know that before any permits are issued.

DON FASO: Wasn't --

DARIO MARCHIONI: Didn't he say Fallone?

DON FASO: Didn't he indicate --

DARIO MARCHIONI: He did say the Fallones would.

JOHN NOWICKI: Which ones? You have all kinds of Fallones out there. I would like to know. Not --

MS. NEDER: They said the last time, the Fallone Brothers from Greece or someplace were going to build it. John (Nowicki), we need a statement who will build the homes.

MR. DONNELL: Before the building permit is issued?

JOHN NOWICKI: Yes.

DANIEL KRESS: I would require that information to be able to issue a building permit anyway, so I can get that.

JOHN NOWICKI: I would like the Planning Board to know who is going to build these.

DANIEL KRESS: I will see you're notified when the applications come in.

JOHN NOWICKI: If we can get all that done, I will be happy at this point. If we get it built right, I will be very happy.

DARIO MARCHIONI: The same standard you had on the board will be used here?

MR. DONNELL: Correct.

JOHN NOWICKI: The architectural treatment of the building, any variations at all?

MR. DONNELL: It will be up to the individual homeowner, but there are variations. I have an elevation here, and the way they have labeled it is the -- where there is siding it will be either acrylic

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stucco or siding. Where it is brick, either brick veneer or cultured stone treatment. So they will be different. Because there are individual homeowners buying this, they will have a say in their color or building treatment, things like that.

JOHN NOWICKI: Do you remember on the landscape plan across the railroad track, was anything done along the railroad track.

MR. DONNELL: As far as?

JOHN NOWICKI: Landscaping treatment.

MR. DONNELL: No.

DON FASO: I remember the conversation they were going to leave as much as possible as a buffer.

DARIO MARCHIONI: There are trees there now.

MR. DONNELL: We have done that. It is fairly thick back there. Also the shorter front setbacks will help out a little bit keeping those homes away from the tracks.

DARIO MARCHIONI: To follow up on your dividing line between the two parking lots, how do we line up with that?

JOHN NOWICKI: I would suggest the same thing here, go back and do some thinking how you would treat those.

MR. DONNELL: We don't have a problem with that. Actually, I really liked the idea of maybe a section or two of split rail fence there. I think that, you know, they want this to be nice, too. They want to be able to market it.

DON FASO: On this one we're going to ask for a Homeowners.

DARIO MARCHIONI: Fences make -- it is a small 2-foot fence, split rail, some sort of --

MR. DONNELL: 3-foot vinyl fence or something.

DARIO MARCHIONI: Yes.

MR. DONNELL: Could we get back to the Homeowners' Association? I know the developers really don't want to do one. As far as the ground maintenance, that is one thing, but exterior maintenance of the building is sort of a whole other animal.

DON FASO: I think we're more concerned about the grounds maintenance rather than the building.

MR. DONNELL: I would have a hard time agreeing to something that covers roof, siding.

DON FASO: Let me state for the record and Board's edification, I happen to live in a Homeowners' Association. I own my footprint, but everything else on the outside is maintained for me, including the exterior. I personally love it. I had a piece of fascia blow off. I called up and they said we'll be over to fix it tomorrow, Mr. Faso. Tomorrow it is fixed. I get my driveway plowed, my lawn mowed, the landscaping maintained, the gutters cleaned. I get all of that done and I love it.

MR. DONNELL: I would love it, too.

DON FASO: I bought into a life-style. You're buying into a life-style. If you're targeting empty-nesters and professional people, this is ideal for them.

DARIO MARCHIONI: How much do you pay a month for that?

DON FASO: I don't mind. I pay \$105 a month maintenance, which includes garbage pickup.

JOHN NOWICKI: That's not bad.

DON FASO: I'm very happy.

JOHN NOWICKI: We're going for it. We need it.

DON FASO: My weekends are my own.

JOHN NOWICKI: Thank you, Mr. O'Toole.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

BEVERLY NEDER, 82 Attridge Road

MS. NEDER: I agree with the concept of a Homeowners' Association for the grounds. Are there common areas here?

MR. DONNELL: No. There is a sidewalk provided, but there is no community center or any common area or anything like that.

MS. NEDER: With each house a specific piece of land goes with that?

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DON FASO: There will be a lot, not a footprint.

MR. DONNELL: There are actual lots.

DON FASO: I own the footprint.

MS. NEDER: I understand. I didn't know if some of these far reaches were common green space.

KEITH O'TOOLE: If I can interject on that.

DON FASO: Hang on a minute.

KEITH O'TOOLE: For purposes of doing a Homeowners' Association, you don't have to limit it to just the footprint of the house. You can do a filing where there are easements over the common area, but it is up to the way they want to do it.

DON FASO: We just want to see it.

KEITH O'TOOLE: Exactly.

MR. DONNELL: Grounds only?

DON FASO: Yeah.

MR. DONNELL: Okay.

DON FASO: Well, I think you're limiting your market if you do just grounds only.

MR. DONNELL: I can talk to them. If they change their mind, that is fine.

MS. NEDER: I have a couple other questions. They're marketing this to empty-nesters with the idea of them buying one side and maybe renting out the other side. Originally they said maybe a daughter, son, family. Well, what happens if the senior dies and the younger couple can't maintain the whole -- pay the whole property or don't want the whole property, can they then at some future point, future owners sell off each side separately?

JOHN NOWICKI: No. They would have to rent it.

KEITH O'TOOLE: Not the way this is subdivided.

MS. NEDER: Maybe some people don't want a rental.

DON FASO: If they can't afford it, they put it on the market.

MS. NEDER: The whole thing, the two units?

JOHN NOWICKI: Both units.

DON FASO: That is something we can't control.

MS. NEDER: And with future maintenance, um, would they -- I guess that eliminates then if one person owns both sides, and that is in the -- there is no way that they can circumvent that. So -- is there going to be an aeration thing in that pond to keep it from getting yucky?

MR. DONNELL: There is not one proposed.

MS. NEDER: Why not? I mean it is right on Chili Avenue. Do we want to see a scummy old pond on Chili Avenue?

DON FASO: I think there is enough flow in there that it will not become stagnant.

MS. NEDER: But what about cattails and other growth?

JOHN NOWICKI: You don't like cattails?

DON FASO: Nature's filter.

MS. NEDER: Yes. But I have seen ponds in subdivisions that eventually become so overgrown with cattails, that they're a mess. It is not a pond. You look at Roberts Wesleyan College and they have that aerator in there and that looks very nice.

DON FASO: That doesn't do anything for me.

MS. NEDER: All right. I will remind you if it ever becomes a scummy old pond.

DON FASO: I back up to a pond and it has absolutely no maintenance and there are no cattails on it.

MS. NEDER: That is good. How about the mosquitos?

DON FASO: No mosquitos. The Canada geese are a problem, though.

MICHAEL GODARD

MR. GODARD: I live over in the Silverknoll Subdivision and right now there are three Pride Mark subdivisions I think that are adjacent to this property. And so there are some concerns, at least on my part, and some of the other neighbors, that we're getting into rental property and I think the Board is kind of having the same concerns, that the type of properties maintained and kept, we don't

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want it to be -- we --

DON FASO: Did you hear the price range of the dwellings, 200,000.

MR. GODARD: I heard 225, and now 200, and I'm wondering if it is going to 180 or 175. There are some engineering concerns. There is a mix in the neighborhood, in the surrounding neighborhood -- we're now mixing in what will be considered rental property with single-family homes. We're wondering what kind of issues that will bring. I'm hearing the same kind of concerns. So that is the one concern I have. I don't know how you address it other than the Homeowners' Association.

The other is with the density of homes in that area, there is a one-road egress, so from a safety standpoint, it seems like there is a concern with -- you know, there is an entrance and exit on Chili by a train, and also the plowing. I know in the Silverknoll Subdivision we all have the cul-de-sacs and they're a bear to plow. I'm sure looking at that one, that is not going to be very pleasant.

DON FASO: They are built to Town standards.

MR. GODARD: Are they?

DON FASO: The Town has minimum standards they must be built to, and our Town Engineer and our Superintendent of Highways will make sure that they are.

MR. GODARD: Okay. I guess my problem --

DON FASO: As far as single point of ingress and egress, that really is not a problem. If a fire truck has to push a wreck out of the way to get down there, they will. I have had that conversation with the Fire Marshal on many occasions, and he said --

MR. GODARD: They just go?

DON FASO: They just go. A lawn can be repaired. If they have to go around a wreck, they will go around a wreck.

MR. DONNELL: As far as the proximity to other subdivisions, the back of this -- this home here on Lot 10 (indicating), to its rear property line, it is 2 to 300 feet, and there is a vacant parcel of land between this and the next subdivision over which is Silverknoll, I believe. That is about 500 feet or so, if I recall correctly. So you're looking at 500, 800 feet between the back of this nearest home to Silverknoll's property line.

MR. GODARD: I guess generically -- I mean specifically for us in the neighborhood, we're going to be more impacted -- but it is generically the character. What is the -- you know, I guess the character that Chili wants to see, and obviously you're going to be looking directly across into that area. I guess presentation is a concern, and in getting the right mix. So I guess the homeowner thing, the concern would be that the thoughts the Board has for the flavor of Chili is maintained.

DON FASO: Thank you for your comments.

DARIO MARCHIONI: If this is where the pond is -- the transferred ownership of this next-door property, still would the Homeowners' Association have the responsibility to maintain it?

DON FASO: No. It would be the private owner. It will have a drainage easement.

DARIO MARCHIONI: But we have shrubs here and all kinds of things here, and --

JOHN NOWICKI: That is a good question he has. If that guy next-door wants that property --

DARIO MARCHIONI: It would be still part of the subdivision, it would be maintained by --

DON FASO: No. I was under the impression you would deed it over to the adjacent owner.

MR. DONNELL: We'll deed it over to the adjacent owner.

JOHN NOWICKI: He wants to maintain it?

MR. DONNELL: He wants to -- he wants a pond. He plans on mowing around it. Ultimately, it is his, the Town's responsibility, but he wants it to be an asset to his property or otherwise why would he request it.

JAMES MARTIN: He may want to do it, but when he sells his property and -- other people might want to do it.

DARIO MARCHIONI: It is the entrance to Chili Avenue. If it is done right, it is the nicest spot there is.

JOHN NOWICKI: I think that should be in the Homeowners' Association.

DARIO MARCHIONI: If we have a Homeowners' Association, it should be in there.

DON FASO: Could the homeowner petition to join the Homeowners' Association?

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KEITH O'TOOLE: I don't know I would want to go there. I believe the developer had offered a drainage easement to the Town anyway, and that could be a way we get in there and clean it out. I am somewhat sensitive to the HOA argument to the extent unless there is no common area, there is no need to create a non-for-profit corporation to take title. Setting one to take title to a pond is an unnecessary expense, unless, of course, you feel strongly enough about that, then certainly impose the condition.

DON FASO: You said you are having second thoughts?

MR. O'TOOLE: No. I mean as to requiring the pond itself, to be deeded to a Homeowners' Association.

DON FASO: But the Homeowners' Association can be created for maintenance?

