

CHILI PLANNING BOARD
May 8, 2012

A meeting of the Chili Planning Board was held on May 8, 2012 at the Chili Town Hall, 3333 Chili Avenue, Rochester, New York 14624 at 7:00 p.m. The meeting was called to order by Chairperson James Martin.

PRESENT: Richard Brongo, Karen Cox, David Cross, John Hellaby, John Nowicki, Paul Wanzenried and Chairperson James Martin.

ALSO PRESENT: Michael Hanscom, Town Engineering Representative; Michael Jones, Assistant Counsel for the Town; David Lindsay, Commissioner of Public Works/Superintendent of Highways and Building Department Representative; Pat Tindale, Conservation Board Representative.

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

PUBLIC HEARINGS:

1. Application of Sandra McCormack, owner; 4310 Union Street, North Chili, New York 14514 for special use permit to allow a riding academy and boarding of horses at property located at 4310 Union Street in AC zone.

Sandra McCormack, Shawn McCormack and Mary McCormack were present to represent the application.

JAMES MARTIN: If you have any diagrams or sketches, we would like to have them posted on the board over here (indicating), please.

MR. MC CORMACK: It's not that big.

JAMES MARTIN: Well, you can put them on the overhead projector if you so desire, if you have something that is flat.

MS. MC CORMACK: My name is Sandra McCormack. That is my husband, Shawn McCormack. We own 4310 Union Street, and we're here to ask the Planning Board to grant us a special use permit to allow horse boarding and a riding academy at our property.

JAMES MARTIN: Okay. Anything else?

As far as, you know, discussion or -- or the application at this point?

MS. MC CORMACK: Um --

JAMES MARTIN: You don't have to say anything else if you don't want to.

According to our code, this would be a special use permitted activity within an Ag Conservation District, so that certainly checks out.

Looking at the -- the plan that you presented to us, um, there is one issue, and I believe it was pointed out in the letter from the Town Engineer, you have a three-stall shed which is 45.9 feet from the property line, okay? According to Section 527-D(5) in our code, that setback needs to be 100 feet if you -- if you are having livestock in that building, which I believe you are, because it says a three-stall horse barn or something to that effect, that setback needs to be 100 feet according to our code.

Therefore, that would require you going to the Zoning Board of Appeals to get a variance to allow that building to be 45.9 feet from the side lot line.

MS. MC CORMACK: Can I ask something? Because that -- in the engineer's report, it was stated that he thought it had original -- that original building had been torn down and a new one built and that is not the case. So that 45.9 setback was -- could there possibly already be a variance? Because that building was there when we bought the house six years ago.

JAMES MARTIN: In looking at the property records, um, I don't see notation of any variance being granted for that setback.

KAREN COX: It's not in there.

JAMES MARTIN: There wasn't, okay.

MS. MC CORMACK: So we make that application to the Zoning Board?

JAMES MARTIN: That would be an application to the Zoning Board for a variance.

We also have a letter from the Fire Marshal that there is a requirement that you obtain an annual operating permit from the Fire Marshal's Office, okay, as another thing to be done in order to move ahead with your proposal.

Also, in the -- I think everybody on the Board has seen the Town Engineer's comments about the fact there was something that showed on the aerial and then it is not there, recommending the applicant do an updated site plan.

I'm going to talk -- I'm going to discuss this with the Board to see what the feeling of the Board is as far as that particular statement from the Town Engineer. We're talking about a

special use permit for -- you know, for fairly common activity within an Ag Conservation District. Most of the structures that we're talking about were already there. You have given us now the riding arena, which is what, 80 by 150 feet on this particular plan, which wasn't on the original documents that you submitted.

So I'm going to go to the Board and have some discussion about whether or not we would require an updated site plan.

JOHN HELLABY: I don't know if they need so much a full updated site plan as they would an instrumental elevation the likes of a surveyor which will be required probably from the Zoning Board anyhow to make sure all of the setbacks, you know, that they're requesting -- what they are to be anyway.

DAVID CROSS: I don't think this plan they're presenting tonight would suffice for the site plan.

JAMES MARTIN: But they have to do an instrument survey.

JOHN HELLABY: I would think they need an instrument survey to show the exact distance that barn and thing is off the side line. They might already have it if they bought the house six years ago.

JAMES MARTIN: If you have that --

MR. MC CORMACK: I picked that up from the existing map we had when we purchased the property, and as Sandy (McCormack) stated, that building was there, and it indicates it. Nothing was torn down except, I think, a play house, but that was before we bought the house. Everything else -- is -- has been added or existed when we -- since we were there.