KEITH O'TOOLE: Yes.

DON FASO: My Homeowners' Association owns land.

KEITH O'TOOLE: Yes, it does.

JOHN NOWICKI: That would be the concern of the gentleman in the back. We want to protect the values of these properties and that has to be maintained. If they deed it over to the other landowner, I would be concerned about that. I want it to stay with the project and have it maintained by the Homeowners' Association.

JAMES MARTIN: That could be an aesthetic nightmare.

JOHN NOWICKI: It sure could.

KEITH O'TOOLE: Very well.

JOHN NOWICKI: So it stays in the Homeowners' Association?

KEITH O'TOOLE: It certainly can be done.

DON FASO: But I don't have a problem with them deeding over the western part to the vet. I don't have a problem with that at all.

DON FASO: Good catch.

JOHN NOWICKI: Nice going, Dario (Marchioni).

The Board discussed the proposed conditions.

KEITH O'TOOLE: I have a question for Brian (Donnell). If a Homeowners' Association is set up to do maintenance and you hire a landscape firm with large equipment to do the mowing and such, is that stub out to Chili Avenue worth retaining in some fashion or retaining access over it, or do you believe you have sufficient access for --

MR. DONNELL: I don't believe so. Who would access it, the landscaper?

KEITH O'TOOLE: Essentially.

MR. DONNELL: I don't think so. It is not that accessible a piece of land anyway.

KEITH O'TOOLE: Very well.

LARRY NISSEN: Was there any discussion with regard to putting the area with the pond, to Lot 16, the adjacent residential lot?

KEITH O'TOOLE: Yes.

LARRY NISSEN: Has that been discussed?

KEITH O'TOOLE: My understanding is they have been talking to the Hermans here.

LARRY NISSEN: I know. But how about combining it with this lot here?

KEITH O'TOOLE: It could be done quite readily.

LARRY NISSEN: I think that is the path of least resistance.

MR. DONNELL: If it stayed part of the project, we would want it under the Town's right-of-way in there.

DON FASO: No, no, no. The pond will not be in the right-of-way. It will be on private ownership.

MR. DONNELL: What would the advantage --

LARRY NISSEN: So it is not within the area dedicated to the Town. I know in the past we have not -- we want to keep that out -- the Town doesn't want ownership. So that is my suggestion, to combine it with Lot 16.

KEITH O'TOOLE: Yes.

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DARIO MARCHIONI: That's it.

DON FASO: It is now a condition.

KEITH O'TOOLE: While we're going there, a condition that the HOA perpetually maintain the split-rail fence.

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

1. Applicant shall form an H.O.A. for grounds maintenance and the split rail fence.
2. Pending approval of the Town Engineer.
3. Street lighting shall be approved by the Town Engineer.
4. Combine the detention pond with Lot #16.

There was a recess in the proceedings.

6. Application of Chili Paul Plaza Properties, owner; c/o Kravetz Realty, 95 Allens Creek Road, Building 2, Suite 301, Rochester, New York 14618 for revised site plan approval for building facade improvements at property located at 3240 Chili Avenue in G.B. zone.

Dan Aken and Brad Cusken were present to represent the application.

MR. AKEN: Thank you, Mr. Chairman. Dan Aken with FRA Engineering. Also with me this evening is Brad Cusken with Kravetz Realty. Last time we were here I laid out I guess a grand scheme conceptual plan for Phase 1 and future phases for the plaza. I explained to you that Mr. Cusken recently purchased the property and was interested in making some improvements.

What I have here this evening are the first phase of those improvements. This is the only thing that is under consideration this evening. Any future development, if it were to take place, we would obviously follow procedures of the Town and be back before the Planning Board for your input and approvals.

I will step over to the board briefly. A majority of the improvements are concentrated at the fronts of the buildings, and then some additional painting and aesthetics to the rear. The elevations done by Mossien Associates gives us an indication of what we're looking at. Some nice decorative columns, some fieldstone work, nice towers along with a clock tower in the middle.

This location here (indicating), this large corner piece would be located right here on this corner right about where the Subway is (indicating). As you continue up, the banner board will be continued again with the nice architectural treatments, an EFIS or stucco face. The clock tower would be located right about in here (indicating) where the building juts out somewhat. Those improvements would be continued around to the rear, ending right about here (indicating), and at that point we would pick up again with the painting and continue that -- the banner board around the top. For frame of reference, this banner board in between here is (indicating) about 5 feet tall. So it will go up --

JOHN NOWICKI: On Paul Road side, the rear of the buildings you will have a 5-foot high above the existing wall?

MR. AKEN: That is correct. We're continuing that banner board approach around the rear. We wouldn't have the ornate detail, but more of the toned down version wrapped around the back and the walls would be treated with paint and depending on how budgeting goes, perhaps some type of EFIS treatment on the sides.

DON FASO: You so will continue that treatment around where The Mug is? And what about on the back side of where Bill Gray's and -- that Paul Road side?

MR. CUSKEN: Everything facing Paul Road will have the 5-foot band sides.

JOHN NOWICKI: What about where the speed bumps are?

MR. CUSKEN: Just paint treatment.

JOHN NOWICKI: No protection from the rooftop units back there?

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MR. CUSKEN: In the back, the plan is to leave the existing speed bumps.

JOHN NOWICKI: I thought it was going all of the way around.

DON FASO: I think around to the Paul Road side.

JOHN NOWICKI: It says here in Number 4, page 2, install parapet walls at perimeter of all buildings providing screening mechanism for rooftop mounted HVAC units.

MR. CUSKEN: That is in reference to the front.

MR. AKEN: The parapet treatment is different than the banner board. We're certainly not going with the ornate detail at the rear of the building.

JOHN NOWICKI: I realize that. I'm looking for extension above that wall to protect people from that view on that back side.

MR. AKEN: Okay.

JOHN NOWICKI: That is what it says here in this letter.

MR. AKEN: I recall that being a concern the last time we were here.

That is primarily it for the improvements. Again, there are no disturbances in the parking lot. Everything is basically contained from the curb back to the store fronts. Along with these improvements would be the replacement of windows. The replacement of the fluorescent lighting that is exposed now underneath the walkway there, that would be treated with some type of a recessed lighting. It is relatively, again, confined to the store fronts and just the facades. We really have received no comments from the Town with the exception of the Town's engineer, who I believe said he had no concerns with this project, so...

DON FASO: For the facade?

MR. AKEN: Correct. The only thing we're pursuing this evening --

DON FASO: We have not gotten to the parking lot yet.

JOHN NOWICKI: We want to address this.

JAMES MARTIN: I think so. Because the Paul Road side that you're addressing tonight, there are a lot of dumpsters out behind the buildings, so they're basically the rear of the businesses. How will you address enclosing those dumpsters so it is not an eyesore? The same thing along the west side. You know, behind the buildings, clearly that is part of your renovation and beautification. That has to be taken into account. So hopefully there will be something done to alleviate that problem that looks like a mess there now.

JOHN NOWICKI: Well, if it is anything -- in the papers recently, there are several plazas who are going through upgrades. South Town, Pittsford Plaza. All of the indications are from there -- as they improve these plazas, their sales are going up. So I'm hoping that you folks are going to make the investment necessary to change the image of this Chili Center. The former owner who was here earlier this evening -- I would say it if he was here -- it is too bad we had to wait so many years to get improvements made to the plaza. Now that we have an opportunity -- I think you guys have been involved in -- is the Bathtub Billy's --

MR. CUSKEN: Yes. We also did Century Plaza there, also Culver Ridge Plaza on the corner of Ridge and Culver. Benderson bought it afterwards.

JOHN NOWICKI: I'm assuming you guys have the financial wherewithal to do a good job here.

MR. CUSKEN: That is our intention.

JOHN NOWICKI: I will stop there. I don't want to give -- I have a lot of questions for you.

MR. AKEN: At this point we're willing to take any questions and get right to it.

DON FASO: I really like Chili Paul Village. That has a nice ring to it.

JOHN HELLABY: I have to ask the question, how is that freestanding sign out front playing to the whole scenario? I think it was touched on briefly last time, but where are we headed with that, with the freestanding sign out front?

MR. AKEN: Again, this is the first part of a series of steps. The indication is to not out-spend the money before the money is coming in the door, so the thought is to let's make the improvements that are within the budget. As long as we can get onto the next step of improvements, we won't address the items. We're well aware of the issues with the parking lot, the freestanding sign and several signs that are, I guess, apparently not in compliance with Town codes. Any new signs we'll be coming back either

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through Dan (Kress) or through the proper mechanisms to make sure those signs are in compliance. I ask that you don't -- we certainly want to hear your concerns and get to them, but we ask you to allow us to proceed with the facade treatments so we can start changing the look of this plaza and start getting additional revenues in the door so we can use those revenues to further the improvements.

JOHN HELLABY: If this is approved, construction schedule, walk me through durations here. You have three separate buildings. Will you start at one end and work your way through the plaza? Will you try to do them all simultaneously?

MR. CUSKEN: Basically one end of the plaza. We'll work our way down. Store fronts, windows and doors are going to take probably the first three to four weeks, during which all of the facade work is getting built off site, rather than building scaffolding and have a lot of scaffolding and construction equipment out there six to eight weeks while patrons are visiting. We have used a firm for over at Culver West Ridge, they build the panels off site, they hoist the panels up, and it saves a lot of safety concerns, insurance concerns, and also patrons visiting the plaza don't have to jockey scaffolding and no interruption of business.

DON FASO: Who would that be?

MR. CUSKEN: Gypsum Systems in Victor.

JOHN HELLABY: Are you going over the existing facade or is that coming down?

MR. CUSKEN: Because the building has so many different aspects to it in the current stage, sometimes along some elevations there is a metal mesh material, other times it just painted, you know, split-face block, each section is segment of the plaza -- we have to take a different approach. We're utilizing most of the steel that is out there. Up by the parapet, we'll have to use some additional steel to reinforce it by Auto Zone. Just because the plaza is so different in every area, it is tough to make a generalization as to what will get done, but for the most part, it is plywood for most of it. All of the signs will get taken down, exposing the steel and the new facade on that.

JOHN HELLABY: You plan on getting through the whole facade in one construction, if I am reading it right.

DON FASO: You want to be done by Chili Fest.

MR. CUSKEN: We're looking for an end-of-summer completion on this. Because they can -- we have advantage they're building it off site. They can start to create the facade while the store fronts and everything is getting improved. By the time the windows are all completed, they can get out there and start hoisting up the panels.

JOHN NOWICKI: I would like to -- just go around the plaza with me a little by -- let's start by Blockbuster. You will change all of the facades. What about the signage? Like Bill Gray's, will that come down and be put back up?

MR. CUSKEN: The Bill Gray's, the shingles -- this was kind of designed to blend that whole kind of residential feel that Bill Gray's has now. A lot of the franchise tenants, Subway, Auto Zone, Blockbuster, Monro Muffler, we can't vary too much from their national signage. We can't really, as much as we want to twist their arm -- it would be very tough, especially if they have existing permits in place for us to force them to change. We'll take the signs down and put them on a new facade. For all of the sub tenants that have just standard box signs out there, everyone has a different sign. There is no uniformity there. Then we'll replace all those signs, make them uniform throughout the plaza. Anyone that doesn't have a national, you know, corporation that --

JOHN NOWICKI: One of the first things I wrote down when I got your letter here, from Brad Cusken; is that right?

MR. CUSKEN: That's me.

JOHN NOWICKI: The first thing I wrote down, I think we liked -- whether it is you or your architect, is a timeline of all of the events that could take place here over say whatever -- in other words, if you will do the facades first and then the parking lots and then the landscaping, and then you're going to do subdividing of the parcel and bringing restaurants and other things -- is the timeline? Can you provide us with a timeline we can look at to -- so we can watch your progress to see how that is going?

MR. CUSKEN: Yes.

JOHN NOWICKI: One of the things I would like to see is the parking lot is a disaster. That has to be relaid out to become more efficient and functional, not only for your people for -- hopefully they --

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you can make more money and have more profit. If you can show us those things, and approximately when they would be happening.

And of that was the first thing. The landscaped islands, we would like to see that in the design, the drawings.

MR. AKEN: Let me address that and the parking. The one thing that we're trying not to do is have to install something and then tear it back out that might only be there for six months or a year. So what we're -- Brad is still working on agreements and trying to find out who is desiring to go in this location. Once that takes place, then we'll do more of a comprehensive design to take into consideration internal traffic flows and where we can get away with landscaping islands and things along those lines so it is done in a comprehensive manner. The one thing we don't want to do is design it one way, make the improvements and someone makes a commitment, they want a certain location and now we have created an internal traffic problem. That is what we're trying to avoid. We may be dragging our feet a little bit in doing that, but that is the reason for doing so.

JOHN NOWICKI: Then, of course, you have all of the new construction along the front of the plaza. Will that impact some of the means of ingress and egress in the plaza?

MR. AKEN: I did acquire the plans from New York State D.O.T., and other than new curbing, the locations aren't going to change and the width do not appear -- the width of the driveways do not appear to change.

DON FASO: Is there a traffic light going in by the old Town Hall and the entrance to the plaza?

MR. AKEN: The conduits will be run for traffic signal, although it will not be installed there at the time. But the infrastructure will be in place so if the need is there in the future, they can easily put a pole up and install the light.

DON FASO: The State will not grant a light. But they agreed for all of the ductwork.

JOHN NOWICKI: Boy, oh, boy.

MR. AKEN: Again, I'm with FRA Engineering, and not New York State D.O.T.

JOHN NOWICKI: Could you explain on the Paul Road side, you're going to come around, like where the Ugly Mug is, you have a lot of bad dumpsters in there. What will you do with the dumpster enclosures -- they're terrible. Can you get them out of there and rebuild them?

MR. CUSKEN: It is our intention. A lot are falling apart, crumbling.

JOHN NOWICKI: I want to get past intention. I want to get to the timeline and when are you going to do it? Because the visual impact here is going to be tremendous, and people that I talk to in this community are biting at the bit to get this place cleaned up and become more attractive so they can go there and enjoy it. There are some nice businesses in there, but to drive through there, you're taking your life into your own hands. So how soon can we get a timeline to show us when these things will take place?

MR. CUSKEN: I can get one to you in a matter of days. We have it all laid out already.

JOHN NOWICKI: Have you really?

DON FASO: It would be nice to have that. Let's see that so we can tell the neighbors and tell our friends and families that live here what they can expect and what they can see.

MR. CUSKEN: Some of the stuff, you know, is beyond our control. Like Dan (Aken) was saying, out parcel tenants that we're working with, until they get signed commitments from them, we can only estimate how long the negotiations will take. Sometimes they take nine months or six months longer than you anticipate, but we can get something ballparked for you.

JOHN NOWICKI: Obviously we'll have to have a working relationship. We would like to make it a smooth working relationship.

MR. CUSKEN: Of course.

JOHN NOWICKI: Fine. Show us what you want to do, with the lighting, where it is going to be. I can understand your out parcels, that might change and you want to be careful with that, but do that, give us that timeline. We'll go from there. But good luck to you. We're looking forward to having you as a good neighbor.

MR. CUSKEN: Thank you.

JOHN NOWICKI: We wish you luck.

MR. CUSKEN: Thank you.

JAMES MARTIN: Very impressed with the architectural rendering. It looks like it will be a

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very, very nice looking facility when we get all done.

Again, as you look at phases down the road, if something could be done maybe to have a nice aesthetically pleasing entrance into the plaza, as part of your plan that would meet all of the D.O.T. requirements and safety requirements, but certainly an inviting entrance into the plaza, something that would be also of value to you from the point of attracting clientele to the businesses.

DARIO MARCHIONI: This is commendable. I believe now with these improvements, we'll bring the center of Chili economic development at its highest peak. It will be a tremendous lift. I would say thank you for choosing Chili.

DANIEL KRESS: Just one comment. If I might remind the Board, when the Faber people were previously in front of the Planning Board to get approval for their moving into their new office space, which is currently in the process of being renovated, it was an expressed part of that presentation and of the Planning Board's approval that the dumpsters be relocated, cleaned up, et cetera. So actually, in terms of timing for the dumpsters, I can tell you no later than the time those folks want a C of O for that space, that has to be done. If Mr. Cusken wants to do something different, we need that sorted out before those folks want a C of O.

JOHN NOWICKI: Good thing we brought it up.

MR. CUSKEN: Well, commitments made by the Faber Group I wasn't aware of. If there is a plan on hand, I will get in touch with them. But if not --

JOHN NOWICKI: Put that on timeline.

MR. AKEN: I think that just got bumped up a little bit.

DARIO MARCHIONI: The Faber Group will be leasing from you?

MR. CUSKEN: Yes.

CHARLES ROBINSON: On behalf of the Conservation Board, I would like to invite FRA to come to the Conservation Board meeting to discuss the plans. You were not on our last agenda at the time, so -- we meet the last Monday of each month, so the next would be April 26th.

DON FASO: That meeting should coincide with your timeline.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

GAIL LYLE, 736 Paul Road

MS. LYLE: This looks like an outstanding plan. I only have a question. You used the word stucco. In this area, when you put stucco up, after a while it starts cracking and the water gets behind it and it starts peeling right off. Isn't there something else you can use besides stucco?

MR. AKEN: I may have misspoke. I think we were referring to an EFIS or Dryvit type of material.

MS. LYLE: Thank you.

JERRY BRIXNER, 14 Hartom Road

MR. BRIXNER: A couple questions that I have. As you know, the one-lane addition is being fronted by the Town with reimbursement coming from the federal and state government. My question is: Is this a very definite help for you folks to have an additional lane for a turning lane into your plaza?

MR. CUSKEN: Absolutely. Anything that can facilitate access to the plaza is going to be beneficial for us.

MR. BRIXNER: Okay. Question Number 2, relating to the fact that at this juncture you do not front the Chili Avenue. You go perpendicular to Chili essentially, so you will keep that perpendicular?

MR. CUSKEN: None of the buildings are changing. No new layouts.

MR. BRIXNER: Very recently someone noted to me it was a fire trap. I don't know anything about construction -- I know in a sense what fire trap means, but is this in a sense a fundamental comment that an individual made to me?

DON FASO: Commercial establishments are inspected yearly by the towns.

MR. BRIXNER: They're safe buildings?

MR. CUSKEN: Yes. 100 percent fully sprinklered in every space. Everything is up to code.

DON FASO: I do know they're inspected yearly. They're probably on a regular schedule.

DANIEL KRESS: All those buildings have been inspected annually by the Fire Marshal's office.

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And, in fact, when the property was in the process of being transferred and a C of O was requested, we didn't turn it over until they passed an inspection and all violations were done. Quite honestly, I don't know who threw around the terms like fire trap --

MR. BRIXNER: I don't know who mentioned it.

JOHN NOWICKI: Can you tell me at this point or not when the Town & Country might be moving out?

MR. CUSKEN: What they have indicated to me, as long as their new building across the street is ready. I don't think they have a definite timeline. Prior to the expiration of the lease, which is the end of July, and we're holding them to it.

JOHN NOWICKI: You're working on that space, too?

MR. CUSKEN: Yes.

DARIO MARCHIONI: If I may ask this question, land acquisition in the front of the plaza was from your transaction or Faber?

MR. CUSKEN: Faber.

DARIO MARCHIONI: They sold that to the State?

MR. CUSKEN: Yes.

DON FASO: Assume that there are cross access easements between the village -- what is the office company, Chili Village something?

MR. CUSKEN: Yes.

DON FASO: The Bank of Castile, they're still in place?

MR. CUSKEN: Yes.

DON FASO: We won't see driveways blocked off.

MR. AKEN: That is one of the things when we were looking at future areas to locate buildings, to make sure those stayed in place because they were beneficial to both parties, so something will continue from now on.

DON FASO: We're going for resized site plan.

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

The Board discussed the proposed conditions.

JOHN NOWICKI: The letter sent to us indicated they would have protection around the perimeter for the HVACs. We have to address that.

DON FASO: I didn't get that out of the letter. I didn't get the back side of the building.

JOHN NOWICKI: It says perimeter.

DON FASO: I saw the front side, Chili Avenue and Paul Road.

MR. CUSKEN: You're looking for protection on the west side of the building behind Auto Zone and Radio Shack?

JOHN NOWICKI: There are properties back there, and when you look up in there, you can see those units.

MR. CUSKEN: I understand. At the same time it is the back of the plaza. There has to be some kind of rear, always loading docks.

JOHN NOWICKI: That is not the back. I can understand the speed bumps back there because it can be a hazardous situation with that open back there. But if you clean it up, I'm sure you're going to hopefully paint everything.

MR. CUSKEN: We'll try to make it as organized and clean as possible, but it still remains the rear of the plaza.

JOHN NOWICKI: Rears today have to take a special -- you have to look at them differently. We're into a new century. This is a new town. This is not the old Chili. This is the new Chili. So the rear is becoming just as important as the fronts. We'll look at the rear to make sure we don't see the HVACs as your letter indicates.

DON FASO: You know, I honestly can't recall driving back there and looking up, but I can't

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imagine there are HVACs running the total length of that rear wall. There has to be a unit -- there has to be a unit --

JOHN NOWICKI: Address the visual concern. Like I said, if you do this, do it right and you will be very successful and we'll all be happy.

DON FASO: To be honest, I wouldn't look for something along the entire rear wall, but if enclosing and screening an HVAC --

MR. AKEN: If there is a way we can do the treatments around those versus a continuous --

JOHN NOWICKI: Exactly. Show us how you will do it.

DON FASO: How do I word that? Potential screening --

JOHN NOWICKI: Make it look attractive.

DON FASO: I'll come up with something.

JOHN NOWICKI: I drive around everything in this town, believe me.

DON FASO: That is why you are in so many accidents. Watch where you're going, John (Nowicki).

(Laughter.)

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

1. Applicant shall submit a time line for all phases of construction.
2. Applicant shall submit the design for the screening of the HVAC units along the rear of the plaza.