JAMES MARTIN: The three-stall, that three-stall barn is there.

MR. MC CORMACK: Yes. And it was there. I just added onto it just to make it a little more room, but that building already existed.

MS. MC CORMACK: I believe that was with our original packet, which was the instrument survey we received when we bought the house. It shows the -- it shows the barn. It's small, but it shows the barn -- it says 45.9. It's not a defined, um, property line, so it is hard for us, you know, to eyeball it. We're talking about hedge row.

MR. MC CORMACK: We picked the number up from the site survey.

MS. MC CORMACK: Which is what we have from when we purchased the house.

JAMES MARTIN: What is your feeling? A survey map they have now from when they bought the property. It looks like it would be sufficient.

It is obviously within 100 feet of whatever property line, wherever it exists in the hedge row.

JOHN HELLABY: I concur with that, but it is a frame shed, and there has been some big structure built around that shed. That's not what is on this map. I mean that -- that's apparently where -- that map is showing like a 15 by 18 shed or something. That is why I think we need an updated instrument location. I took that off the Google today.

JAMES MARTIN: I think as far as the specifics of that shed for your zoning variance, I agree with Al (Hellaby).

JOHN HELLABY: I mean because the way -- it appears to be angled, that line. You need a surveyor up there to actually give you a definite distance and an exact location of that --

MR. MC CORMACK: We added on this way (indicating), not towards the property line.

JOHN HELLABY: That's neither here nor there. To be safe, you need a survey --

JAMES MARTIN: I think to locate the specifics of that building for your Zoning Board of Appeals, I think that makes sense. I don't think you need to do the whole property, but you need that located on your site, specifically where it is.

PAUL WANZENRIED: Does the riding arena exist?

JAMES MARTIN: Does the riding arena exist?

MS. MC CORMACK: No, it does. Yes. We built that.

MR. MC CORMACK: It's not an indoor. It is just a framed -- fenced outline.

JAMES MARTIN: It is outlined on this picture.

PAUL WANZENRIED: When you say "riding arena," I think it is a building.

MS. MC CORMACK: No. Just an outdoor arena.

JAMES MARTIN: Just fenced-in area.

MR. MC CORMACK: Just fenced-in area for riding, with sand.

JAMES MARTIN: So I don't -- I guess I'm getting the feeling from the Board we're not going to ask you for a total new site plan, all right, but I -- but I agree, I think you need to get, you know, a survey of where that shed is located in relationship to the property line as far as going to the ZBA.

PAUL WANZENRIED: Does the fence pasture to the front of the property exist?

MS. MC CORMACK: It's in the process of being put up. It's not -- it's not all there yet.

PAUL WANZENRIED: How many horses do you own?

MS. MC CORMACK: We own four. We currently have seven on the property.

JOHN NOWICKI: Is there a maximum? Any rules or regulations guiding how many you can have on the property?

MS. MC CORMACK: I didn't see that in -- in the code.

JOHN HELLABY: It's not in the code, but there is guidelines set by the -- you know, the different societies out there. I don't want to quote them all. But that is the one thing I was going to bring up when it got around, we have let a couple of these go through here, but I want to make sure we have a handle on the number of horses there just because a certain size parcel of property, yes, you can have horse out there, but if you cram 50 horses into a 20 acre parcel, it

does not work. So I mean, I would like to see some sort of guideline put on a total number. But I will --

DAVID CROSS: I think there is a response from the audience.

JAMES MARTIN: Hang on.

MS. MARY MC CORMACK: My name is Mary McCormack. I am their daughter. I do believe that the current rule from what I saw maybe a year or two ago is that it is -- five acres is required for one horse, and an additional one acre per horse added to the land. That is the last time I saw it.

JAMES MARTIN: David (Lindsay), any comments on that?

DAVID LINDSAY: Comments on the number of horses per acre? We don't have anything in the code that would stipulate that. But, I think, we were just talking on the side table here, and that sounds about accurate.

MR. MC CORMACK: We're not looking to have 50 horses. Ten is what we're hoping to be at.

JAMES MARTIN: All right.

KAREN COX: I would think there --

PAUL WANZENRIED: How many acres do you have?

MS. MC CORMACK: 20.

MR. MC CORMACK: 20.

JOHN HELLABY: It's not 20 -- you got to understand, though, it is not 20 acres of pasture land. The way I look at that map, I mean there -- you're probably looking at, you know, five acres of pasture land presently, and I don't know what your intention is to fence off the rest of it, but, you know, you got to -- you got to think about all these things. It is nice to say I have 20 acres of property, but it's not all pasture land.