DON FASO: 22, 23, 24th of July. People will be able to use your parking lot for parking for the Chili Fest?

MR. CUSKEN: We have to realize the construction going on on Chili Avenue may interfere with that also. We have to decide.

DON FASO: The State has said that they would hopefully try and be done by that. I can't see it, but they said they would try. There was a scoping meeting, wasn't there, Larry (Nissen) or Dan (Kress), with the State?

DANIEL KRESS: I can tell you the State will be done.

DON FASO: The State will be done.

They have assured us, the Town of Chili, they will be done by the --

DANIEL KRESS: Intention is first week of July.

DON FASO: My concern is that there is nothing hazardous.

MR. CUSKEN: We'll make sure. It is our liability also.

DON FASO: If there is something you need from us regarding the Chili Fest, we would like to have you play an active part in it.

MR. CUSKEN: Definitely. Thank you very much.

INFORMAL:

1. Application of Mr. & Mrs. Robert Bill, owner; 158 Michigan Street, Rochester, New York 14606 for revised site plan approval to include approval to erect a modular dwelling at property located at 825 Ballantyne Road in A.C. & FPO zone.

DON FASO: Mr. Hellaby is going to recuse himself until the next one.

Mr. and Mrs. Robert Bill were present to represent the application.

DON FASO: So basically you are here because you're putting up a modular dwelling and our code says you need approval from the Town?

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MR. BILL: Yes.

DON FASO: What can you tell us about the dwelling? Does it have a New York State approval --

MR. BILL: Yes. My daughter built one right next to it.

MRS. BILL: Dan (Kress) knows about the hoops we had to jump through and get all of the approvals. They just built a colonial next-door.

DON FASO: Dan (Kress), you're satisfied with the construction and everything is all in place?

DANIEL KRESS: New York State is satisfied with the construction, so by definition I'm satisfied.

DON FASO: Boy, is that a diplomatic response or what.

JOHN NOWICKI: Maybe you could tell us about construction.

DANIEL KRESS: I can't give them a permit unless it is designed and approved by the State.

DON FASO: Mr. Nowicki would like to know about construction.

MR. BILL: 1900-square-foot ranch.

DON FASO: How many sections?

MR. BILL: Two sections.

DON FASO: Full foundation?

MR. BILL: Yes.

JOHN NOWICKI: Do you know how they ship it?

MR. BILL: Two sections on a trailer.

JOHN NOWICKI: Down the center of the house?

MR. BILL: Yes.

JOHN NOWICKI: Is the garage added separately or part of it?

MR. BILL: The garage is built on site, stick built.

JOHN NOWICKI: What is siding of the house?

MR. BILL: Vinyl.

JOHN NOWICKI: The porch comes with it or do they add it later?

MR. BILL: They build that on site.

JOHN NOWICKI: Part of the front elevation?

MR. BILL: Yes.

JOHN NOWICKI: Basement or --

MR. BILL: Basement, full 13 course.

JOHN NOWICKI: On Lot 2 or 3?

MRS. BILL: 2. My daughter just finished Lot 3. They're waiting for C of O.

JOHN NOWICKI: You're back there quite a ways?

MR. BILL: Yes.

JOHN NOWICKI: Where are you in relation to Al Hellaby?

MR. BILL: To the west of us.

MRS. BILL: We're on the other side of Tom, the big red barn. We're over there.

JOHN NOWICKI: Where is the manufacturer from, Pennsylvania?

MR. BILL: Yes.

JOHN NOWICKI: They ship from there?

MR. BILL: Yes.

JAMES MARTIN: I think there was notation on here you're proposing to have a garage on site. There will be Zoning Board issues?

MR. BILL: Yes. We have permit in for that now.

MRS. BILL: Application.

MR. BILL: The application.

DARIO MARCHIONI: Is it more economical doing it this way?

MR. BILL: Timewise it is. Actually money wise, it is -- you're probably saving \$25 a square foot.

DARIO MARCHIONI: That much?

MR. BILL: Yes.

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JOHN NOWICKI: Pretty much standard wood construction?

MR. BILL: Yes. 2 x 6 construction. All 2 x 6.

JOHN NOWICKI: Floor joists 2 by 10s?

MR. BILL: Yes.

JOHN NOWICKI: Good luck.

DON FASO: This is revised final.

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

JOHN NOWICKI: Shutters on the windows?

MR. BILL: Yes.

DECISION: Approved by a vote of 4 yes with 1 abstention (John Hellaby) with no conditions.

2. Application of Benderson Development; owner; 570 Delaware Avenue, Buffalo, New York 14202 for final site plan approval to erect a 3,224 sq. ft. restaurant (Tim Horton's) at property located at 800-810 & 822 Paul Road in G.B. zone.

Randy Bebout, Bob Trybulski and Rich Paternett were present to represent the application.

DON FASO: That was handed to the Board.

JOHN NOWICKI: Where is that?

DON FASO: Batavia. We have another one.

JOHN NOWICKI: This is Portsmouth Village.

MR. BEBOUT: Good evening. Randy Bebout with FRA Engineering. With me tonight is Bob Trybulski with Benderson Development and Rich Pasternett with the Tim Horton's Group.

We were before the Planning Board on March 9th and were granted preliminary site plan approval. Since then we have appeared in front of the ZBA for variances for building setback and number of parking spaces and were granted those variances on March 23rd.

On March 29th we appeared in front of the Conservation Board and they reviewed the plans and actually stamped the plans that night so we have their approval. And from the Planning Board meeting, the outstanding issues from the Planning Board meeting and the Town engineering comments, I will go through those.

The first comment was drainage easement to the Town on the pond. That has been added to the subdivision plan and I believe that is being worked through the Town and will be reviewed by Keith (O'Toole).

The second comment was the ownership of buildings, and I will let Bob Trybulski speak on that.

MR. TRYBULSKI: Benderson Development owns the K Mart building. The bank is a ground lease, but when the lease expires, Benderson Development will assume ownership of the building.

JOHN NOWICKI: Can I ask a question on that?

MR. TRYBULSKI: Sure.

JOHN NOWICKI: That bank for some reason is not in great shape. Do you know what will happen to approve the appearance of that?

MR. TRYBULSKI: The building itself. If you had an issue with that, it would be -- I mean we would certainly bring it up with them, but you could directly talk to the manager of the bank because currently -- I also spoke with the Property Manager and said, Mike, what are our responsibilities out there. We're responsible for the entire site, anything on the exterior of the K Mart building, but nothing on the bank building. That is their responsibility, although on occasions we have done some things for them.

JOHN NOWICKI: You said the ground lease will expire this year?

MR. TRYBULSKI: I don't know the answer to that.

JOHN NOWICKI: Any plans to improve the K Mart building at all?

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MR. TRYBULSKI: No. Actually, I don't know --

JAMES MARTIN: Is this part of your sale?

MR. TRYBULSKI: That is not final, but yes.

JAMES MARTIN: It is proposed to be transferred?

MR. TRYBULSKI: Just to speak to another issue with that, Benderson Development is responsible for the site work for this Tim Horton's. Tim Horton's is responsible for the building. If the sale were to go through, Benderson Development is responsible to complete all of the site work.

JOHN NOWICKI: Then this parcel would be owned by Tim Horton's or is that part of the package?

MR. TRYBULSKI: It is a similar setup as the bank. Ground lease with Tim Horton's owning the building.

MR. BEBOUT: Is that correct, because it was subdivided into one parcel?

JAMES MARTIN: I was going to ask about any potential impact on the sale of the property.

MR. BEBOUT: If I could just finish up with the Town Engineer comments and go through that. The Town Engineer did have four comments. The first comment was chain-link fence around the pond should have gate to allow access for maintenance purpose. No problem with that. The party or parties responsible for maintenance of the pond shall be indicated on the drawings. We'll indicate that on the drawings as Benderson Development. Number three was an issue with -- geotechnical and with retaining wall design. There was a geotechnical report done for this and retaining wall design. That was taken into consideration as part of the retaining wall design. Number four was an issue with the -- note, with required licensed engineer to complete the wall design. The wall is actually designed by the supplier, and prior to construction we ask them to provide us with shop stamped drawings that we'll forward on to the Town after we approve those. That is all of the Town Engineer comments.

Of course, the other big issue was the building, and as you can see, we have revised the building and added the gable roof. We have provided the colored elevation. And that is all I have. I'll be glad to answer any questions.

JOHN NOWICKI: Is the color of this brick different from the other Tim Horton's I have seen around the area?

MR. BEBOUT: I don't believe so.

MR. PASTERNETT: The color -- we use a standard color.

JOHN NOWICKI: This is darker.

MR. BEBOUT: Could just be the print.

MR. PASTERNETT: We use standard Tim Horton's brick for all of our buildings.

DARIO MARCHIONI: Did we give you a copy -- one of our -- the audience, Beverly took some pictures. Would you look at that?

MR. PASTERNETT: One building is our Batavia building I'm familiar with. The other one is a building in Ontario I'm not. The Batavia building is a Model 2810. It is a longer, more narrow building. From the time we built that building, we have found that with that style roof that's on that building, it doesn't function well for us. All of the air-conditioning units and all of our fans and blowers are underneath that roof so to access them is -- it is literally a nightmare. That is why we have gone now to the gable style roof that comes over the top and a flat roof so we can access the roof units up there, access the fans, any hoods that we have to access from the ovens themselves because in Batavia they're all up underneath that roof.

DARIO MARCHIONI: One of the particulars on that was like a little porch with a little rail overhang to break that up.

MR. PASTERNETT: That is strictly decorative. There are no seats or anything unless the franchisee puts them there. Also, that building being long and narrow, this building is more square, so again, to try to build that kind of roof, the roof would -- to put the units on this, it would to about 19 feet tall to span that length of the building.

DARIO MARCHIONI: I appreciate this layout you gave us here which is a lot different.

MR. PASTERNETT: We eliminated all of the EFIS. It is a 5-pound material, molded plastic. The windows, instead of elongated, we gave them more vertical to give a more Colonial feel. We have added shutters to break up that side of the building and give it a more Colonial look.

DARIO MARCHIONI: I appreciate it. It is a big improvement from the plans we got last time.

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DON FASO: Actually, to be honest, this looks like a gas station that has been rehabbed, actually, this one in Batavia.

JOHN NOWICKI: It looks like Burns.

DANIEL KRESS: Larry (Nissen) and I are in agreement for the retaining wall, we'll need a geotechnical report, and on the design, that needs to be provided prior to the wall, not the C of O. The new building code includes, among other things, retaining walls, so that is something I need up front.

MR. BEBOUT: Maybe I didn't make that clear. The design on the plan is an engineered design. It is not stamped, but we can provide that and provide the geotechnical report. None of that is an issue. We can get it to the Town.

DANIEL KRESS: I just wanted to clarify the timing is all.

JOHN HELLABY: Quick point of clarification. This mansard, what is actually the material? Is that shingles?

MR. PASTERNETT: That is shingles. It is a brown colored 20-year architectural shingle.

DON FASO: I think the elevation looks good.

JOHN NOWICKI: We won't see any rooftop units at all?