JOHN NOWICKI: For the use of the horses.

PAUL WANZENRIED: There is a pond on the property; is that correct?

MR. MC CORMACK: Not on our property.

MS. MC CORMACK: That's the next-door neighbor's property. That is where the property line goes around that pond.

MR. MC CORMACK: Circumvents the pond.

KAREN COX: The number of horses that they choose to have, unless it is some ridiculous number, isn't really anything this Board can regulate, I guess, if you -- you know, because there is nothing in our code. But we're just -- I guess the intent of the Board is just to say keep it reasonable?

JOHN NOWICKI: Why couldn't you set a condition?

JOHN HELLABY: You can set a condition. That is why I said.

KAREN COX: Well, I'm not an expert. Is any of us experts? I'm not -- I'm not a horse expert at all, so I couldn't tell you what Miss McCormack is saying is true or not. I mean, it seems reasonable but --

JOHN HELLABY: The applicant stated ten, and I think that is a reasonable number. I mean, if they wanted to increase it to 15, they could come in and prove that they have closed in more pasture lot or whatever for it.

JOHN NOWICKI: So what you're saying --

PAUL WANZENRIED: We can make that a condition of special use.

JOHN NOWICKI: -- put a condition on for right now and see if that works.

KAREN COX: Yes. That is reasonable.

JAMES MARTIN: Well, I think I would propose, you know, if we come to some agreement on what the number is, okay, that perhaps we look at this as a temporary special use permit for about a two-year period of time to see how everything goes. You know, if there any complaints, any issues that come up. At the end of that two-year period, clean bill health, you come back before the Board and we give it to you, you know, for a permanent period of time as long as you're in the business.

MR. MC CORMACK: Fair enough.

JAMES MARTIN: That is one way we could kind of safeguard this activity, okay, from the standpoint of that.

I mean, if -- I mean, we're talking about a reasonable number of horses -- 10 or 12 or something like that.

MR. MC CORMACK: No more than that.

MS. MC CORMACK: Our request was for 8 to 10. At ten we would be eligible for a sales tax exemption, which would be a big help with the expense of horses, and you know, grain and all. And ten is probably enough. It's manageable, but not overwhelming.

MR. MC CORMACK: Too much work otherwise.

KAREN COX: If you would have more than that, you would have to hire somebody to come in and help you with the business?

MS. MC CORMACK: Do you see -- well, probably not. I think ten is manageable. Between the three of us, my daughter and my husband and I. And you know, other people who come and ride are very helpful. So we probably would not need to hire anybody.

PAUL WANZENRIED: My next -- my next question would be, is the existing barn that is in question -- how many stalls is that?

MS. MC CORMACK: That's -- it's two enclosed stalls and one open stall where two of our horses sleep together. And then the run in is -- it's a three-sided run in, and we're adding onto it to make it a little bit bigger. We had this discussion with Ed Shero in September. We are

contacted about the run in, and he said it was -- it was fine.

PAUL WANZENRIED: So the majority of the horses then would --

MR. MC CORMACK: It's just to get them out of the wind and the weather.

PAUL WANZENRIED: That is where they would reside?

MR. MC CORMACK: Mostly, yes.

KAREN COX: That actually is going -- because I'm not a horse person, as I said before -- I'm scared of them actually -- I -- I was just wondering what the function of a run-in is. You just answered that question.

MR. MC CORMACK: Get them out of the weather.

KAREN COX: So that is like each side holds three or four horses?

MR. MC CORMACK: That one would comfortably hold eight as long as one horse doesn't want to dominate and chase the others out.

KAREN COX: That is where they could go in and lay down and rest?

MR. MC CORMACK: Yes. They need to get out of the wet and the wind.

KAREN COX: Is it roofed?

MR. MC CORMACK: Yes. Oh, yes, absolutely.

KAREN COX: Now, do you expect that the horses you're going to have, that they're going to be people boarding horses, coming to exercise them?

MR. MC CORMACK: Yes.

KAREN COX: Taking lessons?

MS. MC CORMACK: Yes.

MR. MC CORMACK: Correct.

KAREN COX: So it will be kids, adults?

MS. MC CORMACK: Yes.

KAREN COX: What would your hours of operation be?

MS. MC CORMACK: Generally, they would be -- well, our daughter is in college right now, so it -- and kids, of course, go to school, so it's after school hours. Generally maybe 3 to 7 or 8, depending on light, and Saturday mornings. So...

KAREN COX: No plans right now to add lighting or anything like that?

MS. MC CORMACK: No. There is lights on the barn that point at the arena, and there is one light on the arena that just points into it. That's it. That's all we have.

JOHN HELLABY: Well, I am a horse guy and I grew up with horses, own my own horses, and there is presently somebody running an operation on the family farm that hasn't done quite such a stellar job in my view, which leads me to some of my questions. You say you own four of your own horses. How long have you owned them?

MS. MC CORMACK: Nine years. First one.

MR. MC CORMACK: First one was nine years.

JOHN HELLABY: All right. Who will actually care for these horses that are boarded during the day?

MR. MC CORMACK: Well, our daughter, Mary (MC CORMACK), she goes to school locally, so she lives --

JOHN HELLABY: She is home every evening?

MS. MC CORMACK: Yes.

JOHN HELLABY: It's just her that is going to be responsible for taking care of all these --

MR. MC CORMACK: No. We help her.

MS. MC CORMACK: And boarders, they help, as well.

JOHN HELLABY: Boarders will come in. You have enough room to store the hay, the feed and everything?

MS. MC CORMACK: Yes.

JOHN HELLABY: It's not an easy task. A lot of these people, unfortunately, get way in over their heads and they realize it way too late.

The riding area, you say you have a fenced riding area on your property. I know a lot of times these people come out, they see a nice open countryside and off they go. I have had more than one run-in over the years. These people just riding on everybody's property around them. How are you going to curtail that? I know they have more than enough right to ride up and down the road, but I mean physically traveling across somebody else's property that is not fenced, that happens.

MS. MC CORMACK: Um, the -- the students that would come and take lessons from Mary (McCormack), they're there to come and ride in the arena because they're prepping for shows. It's not really trail riding.

JOHN HELLABY: All right. All right. You say there is presently two -- two enclosed stalls in the barn and one open stall.

MS. MC CORMACK: We didn't put the third wall on it because it's a big one and our four horses all get along well enough and they tend --

JOHN HELLABY: Plans for expanding the stall size? I mean, eventually you might have to separate some of these horses because they have personalities, they will fight and kick from time to time.

MR. MC CORMACK: We have separated the paddocks so the horses that can go into the run-in are separate from the other four so those four can go into the barn in the evening and not be disturbed by the others, and there is plenty of room in the run-in for the others because you're right, they do have personalities sometimes.

JOHN HELLABY: You talked about hours of operation. Toilet facilities for these folks

that are coming on your property, how will you handle that situation?

MS. MC CORMACK: We do not have toilet facilities in the barn. Um, I guess somebody could come and ask to use our -- our house bathroom.

JOHN HELLABY: Strongly suggest you get a Port-A-John or two out there because if these people are coming, they will need some sort of facility. I mean, it is not uncommon. You just have a service come and they pump them out every week or so, so keep that in mind.

Lighting, as far as lighting and things like that?

MR. MC CORMACK: We have safety lighting around the area, some lights off of our garage and off of the barn. I mean, we're -- we have to live with the light of nature, so that's why there is some -- during the winter, when the weather is okay, they ride on Saturdays, and if they can get time in after school from 3 to 5, 5:30, 6, you know.

JOHN HELLABY: That's all I have for right now.

JAMES MARTIN: I don't have as much experience as Al (Hellaby) with horses, but I have had a little bit limited, and I have seen some -- well, I will say some incidents with horses where people get hurt. And I want to be sure that you do have emergency access to your riding academy area there on your property so that if something untoward did happen, that emergency personnel could get to that area.

Is that a correct assumption on your --

MR. MC CORMACK: The area next to the asphalt driveway, a gravel road down to the barn and a gravel road to the arena with large enough, um, gates for an ambulance to get in.

MS. MC CORMACK: And, in fact, we did have somebody slide off a horse last fall and, um, we had lots of those emergency vehicles come --

MR. MC CORMACK: A lot came up the driveway.

MS. MC CORMACK: Came right up along the riding arena, so they had no problem getting there.

JAMES MARTIN: I just wanted to make sure that access existed.

MR. MC CORMACK: We have gates at both ends of the arena.

JOHN NOWICKI: A lot of good questions here that you guys answered.

How do you handle the manure from all these animals?

MS. MC CORMACK: Um, mostly it goes in the hedgerows and just turns into grass. It --

MR. MC CORMACK: It breaks down, or I spread it out and rake it out. Some people come and take it for their gardens.

KAREN COX: I saw it for sale at a store recently.

MS. MC CORMACK: We would give it for free.

KAREN COX: I was out in Mendon. They had a sign out there saying, you know, "aged horse manure" or something. I didn't realize it was a product.