MR. PASTERNETT: No. They will be behind the mansard. Unless you look through the opening at the back where the ladder is, you may see it, but there is not much we can do about that.

DON FASO: We're here for final site, so we have taken care of SEQR. Any conditions on final?

MR. PASTERNETT: To let you know, the windows in the picture are black. Our windows are not black. I just didn't want you to think we're getting tinted windows. But they will have shutters on the -- shades. They'll have shades.

JOHN NOWICKI: No shutters.

MR. PASTERNETT: Yes. The two shutters we show on the outside along the drive-through will be there.

DARIO MARCHIONI: No advertisements on the windows?

MR. PASTERNETT: As a normal rule we don't. Sometimes they may put in a window a sign that says drive-thru 24 hours.

JAMES MARTIN: No blinking neon signs?

MR. PASTERNETT: No. No.

DARIO MARCHIONI: We do have a situation in Chili where we have blinking signs on the windows.

MR. PASTERNETT: No, no, no, no. The only thing, normally if we have a problem with people not knowing the drive-thru is open 24 hours, we have a neon sign that says drive-thru open 24 hours and that is only thing that would go in there.

JOHN NOWICKI: Thank you for accommodating the requests of the Board. I don't know about the sale with Bender, but with K Mart and the bank, maybe you could pass the word on we would like to talk to people over here.

DON FASO: Did you see what we're getting at Chili Paul?

MR. TRYBULSKI: Yes, very nice.

JOHN NOWICKI: It could work out rather nicely.

JAMES MARTIN: Maybe if we could continue that theme.

DARIO MARCHIONI: I thank you for choosing Chili. I hope you put another one someplace in Chili.

MR. PASTERNETT: We have big plans for the whole Rochester area.

JOHN NOWICKI: What is the timeline to start this one?

MR. PASTERNETT: It is going -- now that elevations are approved, it will be going out to bid next week. We're trying to start within a month, and our buildings take 12 weeks from beginning to end.

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

1. Pending approval of the Town Engineer.

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FOR DISCUSSION:

1. Excel Development - proposed 25 lot subdivision at property located at 30 Dallas Drive in R-1-15 zone.

DON FASO: You should have found a revised plan.

MR. BOB AVERY: Bob Avery of Avery Engineering here with Mike Pellano, the owner of Excel Development. He will just get up and introduce himself in a moment after I give you just a brief overview what we're looking to do.

This is a parcel of land that had been owned by Gates-Chili School District since June of 1967, comprising of 12.4 acres located actually in part of the Lexington Subdivision. Bounded on the north by the Hillcrest Park Subdivision, Gene Drive and Dallas Drive. On the east by Daunton Drive and stub portion of Knights Trail, and on the south by the Lexington Subdivision Section 3, Lexington Phase 4 on the west end.

The School District had purchased this from Indian Hill's Development Corporation. They have owned it for 37 years. At that time they bought it with the anticipation that they might need to put another elementary school on this property.

As it turned out, and demographics have shown, they no longer need this parcel, so Excel Development has entered into a purchase offer with the School District subject to approval for a proposed 25-lot subdivision.

As you indicated, we have supplemental plans we just brought in tonight based on a review that was done by the Traffic Safety Committee where we had previously shown access off Dallas Drive to the north. It was a recommendation of the Highway Superintendent as well as the Traffic Safety Committee to access off Knights Trail for a couple reasons. Knights Trail is a newer stub built closer to current Town standards, where the section up on Dallas is much older and that subdivision dates from mid '50s, I believe. Also by coming out to Daunton Drive it does offer different access directions than just going strictly out to Chili Avenue to the north. If you come out on Daunton Drive, you can get out to Chili Avenue, but you can also swing over to Marshall Road or to the east and south, you can come out on Paul Road, as you all know.

Currently the parcel is vacant. It does have some second growth woods on it. The thicker woods is actually, I believe, south of the Town lot line we show on the map that cuts across the property from east to west. It is a little thicker here. Maybe some more senior trees along that old grade lot line. Nothing in excess of 12 or 16 inches in diameter. Maples. This area is scrubby (indicating).

The land slopes from the north to the south. We completed our topographic survey of this a couple weeks ago. We're on the early end of things. There is an existing drainage swale on our north side of the property line, accepting water from these subdivisions that border, an open ditch, and then the turns to the south, running along the west side of this existing sanitary sewer line that cut across the property, and then the flows out between Lots 104 and 105 into an existing 24-inch CMP where it is a closed system continuing on its way to a tributary over in this direction (indicating).

There is a-- Iso at the stub of Meeting House, there is a 15-inch pipe that can accept some drainage also, but there is no existing ditch down this direction here (indicating).

As I indicated, we do have a sanitary sewer that runs through the property in an easement to GCO. There is public water available in each of these stubs. There is also sewer available at Meeting House, at the stub of Meeting House. So utilities aren't really going to be a problem here.

This is in the R-1-15 zone, and 15,000 square foot minimums are required, so we have been able to provide the double cul-de-sac configuration coming in from Knights Trail, cul-de-sac to the west and cul-de-sac to the south. All of our lots.

DON FASO: Let me interject on that.

Joe Carr called me yesterday afternoon to express his satisfaction with this layout. He is very pleased with this one. He had a major problem with the original layout, but called to say he has reviewed this and it does meet with his approval.

MR. BOB AVERY: All of the lots we have shown right now are in compliance with the zoning requirements, in the R-1-15 zone, except for the two 15-foot wide flags that we show indicated as Lots

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17 and 18 off the south cul-de-sac which we would have to get variances for.

I will let Mike (Pellano) talk a little bit here in a second. I can tell you he is thinking of phasing it. I believe the phase line would follow down right through here (indicating). So I believe he would have 13 lots in this first phase. He has shown two areas of detention. We believe we can handle this water that is coming in from this ditch, and I'm sure we're going to close that into this pond. We would have an outfall structure and back out. Eventually it will have to find its way down to this existing 24-inch. We'll just enclose it obviously. Some of our water I imagine will come off this way into the 15-inch on the Meeting House stub. So we're showing two pond areas.

Like I indicated, it is wooded or shrubbed, most of the parcel. I mean major -- it is mostly maple, the biggest is 12-inch.

We would like to leave a buffer of at least 25 foot around the perimeter where we can, okay? Because of that, we're thinking maybe also requesting a relief from the 60-foot front setback down to a 50. Why? Because if we leave that buffer in there, we would like to provide for some grass area in the backyard, and by shifting forward 10 feet, at least we can gather some of that.

I'm going to let Mike (Pellano) talk a little bit. I don't know if you have met Mike (Pellano), but he is building here currently in Chili. It would be the Paul Road Estates Subdivision off Paul Road. He is doing a pretty good job there. He will talk a little bit and while he is doing that, I will hand out some of the plans he is doing there and anticipates there.

DON FASO: You have three lots left there?

MR. PELLANO: Three left.

DON FASO: I drove through there.

JOHN HELLABY: How does it look?

DON FASO: Good.

JOHN NOWICKI: The details was almost 100 percent done -- best presentations and best projects we have seen before the Planning Board.

DON FASO: Coming from Nowicki, I would go "Wow."

MR. BOB AVERY: Mike (Pellano), maybe you could say what you're anticipating on the sales prices of the homes.

MR. PELLANO: We're starting 180 thousand and ups. Ranches, Colonials.

DON FASO: Are these similar to what you're doing on Paul Road?

MR. PELLANO: Yes, similar to Paul Road. Probably start in the 1800-square-foot range. Ranches maybe a little under that. 1600.

DON FASO: This is your basic ranch?

MR. PELLANO: Yes. A little better than basic. It has a hip roof on it. Usually they're trussed.

DON FASO: What kind of mix would you say you have on Paul Road?

MR. PELLANO: People?

DON FASO: Houses.

MR. PELLANO: I got all two-stories. One ranch so far.

DON FASO: I just couldn't remember what was there.

DON FASO: More of a call for a two-story Colonial?

MR. PELLANO: Yeah. I mean more in everybody's price range I want to say. They get more square footage out of it.

DARIO MARCHIONI: Question for Bob. On the site plan, did you mention anything about sidewalks, lighting district, in-ground utilities?

MR. BOB AVERY: No, sir. Not at this point. We're here for initial feedback from the Board and we would like to come back in full fledge with preliminary next time, hopefully in June. We just wanted to get this before you.

DARIO MARCHIONI: Just the layout here you're talking about?

MR. BOB AVERY: Yes.

DARIO MARCHIONI: Were you anticipating the questions?

MR. BOB AVERY: I'm anticipating we'll handle that at preliminary submittal. We would like feedback from you now.

DON FASO: I can see the lighting, but I can't see a sidewalk on this one. I like sidewalks going someplace.

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MR. BOB AVERY: They wouldn't be able to connect with any existing sidewalks.

DON FASO: I think it would be a quiet enough neighborhood where sidewalks wouldn't be needed. But lighting, yes.

MR. BOB AVERY: I wanted to mention something back on the roads. The road issue with Joe Carr, on the cul-de-sacs. You know we have some issues, sometimes the Town does with the cul-de-sac, the snow, as the gentleman said earlier. He said he wouldn't have a problem with double cul-de-sacs in here, but just making sure we pave the entire circle.

DON FASO: Living on a cul-de-sac --

MR. BOB AVERY: He doesn't want the island in the middle. All asphalt.

JOHN NOWICKI: Why is that?

DON FASO: Believe me. It depends --

MR. BOB AVERY: He does not like it.

DON FASO: Some crews can whip around with a perfect --

JOHN NOWICKI: We have them in Perna.

MR. BOB AVERY: Not back in Phase 8.

JOHN NOWICKI: Those were large circles that look nice. Tony Simone builds a subdivision over in the Webster, Penfield area, and he has got -- as you go down the road, he has circles in there, and there is inlaid stone in that circle, and they mound them up and put some kind of a light in the center. That is really quite attractive. I don't see it all over the place, but when it is done right, it -- Ted Spall does a nice job, too. Pittsford. Very, very nice subdivisions.

MR. PELLANO: I have a circle at Paul Road. It is tough. They run it over.

MR. BOB AVERY: They ended up with deed restriction.

JOHN NOWICKI: What, are the centers all paved?

MR. PELLANO: No, the gutter, the grass and trees.

MR. BOB AVERY: Gutter, inside radius and all grass.

JOHN NOWICKI: Someone cuts the grass?

MR. PELLANO: Deed restrictions where they have to maintain the circle.

JOHN NOWICKI: Once it is done in there, people will be happy with it.

MR. PELLANO: They run it over. They can't make that turn with the plow trucks.

DON FASO: You had a signed purchase offer?

MR. BOB AVERY: Has a signed purchase offer. If the Board would like to have that on record, I can provide that.

JOHN NOWICKI: Anything in the neighborhood? Did you talk to any neighbors?

MR. BOB AVERY: We plan to have a meeting sometime between now and the next time we come in. We will get that accomplished and do that. We'll do that in time. We'll schedule a meeting with everybody. Notices will go out. We want the feedback. Initially, as I indicated, we want to maintain that buffer around the outside. We would like to be able to do that. We want to get a little bit of a relief on the front setbacks.