MR. MC CORMACK: But I pile it, and then as it ages, I spread it.

JOHN NOWICKI: Do you think it has any effect on global warming?

MR. MC CORMACK: No more than I have.

JOHN NOWICKI: That's the only question I have.

MR. MC CORMACK: You were waiting all night to ask that, weren't you?

RICHARD BRONGO: Just one. You said that the students would be using it from 3 to 3:30 to dark. What happens when school is not in session? What do you have -- will you have lessons or riding all day long in the summer? Or holiday weeks?

MS. MC CORMACK: My daughter would be the only riding instructor, so there is a limit to how many hours she could sit out there. So, um, yeah, the kids could come earlier in the day, which would be more convenient, but I will -- still wouldn't become a 40, 50, 60 hour operation.

JAMES MARTIN: Do you have something like a first-come-first-serve, or do you have a schedule?

MS. MC CORMACK: Schedule.

MR. MC CORMACK: She can answer it.

JAMES MARTIN: Go ahead, you can answer.

MS. MARY MC CORMACK: My facility doesn't really ever close besides at night. I tell people after 8 o'clock, typically no one is in the barn. Lesson students are not allowed to ride outside of their lesson.

My hours are typically from 3 to 7 weekdays besides Fridays, and I don't teach lessons on Sundays.

Those people who do board their horses, because they're paying me money, they get to come see their animals whenever they need to. Everyone is supposed to be insured, is insured if they own a horse or lease a horse or are paying me to ride outside of my services of an hour a lesson. So these people are not on a set hour basis.

Lesson students are. So 8, 9, 10, 15-year-olds do not have freedom in the barn outside of my -- my personal operating hours, which typically are 3 to 7.

JAMES MARTIN: Okay. Thank you.

MR. JONES: The one thing I would say is with respect to the Zoning Board referral, we would want to see some documentation on the -- when the shed was built and the date of the addition. I think the ZBA would want to see that.

MS. MC CORMACK: I guess we don't know when the original shed was built. Personally, we don't because it was there, but we could tell you about the additions.

MICHAEL JONES: The best you can.

JAMES MARTIN: You have a date when you modified it, correct?

MS. MC CORMACK: Modifications, yes. We don't know the original.

MR. MC CORMACK: Is there someone in the Town I should approach for the survey or somebody privately I should approach? Is there a recommendation?

JAMES MARTIN: I don't think we make recommendations --

MR. MC CORMACK: I didn't think so, but I thought I would ask.

JAMES MARTIN: -- for land surveyors. Obviously some are listed in the yellow pages.

MR. MC CORMACK: I didn't know if you worked in the --

DAVID LINDSAY: I can give you a list of surveyors that regularly do business in the Town, but we don't provide recommendations.

MR. MC CORMACK: I understand. Thank you.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

KEVIN SANDS, 4298 Union Street

MR. SANDS: Kevin Sands. My property is 4298 Union Street, adjoining theirs. I just want to tell the Board that they are great neighbors. They're quiet. I don't want any issues with them.

The only issue I want to bring up is along with John Nowicki's question is the manure. We do at times get some terrible smelling manure smell at our property, which comes off the hill. When the air is heavy, it kind of sits in there and we have to close our windows a lot of times in the summertime and we do not use the air-conditioning, so it's a little tough on us. I didn't know if you guys were going to be, I guess, adding some more horses.

MS. MC CORMACK: But would that come from our property or would it come from Widener's? Because the wind doesn't generally come from our property towards yours.

MR. SANDS: I have lived there my whole life. Nothing has ever come from Widener's because he spreads way down towards Morgan Road. It kind of settles -- the wind -- it settles. We're lower than you, so when the air is heavy, it kind of settles in there. That is my only issue.

Other than that, I would love to watch the horses.

MR. MC CORMACK: Our manure is going down the back side of the hill. That is interesting. I'm glad.

MR. SANDS: We had smells. She has come in and closed the windows, and we end up sweating our butts off in the house because we don't use the air-conditioning.

MS. MARY MC CORMACK: We currently moved our manure pile a week or two ago from the top of the hill towards the back, so I don't know if you noticed a difference or we need to keep moving it.

MR. SANDS: That is the only issue. Other than that, I would love to watch the horses, but I'm just concerned --

MR. MC CORMACK: I appreciate it.

MR. SANDS: -- where the manure is going to be.

I know Pete Widener has been great with his. We haven't had any issues.

MR. MC CORMACK: Great. Let us know.