I think we're probably pretty set with the access. I think we had three stubs here to deal with, and we have got the feedback now from the Highway Superintendent, and Fred (Trott)'s committee who looked at it in depth at the last meeting. So we're all set at this point.

DON FASO: For the Board's clarification, I already talked to Bob about this -- I got a call from a woman who gave me an impression she was calling on behalf of a couple neighbors up in the Gene Drive area. Apparently there is a Homeowners' Association up there for maintaining an artesian well, and she was concerned if the people would be tying into it and paying into it. I said they would be served by public water, so I think I eased that fear.

I assured her this was for discussion only and if the Board were to proceed, if she was in the perimeter, she would get notice for a public hearing and be able to speak at the meeting.

MR. BOB AVERY: I had a full abstract provided to me by Harris Beach, the School District's attorney, and I researched that. That was the first three phases of Hillcrest Park in the early 40s and 50s and it does not affect this parcel.

DON FASO: Is that Homeowners' Association still in effect?

MR. BOB AVERY: I don't know.

DON FASO: I got the impression it was.

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MR. BOB AVERY: We're bordered on the north by Section 4 and they had public water at that time.

DON FASO: It was her concern and I never heard that before in this area, a Homeowners' Association for an artesian well.

MR. BOB AVERY: It is not uncommon. Old Davis property we had a common well up there.

DON FASO: I found it hard to believe it was not serviced by public water.

MR. BOB AVERY: It is. That well is not operable.

DON FASO: I can't believe it still exists.

MR. BOB AVERY: Right. So -- but anyways, that doesn't affect this particular land lot.

John Nowicki commended Mr. Avery for all his work he has done this evening before the Board.

2. Fallone Enterprises - proposed Planned Neighborhood Overlay District Development at property located at 741 Paul Road.

Jerry Goldman, Tom Robinson and Don Carpenter were present to represent the application.

DON FASO: I have to state to the Board that Dr. Fallone called me up. They are on family vacation in Florida. He was actually willing to fly home to be here and then fly back and join his family. I assured him that that probably wasn't necessary with the whole design team here, that they could probably answer all of the questions we would have. I extend his apologies to the Board for not being here.

MR. GOLDMAN: Good evening, Mr. Chairman. My name is Jerry Goldman, attorney and agent for Fallone Enterprises. It is good to be back before the Board. I last appeared at the old Town Hall quite a few years ago. Here this evening on behalf of Fallone Enterprises to help present the revised concept for the Chili Villas project which is located on the south side of Paul Road, east of the Chili Avenue Wegmans. As you see, we have a lot of display material here this evening, and we have a part of our design team here, as well. Primarily, who we have is Tom Robinson from EDR, formally known as Environmental Design & Research, who is a planner involved with this project; as well as Don Carpenter who is a Project Engineer. Also involved in the project is an architect out of Buffalo by the name of Jonathan Morris from the firm of Carmina & Wood architectural firm that has been consulting as well on the project.

What I will do is give a brief introduction of the project and walk through the concept plan and then have Tom (Robinson) go into the details of the various perspective drawings and elevation drawings with regard to the site.

The Board is very much familiar with this project. It has been certainly before you before. It received PNOD Overlay District approval and has been back before the Board on a couple of occasions on concept review and concept approval. The property is zoned Restricted Business, but has that PNOD Overlay which is the focus of this particular project, in trying to provide a mixed use project, which we think will be a credit to the Chili Center area.

The project itself, as we stated, is located on the south side of Paul Road. Across from us on the north side are some single-family residences, and to that extent, we have proposed along our northerly boundary of the property to provide for patio homes along the frontage. Patio homes along the frontage (indicating) along with a commercial building which will be located adjacent to where the Wegmans is located (indicating). There are two accesses off of Paul Road. One in this area (indicating), one further along the east. And as we go further back on the project, we are providing a mixed use component. We're proposing commercial type uses as authorized in the PNOD and underlying zoning district along the west side of the parcel. In addition, what we are proposing is to have townhouse units along this area as a transition as we move further south on the site.

There is a federal wetland that traverses the project. That federal wetland is not a New York State designated wetland, but federal land. It doesn't provide a problem, but an opportunity in terms of utilizing the PNOD. It gives us an opportunity to do some creative work with regard to its interplay with the commercial buildings as well as residential buildings in the area. Tom (Robinson) will go into this more in depth in dealing with the concept plans he has in showing how we are actually using that

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wetland area as part of passive recreation and open space for the overall site.

Along the southern portion of the site, we are looking at the development of apartment type units, and those units would be primarily for seniors. The concept of it is to provide for an integrated neighborhood along with the commercial and Chili Center to allow seniors to access by pedestrian access, and otherwise the retail and commercial which would be located on our site and that which is located further east in the Chili Center area.

I won't go any more in depth relative to it at this point. I will let Tom (Robinson) go and do some further presentation relative to the overall site and the plan for development. Tom (Robinson)?

MR. ROBINSON: I'm Tom Robinson, a landscape architect with Environmental Design & Research here in Rochester.

We were invited to join the design team because the site has unique challenges and opportunities, specifically the wetland Jerry (Goldman) mentioned just short of 7 acres delineated which almost exactly bisects the site. Again using that as opportunity rather than constraint, we have let that define and drive the layout for the site plan. Addressing the spirit and the intent of the PNOD zoning, we're trying to develop a pedestrian perhaps mixed use development rather than just housing or commercial. Trying to strike a balance of the uses. Addressing transitions from neighbors and also connections to the larger community both as it is now and could become in the future.

Jerry (Goldman) went through the site plan pretty well. There are some cross-sections. I will stick this down just for a second here. We developed these, because they show some of the virtual relationships through the site.

This first one we're looking at here is Section A, and basically it runs through the site this way (indicating), looking in this direction (indicating). So Paul Road is right here (indicating), at the right-hand cross-section. We go beyond Paul Road to show the existing residential. We want a blend. We want our development to be appropriate to the context, what is out there now. We're trying to address that with transitions and buffers, architectural character and scale. Along Paul Road, there is a fairly substantial swale and there is quite a bit of fairly mature vegetation. We hope to retain that for character along the road and to screen and to create some buffer.

The patio homes, again, one story, low roof lines, compatible with existing residential. Transitions down the slope, we're using the topography to kind of shelter the townhouses which would be two-story structures. So this idea of appropriate architectural character transfixes from existing uses, using topography and vegetation to put things into scale and context.

The second cross-section, over here (indicating) is through a piece of the mixed use and commercial development, so up in this part of the site (indicating).

The interesting features here are that the topography allows us to create a split-level building so at parking level you would come into office or commercial space. Upstairs above that we would have residential units, loft style apartments. So commercial on the ground floor and somebody living upstairs. In this case, we can step down and have a lower level which would be possibly a health and wellness, fitness type center, maybe a small cafe that would step out onto this deck. This open water area you see here (indicating) in the cross-section shows up in a couple different spots on the plan. What we're proposing here, and this is something EDR has been able to implement in the past, is actually just beyond the edge of the delineated wetland, sculpting out and excavating an area adjacent to the wetland that could become an open water pond area, utilizing that for storm water management as well as aesthetic landscape feature.

The Corps is usually open to this, depending on the specific conditions of the existing wetland, and that is something we would have to work through with them. But we have done the same scheme at Glacier Creek Park in DeWitt, New York where they allowed us to do this. What it does is it actually enhances the habitats that are out there. So it visually blends everything together. You won't see a difference between the new open water and the wetland. So hopefully the cross-sections on the plan give you some idea that we're trying to create a special character here.

Again, a balanced development, utilizing as best we can this defining natural feature on the site and tying it all together with a pedestrian network. We want it walkable in the development, again with connections off site.

This last sketch here is just a little character rendering of what we feel could be a nice point with a trail going through the wetland, so that you could walk from one end of the site to the other. There is

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actually an existing stream there, and a small bridge with benches, so without doing a lot of disturbance we could allow people to use it for fitness, for walking, passive nature-oriented recreation.

Architecturally, we're just kind of getting into this, but in terms of architectural character, we wanted it to be an integrated development. And what we have are just some rendered elevations of a one-story and two-story apartment building. When we say apartments, we have got two-story, four-story and -- I'm sorry, two-unit, four-unit and eight-unit buildings, a mix of one- and two-story. So a diversity of building forms and sizes, all tied together with integrated architectural style that carries through. Whether it is commercial, patio homes, we should see common materials, common detailing with a pedestrian residential scale emphasis.

Hopefully these pieces can start to paint the picture what we feel the potential is here. It is a very special development for Chili and maybe will set a precedent for other things that could happen in the Town.

MR. GOLDMAN: Thanks, Tom (Robinson). We're here for discussion tonight. We do have some interpretation issues to work out relative to the PNOD code itself. PNOD is a very detailed code in dealing with the overlay. We're currently working with some of the interpretations, especially as it deals with the interpretation of senior citizen complexes and exactly what is allowed relative to apartments and percentages and the like. It is likely that we may need some relief from Zoning Board of Appeals as we go through some of the interpretations as well. We have been graciously assisted in trying to traverse the code by Town staff and we're currently working through some of those issues.

So our objective tonight is to try to achieve some degree of understanding or consensus as to the acceptability of the concept itself so we can go forward and proceed. I know that there have been a couple of other meetings where concepts have been not very well received and we certainly don't want to proceed along a road if, in fact, we're headed in the wrong direction. So we're looking for guidance and some dialogue as part of the discussion this evening, and with that, we'll stop our presentation here. We're running at 10:20 right now. You have had a long evening already.

So we'll stop talking and start listening a little bit.

DON FASO: I like what you have done. I really do. I think it shows a lot of ingenuity. I wish we had seen this earlier on. I really do. Probably save a lot of grief and heartache.

MR. GOLDMAN: Good things take time.

DON FASO: Again, we do have the issue, and I can't -- I think I folded up Dan (Kress)'s comment from the last application.

Dan (Kress), can you go through this for the Board, for us? His comments.

KEITH O'TOOLE: Which comments are you referring to, Mr. Chairman?

DON FASO: The ones he prepared in his memo for tonight.

Preferably C.

DANIEL KRESS: Well, as I indicated in my February 3rd memo, I think we have a question about the nature and quantity of the proposed uses and, to be honest, I'm not sure if I got beyond that February 3rd memo which is why I attached it to your reference.

JOHN NOWICKI: Can I ask you a question? On February 3rd, this memo that you drafted on February 3rd, is it based on the site plan as presented this evening, and their letter that they submitted here with a number of units, the concept plan units for apartments, patio homes and loft apartments?

KEITH O'TOOLE: If I may interject, his memo is basically an interpretation of the code. I wasn't plan specific. That is my understanding.

JOHN NOWICKI: Oh, okay.

DARIO MARCHIONI: Can you give us a breakdown of exactly the density of senior citizen apartments? Can you give us a breakdown of each category of the different commercial -- you know, green area?

JOHN NOWICKI: On that question, if I can embellish on it a little bit. Mr. Goldman, on this February 3rd letter that you have got from Dan Kress, could you -- in regards to Dario Marchioni's question, you have percentages listed in here that Dan Kress has gone over. Have you applied that towards this concept plan here, and the letter that we have here from Don Carpenter in regards to the number of units that you're proposing here?

MR. GOLDMAN: Specifically we haven't broken it out as it relates to the February 3rd memo.

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As we have talked to Dan (Kress) about, obviously we have a different view of what the interpretation would be and how it would be dealt with. As Dan (Kress) understands, we're probably going to take that up with the Zoning Board of Appeals. But as practical matter, I could run through units and unit types if that is of help to you, sir, and to the Board. We do break it out. We do have 30 units in one-story buildings which clearly are ADA compliant or adaptable. In addition, we have, in this concept plan, 44 buildings which are two-story, which -- 44 units, excuse me, which are in two-story buildings which would provide 44 first-floor units, so you would have 74 units in total which would be ADA compliant or capable, could be designed that way. Now, that is greater than 35 percent of the 182 units. We can adjust it and deal with the density. We can deal with interpretations and potential variances with regard to it, but with regard to the overall site and overall green space, we are providing a large quantity and percentage of green space on this particular site, and --

JOHN NOWICKI: Which is part of the concept.

MR. GOLDMAN: Certainly. We clearly expect as we get further in design it won't get more dense. It probably will get less dense as we deal with some elements as to where to best locate drainage improvements and dealing with storm water Phase 2 regulations. As we get into it further, we imagine we would see a reduction overall in terms of the density that I imagine would be, you know, marginal, but nonetheless, it will lighten the load, if you will, relative to density on the overall site.

JOHN NOWICKI: So this letter from March 19th from Don Carpenter, these quantities here are not applicable to this site?

MR. GOLDMAN: I'm breaking out -- I'm essentially breaking out that 126 number, and I'm coming up with 118 by being 34, 34 and 44.

DON FASO: 118.

MR. GOLDMAN: Roughly.

JOHN NOWICKI: Not 126?

MR. GOLDMAN: It is about -- 118, I think, is the number that we arrived at. The loft apartments looked about 28, those above the retail space. The patio homes and townhouses still remain the same on this particular concept.

JOHN NOWICKI: The project description, I think you're in the right direction. The first presentation by the gentleman over here, is it Tom Robinson?

MR. ROBINSON: Yes.

JOHN NOWICKI: He is headed in the right direction. Blending of these concepts, and the Board's feelings and interpretations, Mr. Kress, that is what we want to get to.

MR. GOLDMAN: That is what we want to get to.

JOHN NOWICKI: Let's not forget the people in the town around us who are probably excited about this project, pros and cons. I'm excited about it, because I think if it is done right, the team you formed here can accomplish something that could be very, very beautiful if it is done right.

So at this point, I will let you continue on unless you have anything else you want to say on it.

MR. GOLDMAN: Not much. The intention was to make this a unique design for Chili and for the Chili Center area. It is the only PNOD we have. Right now.

JOHN NOWICKI: Have you ever seen a PNOD project like this before or a code like this before?

MR. GOLDMAN: I have seen PUD type projects which are similar in nature. I think it is pretty much the titling. I think the code in some ways is somewhat more restrictive and directive and doesn't really give the Board typically as much flexibility, which is why we want to gather that input from the Board so if we do need relief from it. You know, again, we're kind of in this learning phase, all of us, in terms of how to deal with the PNOD. If, in fact, we need to seek variances or interpretations from the Zoning Board, we don't want to do it on the basis of a plan that the Planning Board doesn't like. We want to be able to seek that relief from the Zoning Board based on a plan you're comfortable with from a design and concept point of view.

JOHN NOWICKI: The Zoning Board will play a role, but I'm not sure of the role.

DON FASO: The question with the ZBA right now is to interpret Dan (Kress)'s interpretation of the code. Dan (Kress) has interpreted the code. The applicant is seeking a clarification on that interpretation. It is not a relief from; it is an interpretation of.

MR. GOLDMAN: At this point. It may ultimately turn out to be relief if that becomes

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necessary.

DON FASO: I think what -- the applicant is actually looking for a consensus from the Planning Board to take to the Zoning Board to say that the Planning Board is somewhat interested in this concept plan.

MR. GOLDMAN: Frankly, I consider us to be essentially dead in the water, if you will, if we go to the Zoning Board and there isn't some sense that this is a plan which the Planning Board has some interest in pursuing. Not necessarily.

DON FASO: They want to tell the Zoning Board they presented this concept plan to the Planning Board and the Planning Board basically has given it a yes or a no.

MR. GOLDMAN: Yes. Not necessarily everyday detail.

DON FASO: If we don't like it, there is no point in going to the ZBA.

JAMES MARTIN: Clearly it has come a long way from the initial concept. I'm not sure it is entirely there yet, but -- I mean I can't -- I can't sit here and say that I'm looking at something that is ugly or terrible. I mean it is certainly much, much better. It is a start. Still some concerns about a couple of things. The recreational areas and things of that, you know, we need to deal with that, if we move forward with this. But from my perspective, this is moving clearly in the right direction.

DON FASO: Tom (Robinson), did you have a picture of that one development you did with the deck overlooking the water? I saw that somewhere. The Board might find that somewhat interesting.

MR. GOLDMAN: There we go.

DON FASO: This is not a rendering. This is an actual picture. A digital image of something you have created.

MR. ROBINSON: Yes. That is a photograph of the built site.

DON FASO: That is something that you're planning similar to what you have described --

MR. ROBINSON: Exactly. Those ponds you're looking at here would be similar.

DON FASO: Glacier Park is where?

MR. ROBINSON: DeWitt, New York.

JOHN NOWICKI: What was architect's last name?

MR. GOLDMAN: Jonathan Morris, M-o-r-r-i-s. The firm is Carmina, C-a-r-m-i-n-a, and Wood, W-o-o-d.

JOHN NOWICKI: That is that. Those are the three members of the team.

MR. GOLDMAN: The three members of the team as we have it now. Obviously as we get into further design there may be more people on the team as we go along.

JOHN NOWICKI: The architectural renderings are from the firm of Carmina.

MR. ROBINSON: John Morris until recently was with EDR and took a position as partner with Carmina & Wood. We're still collaborating with him. These architectural suggestions are from Carmina & Wood and John Morris.

JOHN NOWICKI: I think we're going the right way. The retail buildings, any of these buildings, as you probably heard before, one of the discussions we had on the site from the audience, the rears are just as important as the fronts. In this particular case, they will become extremely important in how you move people around these buildings so they get an architectural feel all of the way around, either walking through the project or driving through it, whatever the case may be. And the variation of architectural treatments -- you're from Rochester, right?

MR. GOLDMAN: Yes.

JOHN NOWICKI: There is a project out on West Henrietta Road, it is out by Thruway Park. There is a new apartment project being built out there. It is almost done. First phase is done. If you want to take a look at some very, very different architecture --

DON FASO: Is that by the Methodist home?

MR. GOLDMAN: Up Thruway Park Drive, is that the Provident housing project going on Erie Station? Essentially Erie Station?

JOHN NOWICKI: Yes. You can see the buildings in there, loft apartments. That is some of the most interesting architecture you might want to see in this area. Concept wise, if you have seen it.

DARIO MARCHIONI: I have a question. This may be a misunderstanding. But when we went through the PNOD adoption, we had a consultant that worked every step by step through the whole formation of the PNOD district. Since there is some misunderstanding of the wording or the -- why

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can't we go back to this -- to our -- the consultant and get an interpretation from him on this particular layout and how does it comply with the intent, the original intent of the PNOD? Is there a possibility of doing that?

JOHN NOWICKI: He was the -- you mean the author?

MR. GOLDMAN: Ron Brand?

DON FASO: You guys took ownership of that when you accepted it. I was on the Town Board and voted on approving this. So the Town has taken ownership of this.

DARIO MARCHIONI: But he had the whole concept, exactly what it meant.

DON FASO: As our counsel will tell us, unless intent is specified and written, what the intent is, which I don't believe in this case it is, it falls on the Code Enforcement Officer to interpret it.

DARIO MARCHIONI: I would like to have his point of view also to make a decision.

DON FASO: Keith (O'Toole), am I farfetched on that?

KEITH O'TOOLE: That is the legal answer, yes. We don't do build jackets here like they do in Albany, so if there is a question of construction, you can certainly refer to a --

DON FASO: Is that what it is called, a build jacket?

MR. GOLDMAN: Yes. The legislative history and how we got there.

KEITH O'TOOLE: As far as all of the flotsam jetsam that came along the way.

JOHN NOWICKI: But if I can add onto what Dario (Marchioni) was saying, Ron Brand was the person instrumental in drafting and developing that.

MR. GOLDMAN: I had a conversation generally with him.

JOHN NOWICKI: I tend to agree a little bit with Dario Marchioni, yes, from the standpoint that this is a very complex district, Overlay District, this is not an easy one. Mr. Kress' interpretation so far is the mechanical, numbers. There is a lot that had gone into it. I have a file on this project, just getting to the PNOD approval process of probably 3 or 4 inches thick with tons of comments from people all over this community.

I think the intent that Dario Marchioni was saying, and I tend to agree with, is if we get to a point and maybe we're not really sure on both sides of this aisle, that we as a Board suggest that -- we suggest at your expense that Mr. Brand come before the Planning Board and interpret it as to what he thinks or feels what you have done and what we have done is correct.

DON FASO: I will leave that to the Chair and the Board to discuss. Frankly I'm not adverse to talking to anybody, but it is really the Board's call.

JOHN NOWICKI: It is not a ton of money you're looking at. It is just we want to make sure. It is our first PNOD. I think we're going in the right direction, to be honest with you. The team concept you put together is pretty good, but we want to see on the architectural side. Site wise we have great engineers and people to look at the stuff. It is very, very exciting. The neighbors want to see something coming out of this that is very, very good. I have some other concerns, but I'll save those for when everybody else has had a chance. I will talk to you about something else.

DON FASO: You brought up a very good point. Bringing Ron (Brand) into the Planning Board I don't think would serve the purpose that you think it would serve. He would tell us what his intent was when he drafted this, before we took ownership. There is still an interpretation by Dan (Kress). If Mr. Brand would want to go to the ZBA -- it is a ZBA issue now -- and express his concerns to the ZBA, I think that might be helpful. I don't think it would be beneficial to bring Mr. Brand back, I really don't.

JOHN NOWICKI: I don't care what direction you go with him, as long as that -- he being the author of this --

DON FASO: We took the ownership.

JOHN NOWICKI: We took the ownership, but he was the author and we're interpreting this and putting it together. Right now, I feel right now, we're doing the right thing. We're going slowly and doing the right thing so far. I just want to make sure we continue with that.

JAMES MARTIN: I agree with Don (Faso), if there is consultation involved, it should be ZBA, not Planning Board.

DON FASO: We may be looking at it from a fresh approach because they were not involved in the creation or adoption.

JOHN NOWICKI: That is my concern.

DON FASO: So we'll have a debate at the ZBA between author and interpreter.

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JOHN NOWICKI: That would be a good spot to be there, because they were not involved in this, and I don't think they have the background or knowledge to really make a really full interpretation of this as we saw it and how we had to deal with it.