DOROTHY BORGUS, 31 Stuart Road

DOROTHY BORGUS: First off, I'm having a problem reading that drawing because it is upside-down and sideways. Could we turn that around and give me a minute to look at it?

MR. MC CORMACK: I could do this for you.

KAREN COX: Part of it is going to be upside-down when he turns it because --

DOROTHY BORGUS: Well, I have seen it this way. Maybe the other way I can -- that is where a professional map would have helped.

MS. MC CORMACK: That is a smaller copy of the big drawing.

DOROTHY BORGUS: Where is the house?

MR. MC CORMACK: Right here (indicating). That is the house. (Indicating). That is the asphalt parking lot outside the house. The barn (indicating). This is looking down towards the --

DOROTHY BORGUS: Okay.

MR. MC CORMACK: This is Union Street (indicating).

DOROTHY BORGUS: Do you mind if I ask him a question since I have it in my hand? I don't want to ignore the Board.

My question is where is the fence row this manure will be piled along?

JAMES MARTIN: You can answer that question. Go ahead.

MR. MC CORMACK: Right along this -- this side down here (indicating).

DOROTHY BORGUS: Where is the road?

MR. MC CORMACK: Down here, Union Street.

MS. MC CORMACK: Behind the house, along the Water Authority property.

MR. MC CORMACK: This is -- what is it? I can't think of the road the Genesee Equine Clinic is on. If this is Union Street, and -- and the water tower is right here (indicating), are you familiar with the water tower? So this is going down the hill, towards the Equine Clinic. You can't even barely see our house from the street. So the house is at the crown of the hill, and then this area goes down severely, and so this is where (indicating) we have been spreading the manure, is down that side.

DOROTHY BORGUS: Thank you.

Whose pond is that?

MR. MC CORMACK: Murphy's. Our next-door neighbor's.

DOROTHY BORGUS: Then thank you.

I do have some -- I guess they would be concerns more than questions. My son-in-law raises thoroughbreds. And I think right now he has 12 or 13. The amount of manure those horses generate is huge. Every week he spreads manure. He has probably 40 acres of his own that -- that's level, not treed, so he can get ride out and spread it. He also uses part of our farm when he can't get on his, so he has access to another 105 acres.

This manure issue is -- is serious. When you start talking ten horses, and jut going to pile manure in a fence row, I -- I can understand Mr. Hellaby's concerns and questions. This is a big issue here. You can do that for a week, bad weather. You can do it maybe a couple weeks if somebody is sick or something, but day in and day out, year in and year out, 365 days a year you just can't pile manure in a fence row.

Mr. Sands is going to have a bigger problem than he knows. And -- I can hear the concern in his voice and I would be concerned, too. That is not doable, people.

And I'm wondering how much equipment they have to even handle this manure? I didn't hear that question asked.

MS. MC CORMACK: It doesn't require equipment. There is not that much. We don't have --

MR. MC CORMACK: There isn't that much.

MS. MC CORMACK: Because these horses are not in the barn. We don't have ten horses in a barn where you're -- where you have got bedding and urine and, you know -- horses that live in stalls all day long make a lot more manure that is concentrated, but our horses are out all year long, other than our four that come in at night, you know. They come in at night. But, you know, the girls fill a wheel barrel with manure and take it down to the hedge row. You won't see piles of manure. You -- you just won't see it, because it goes, you know -- a wheelbarrow load goes into the hedge row and the weeds go through it and around it.

MR. MC CORMACK: Then I knock it down once it's dry.

DOROTHY BORGUS: Well, that all sounds well and good, but my son-in-law's horses, he has four in and the rest are out, and he still has a lot of manure.

MR. MC CORMACK: It hasn't been a problem.

MS. MC CORMACK: But we have had the horses for six years on this property.

DOROTHY BORGUS: My other question is, I believe I think they have 20 acres?

JAMES MARTIN: Correct.

DOROTHY BORGUS: How much -- you have the Google maps and what have you. How much is clear and usable for this purpose?

MS. MC CORMACK: It could all be other than the house itself and the riding arena.

MR. MC CORMACK: It's not a treed lot. It's open.

JAMES MARTIN: Most of the pasture land is the in back --

MR. MC CORMACK: Yes.

JAMES MARTIN: -- based on my observation going by there and looking at the site.

The Google maps certainly says there is potential to expand pasture land, if you so desire.

MR. MC CORMACK: Right.

DOROTHY BORGUS: And where would the feed for these horses be stored? Because this takes a lot of feed.

MS. MC CORMACK: In the barn.

DOROTHY BORGUS: As long as you're going to have a delivery of feed.

MR. MC CORMACK: It does not take that much feed at all.

MS. MARY MC CORMACK: I do have Terry Higbie at Higbie Farms stores the grain for me. I buy it on account and weekly I go with my girls and we unload it. We get about seven bags of feed and that covers all my horses.

MR. MC CORMACK: The rest is hay.

MS. MARY MC CORMACK: And my farmer who provides my hay knows that I have limited storage, and he lets me pick it up once a week.

JAMES MARTIN: So you store limited amount of hay on the property?

MR. MC CORMACK: Yes. The rest we pick up weekly.

JAMES MARTIN: How many bales do you store at any time?

MS. MARY MC CORMACK: I can store up to about 40 bales, but I typically go and get -- throughout the winter I go and get 32 bales per week and I have them on a rotation of 4 bales a day, depending on how many horses are on the land obviously. And throughout the summer they only need about two bales and then they are on the pasture, which I rotate, so my grass is nice and fresh and keeps my horses fairly fast.

DOROTHY BORGUS: Now, this pond, how much of this manure that you're storing -- if this is a hill, how much of that rainfall and so forth on that manure is going to run toward the pond?

MR. MC CORMACK: Not even.

DOROTHY BORGUS: This is a wonderful farm. We have horses that don't need feed, don't have manure and they don't have any drainage issues.

MR. MC CORMACK: Because you don't understand the property. If you came to the property, you would understand the hill drops this way (indicating) towards Genesee Equine Clinic. The pond is totally away from the manure by at least -- I don't know, 500 yards. And -- and the pond is totally away from the area that we're at.

And we -- we -- my daughter has just explained to you how we resolve the issue with feed. We don't keep it there. We bring it in weekly.

The manure is spread around throughout the pastures by the horses, because they're not thoroughbreds, so we don't lock them in small stalls and leave them there day in and day and night except to ride them, so they have free range of the pasture. And the manure naturally dissolves right there on the ground. It is good for the ground, so it is not like we have 500 horses trotting manure over 20 acres.

Currently we have seven and we're looking have ten. If you go to our property, you will see that the hill drops severely towards the Genesee Equine Clinic and everything runs away down towards the farmer's property. So there is no issue with the pond.

DOROTHY BORGUS: Well, my son-in-law's horses, as I say, are out. There is about seven or ten. They vary, but -- but he -- he has four in, if he is going to show them in a show right away, because they fade, and you know how that goes. You would have to have them perfect for a show, but the rest of them are outside and I still see problems here that, I think, are being downplayed to this Board. I think if you're going to do this, better do it on a short-term and see what you get into, because you could have some serious issues here you don't even see.

KAREN COX: We did talk about doing -- you know, not doing this in perpetuity, two years.

DOROTHY BORGUS: Two years you could be into -- I don't know. That -- that is maybe a little too long, too. Your problems are going to show up, I think, before them.

JAMES MARTIN: My assumption is they won't have ten horses next week.

DOROTHY BORGUS: They have seven now.

JAMES MARTIN: So I'm just -- I think they need a little bit of time, you know, to see how this all works out, so, you know, we'll set an appropriate time limit.

DOROTHY BORGUS: All right. Thank you.

JOHN HELLABY: I have one other question of interest. Who do you use for a vet?

MS. MC CORMACK: GVEC.

MR. MC CORMACK: We see them from our backyard.

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

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

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

JAMES MARTIN: I will not disagree with the comments and Mr. Sands does indicate he does have an issue coming from your location or some other location in the area, it's difficult to say, but I really think that you should begin to investigate or initiate some odor control procedures for your manure on the property.

MS. MC CORMACK: We weren't aware --

JAMES MARTIN: Whatever you have to do.

MS. MC CORMACK: We weren't aware. We didn't know that they were smelling anything, so --

JAMES MARTIN: So I just think that would be appropriate as good neighbors to look into that.

MR. MC CORMACK: Absolutely.

JAMES MARTIN: So that is going to be part of our conditions.

JOHN NOWICKI: I had a friend of mine tell me a long time ago that he controlled his odor with hydrating lime. I don't know if that would have any effect on this.

KAREN COX: That is what they used to use in outhouses.

JOHN NOWICKI: You can check it out. He said it works.

JAMES MARTIN: It does work.

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

JAMES MARTIN: I would at this point propose a temporary special use permit be granted for up to a period of two years. I am open to other suggestions on that time period.

DAVID CROSS: Reasonable.

JOHN HELLABY: I guess it is reasonable. They have had seven horses for the past six years. We can see where it goes in two years. The nice part of it is -- believe it or not, the Horse Boarding Association in general is such a close-knit organization that word of mouth travels pretty quick out there and if they're having problems, everybody in the arena will know about it, so...