DON FASO: I know. You took a lot of time on it. So did the Town Board when it was adopted.

JAMES MARTIN: There are a lot of new faces on the ZBA.

DARIO MARCHIONI: My dilemma is, we could approve this the way it is right now. Are we doing the right thing?

DON FASO: Do you like what you see?

DARIO MARCHIONI: I like what I see, but is this in compliance with the different thoughts I had while the process was going through adoption for the PNOD? Where is the controversy? Let's find out what the controversy is and view it. I would like an opinion from the author to say -- because if I -- did it comply with my thoughts and what -- the whole process that came to those thoughts.

DON FASO: You sat here when the author presented it. What was --

DARIO MARCHIONI: My interpretation at the same time was basically reflecting what Mr. Kress is saying.

JOHN NOWICKI: Mr. Kress has done a good job on his piece.

JOHN NOWICKI: He has presented us with a list of things that impact the PNOD district, that if you go down through these 30 items.

DON FASO: Dan (Kress) has spent a lot of time on this.

MR. GOLDMAN: I mean --

JOHN NOWICKI: On the interpretation.

MR. GOLDMAN: I understand. It is certainly not a personal challenge to what Dan (Kress) has done.

DON FASO: I don't think there is anybody here saying, "Kress, where are you coming from?"

MR. GOLDMAN: I'm not saying you're saying, "Kress, where are you coming from?"

MR. BRIXNER: Mr. Chairman, from the audience, if you please, we're getting a lot of ballyhoo on this particular --

DON FASO: You're out of order.

MR. BRIXNER: I'm out of order? Thank you.

MS. BRIXNER: Stick to the subject.

MR. GOLDMAN: This is a complex code section, as we know, and we're all trying to work through it. It is the first time that the Planning Board has tried to do it. It is the first time certainly we have tried to do it. We all want to come up with a good project.

DON FASO: We said this right along. This is the first one. We want it spectacular. I want to say the next one we get, I want to point to that and say we want the exact same thing.

MR. GOLDMAN: We understand that. We understood that. But in terms of the nuts and bolts interpretation which the Zoning Board will make, I think it will be important for them to have some idea about how the Planning Board feels about the concept that is being presented. It may help them.

DON FASO: My personal opinion is we saw a plan, commented on it, then we took a baby step and saw another plan and we commented on it and took another baby step. I think we have taken a giant step. That is my opinion.

JOHN NOWICKI: We're going very nicely at great speed. We're not going too fast. It is a very nice project. I'm sure the build-out on this thing will be probably what, three or four, five years?

MR. GOLDMAN: Could be quite a while. We want to make sure.

DON FASO: I do have a letter that was presented to me saying that the State D.O.T. would like a traffic study. I know that. The threshold is a 50-lot subdivision. That is a requirement. It will be a traffic study requirement. This exceeds that threshold. It is not done at this time, because that is done when they do a preliminary application, when all of the wrinkles are ironed out and this is the plan we're going with, they will have to come back for preliminary site plan approval.

MS. LYLE: Can I respond to what you're saying? Can I just respond? The thing that was said when I was out of town, Mr. Carpenter came to the Planning Board and told you that New York State

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wanted Grinnell Drive and Stalmar Circle entrance/exit. That is not true.

DON FASO: No, we're not going there. I'm not going there.

MS. LYLE: It is not true. Have you been lied to?

DON FASO: When there is a preliminary plan coming back before the Board, he will have to present counts to D.O.T. with a traffic study and it is a traffic study they will approve, disapprove or tell them what they want.

DARIO MARCHIONI: Another situation. Sidewalks to connect this parcel for future development of the land, the surrounding territory, how would you do that?

DON FASO: To the east?

DARIO MARCHIONI: Right.

JOHN NOWICKI: Just a connection to the east.

DARIO MARCHIONI: How would you handle that, in other words, to incorporate that whole area?

DON CARPENTER: We're showing -- I don't know if they show up very clearly, but especially in the front near the patio homes are -- we're showing a pass-through as well as some sidewalks that go to the east and west. The sidewalk is --

DON CARPENTER: Here is a sidewalk, a pass-through (indicating). We're showing sidewalks tying into the wetland around the bridge and in and through the site.

So I would envision that we would have a sidewalk that would tie into whatever is being planned now.

MR. GOLDMAN: There are certainly development restrictions along the Paul Road frontage because there is a drainage easement and a swale. So we're probably talking about more sidewalks and walkways internal to the project to be able to access properties off site, but that will come through as we get further in design on preliminary.

DARIO MARCHIONI: We would like this project and future development to come together for easier access for shopping and --

MR. GOLDMAN: Okay. Good.

DARIO MARCHIONI: I like the project so far, with some reservations.

MR. GOLDMAN: Any reservations anyone wants to share, please feel free. We want to hear it all.

JOHN NOWICKI: Some of them would be now that we have got this far, there are other mechanics involved in our codes here, as far as informal, preliminary, final and there are -- for example, disclosure statements, timelines, who is involved, finance, how is it going to be paid for, all kinds of things like that. We want to see the mechanics of that, clearly open ended.

MR. GOLDMAN: We're working your page up the agenda. We're at the bottom now.

JOHN NOWICKI: I will look for a resume of who is involved, where they have come from, what they have done, what they have built, where it is, so I can take a look at it. The same with the architects. What kind of projects have they done, where are they. So we can go see them. Give us a timeline like I asked that gentleman earlier tonight about how this is going to come together, where we can see these things, where you folks put this together or something similar to it. The same with the owner. Whoever is behind this project, one, two or three people, whoever you are, where are they coming from?

MR. GOLDMAN: The ownership group is familiar. We'll be providing that information as required. Certainly.

JOHN NOWICKI: Glad to hear it.

DON FASO: I think the way we're going to leave this right now is we are enthusiastic about this design. We're going to tell him to proceed to the ZBA for clarification on the interpretation.

Would you be willing to have Mr. Brand there?

MR. GOLDMAN: Fine with me.

DON FASO: As the author.

MR. GOLDMAN: Fine with me.

DON FASO: I will tell Mr. Brand to make sure --

JOHN NOWICKI: That would be a good step, an excellent step.

MR. GOLDMAN: With the application filed -- we're getting --

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DON FASO: Dorothy (Borgus), I just wanted to make you aware, there is one addition to the agenda, that is the Amish furniture place that has been put on late. I just wanted to make sure.

MS. BORGUS: More tonight?

JOHN NOWICKI: One more.

DON FASO: One very short informal. I just wanted to let you know.

IRENE BRIXNER

MS. BRIXNER: Is it all right if we stay, too? You just said Dorothy (Borgus).

DON FASO: She was the first one at the door. She was at the door.

MS. BRIXNER: That is not a funny thing. I waited all night to ask a question and I can't ask a question. I can't believe you could let people sit here for three or four hours.

DON FASO: How long have you been coming -- I take exception to that. You know -- you know we don't go to audience for discussion.

MS. BRIXNER: Continue. Continue.

MR. GOLDMAN: We have an application filed from the ZBA. We can hit the May meeting. I don't know if we'll hit May or June. I believe we'll probably be at the May meeting, so if you want to communicate that to Mr. Brand, that is fine.

DON FASO: Thank you. For the team, too. Thank you.

3. Matter of Edward Van De Water.

DON FASO: Edward Van De Water. I'm not sure why you wanted time before the Board, but the floor is yours.

MR. VAN DE WATER: My name is Ed Van De Water. My business is located at 3530 Union Street called the Amish Outlet and Gift Shop.

I'm another one here that would just like some feedback from the Board regarding -- I would -- I'm considering purchasing a tract of land behind the telephone company. For frame of reference, this is Union Street (indicating). This is the telephone or the private road that leads back to the telephone company (indicating). This is where the phone company maintenance center is (indicating). This is a tract of land I'm considering purchasing (indicating). It would need to be subdivided from a larger portion of land from that -- owned by Jarvee Associates, and my idea is that I would like to put a warehouse facility on there, probably three to five years out. But before I, you know, get too far involved in this --

DON FASO: Do you know what the zoning is offhand?

MR. VAN DE WATER: General Industrial.

DON FASO: You have not talked to Mr. Kress?

MR. VAN DE WATER: I did speak with him earlier this week.

DANIEL KRESS: Mr. Van De Water and I spoke for probably less than five minutes on the subject. We have not had any detailed discussion.

DON FASO: G.I., you said?

MR. VAN DE WATER: Yes.

DON FASO: I just want to take a quick look at the permit. Permitted. Any use permitted in L.I. District. Cold storage plants, ice manufacturing including storage and offices, printing, publishing, book binding, public utilities buildings and yards. Retail or combination retail, wholesale lumber, building and materials yard including but not concrete. Light fabrication. Wholesale distribution and warehousing of all standard types, prepared packaged merchandising excluding, however, such uses as fertilizing, explosives, compost and -- wholesale distribution and warehousing -- so I think that fits your category.

MR. VAN DE WATER: Okay.

DON FASO: Pending Mr. Kress' interpretation.

MR. VAN DE WATER: The main question I had, this being a private road, which pretty much ends in front of the telephone company --

DON FASO: Is an access to your place off that road?

MR. VAN DE WATER: Yes.

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DON FASO: Who maintains the road?

MR. VAN DE WATER: It is maintained by Jarvee Associates, the owner of the property.

DON FASO: They own that road?

MR. VAN DE WATER: They own the road, right.

DON FASO: Do you pay in a fee?

MR. VAN DE WATER: Um, yes. I pay to have the road maintained.

DON FASO: As does the phone company?

MR. VAN DE WATER: As does the phone company. But the road ends at the phone -- at the front of the phone company's line. I need to continue.

DON FASO: Is that -- okay. The property line which actually crosses the road, and proceeds on the north side of the road? Am I reading that correctly?

The property line is on the north side of the road and your property line is on the south side of the road, but I see a property line extending your rear lot line up. Which the way I read that, if that is a property line, that right-of-way is a very small tiny rectangle. Am I reading that correctly?

MR. VAN DE WATER: I am really not following that. Right now there -- that road, it says proposed road, Paul Road Extension. That does not exist. It ends about where the word "highway" is, where it says "proposed highway."

DON FASO: There is a plan under works to extend Paul Road, without building a new bridge crossing the railroad. That plan exists and you can probably see that in the Highway Department.

MR. VAN DE WATER: I am requesting from Mr. Kress -- did you address that at all with the Highway Department?

DANIEL KRESS: I didn't address anything yet, sir, because you didn't give me anything to address. You need to carve out some kind of concept plan to be able to identify these things.

MR. VAN DE WATER: I wondered if the proposed Paul Road Extension was, in fact, going forward? Yes?

DON FASO: We can't even answer that.

MR. VAN DE WATER: Okay.

DON FASO: I would suggest that you consult a professional because I see a legal issue, here, too. I wouldn't want to buy a piece of property that I wasn't sure I had clear access to.

JOHN NOWICKI: You have to get the right-of-ways done.

MR. VAN DE WATER: Okay. We'll just leave it right there. Thank you.

The meeting ended at 10:58 a.m.