JAMES MARTIN: So we'll do this on a temporary basis, for up to a period of two years.

MR. MC CORMACK: Thank you.

JAMES MARTIN: At that time you would be required to come back before this Board for a renewal.

I have listed four conditions, that the three-stall shelter will require a setback variance and 100 feet is required, per Town Code.

And so you need to take care of that with the Zoning Board of Appeals.

The applicant is to obtain an annual operating permit from the Town Fire Marshal. You

will be getting a letter with all this in it.

MS. MC CORMACK: Oh, okay.

JAMES MARTIN: The number of horses that shall be permitted to be stabled on the property shall be ten. I think we agreed to that. You're okay with that?

MS. MC CORMACK: Yes.

JAMES MARTIN: The applicant to initiate odor control procedures for the accumulated manure.

Any other conditions?

DECISION: Unanimously approved by a vote of 7 yes with the following conditions:

1. Approved for a period of two years.
 2. The three stall barn will require a setback variance from the side lot line. Applicant to apply to the Zoning Board of Appeals for said variance.
 3. The applicant shall obtain an Annual Operating Permit from the Town Fire Marshal.
 4. The number of horses permitted to be stabled on the property shall not exceed 10.
 5. The applicant shall initiate odor control procedures for accumulated manure on the property.
2. Application of Archer Road Vista LLC, owner; 783 County Road 42, Fishers, New York 14453 for resubdivision approval of 40 lots into one lot in the Vistas at the Links Subdivision at properties located at 100 Clubhouse Drive, 22, 23, 24, 26, 28, 29, 30, 31, 32 Clubhouse Drive and 1 through 35 Troon Terrace in PRD zone.

John Shields was present to represent the application.

MR. SHIELDS: Thank you. Good evening. My name is John Shields. I'm -- excuse me -- here this evening representing Archer Road Vista, LLC, the owners of the property.

In 2002, the previous developers were into the Planning Board or Town Board rather and received rezoning of the property from actually a mix of different zones to PRD. Later that year, 2002, 2000 -- 2003, we received approval, preliminary approval for a 193 lots on the cross -- approximately a 300 acre parcel. Of that 193, it is broken up into two phases.

Phase 1 was 84 lots. Remainder to be Phase 2.

In 2003, previous developer went in and built infrastructure for Phase 1A, which was approximately 44 lots of the 84 that had received final approval. Again, that was 2000 -- 2004. Shortly after that time, that developer ran into some financial difficulties, and Archer Road Vista acquired the property and all of the approvals in 2007.

Since 2007, we have sold seven lots, a total of seven lots in the entire subdivision, there are -- seven houses completed. Two of those homes are town homes and five of them are patio homes.

Um, it brings us to today. The -- the pace of sales is not quite what anybody had anticipated in that subdivision. We're sitting now with 77 lots still owned by Archer Road Vista, which are platted lots sitting on tax role. We have been paying the property tax on each of these lots since the inception for the past six to seven years.

Our application this evening, and for discussion and -- and hopefully for approval is to take what was going to be Section 1B, which is approximately 39 lots, and take that -- take that area as well as a portion of a right-of-way that was never dedicated, mind you, take that area which is about ten acres total and basically dissolve the single-family lots, create this into one 10-acre parcel, and our reason for doing it is -- it will be very transparent our reason for doing it is simply for an overall reduction in the assessments of the property.

We received some comments from the Town Engineer. I apologize it wasn't until this morning that I -- or yesterday I spoke to the Town Engineer and this morning I put together a letter, but the long and short version of that is that each of the Town Engineer's comments were -- were acceptable to us. They were pretty simple comments to address.

A couple of concerns on the easements that are already in place. Um, I did speak to Mr. Jones this afternoon, as well, about coordinating with him, and then with the Town to see if any of the easements need to be refiled. I don't think that they do, but we would certainly work with -- work with the Town and consultants as needed.

I can go over each of those comments, but I think that probably the most critical thing is that we're in agreement with making any changes that were suggested by the Town Engineer.

With that, it's -- it's kind of self-explanatory. As I said, kind of transparent the reason why we're proposing to do this, and if there is any questions by the Board, I would be happy to answer those at this time.

JAMES MARTIN: I believe you and I -- I both had a conversation with the Assessor's Office today regarding this application. I can see from the letter that your -- your response letter to the Town Engineer's comments that you have now basically changed your plan from

recombining this with the large parcel to make this just a separate parcel of the smaller lots that are being recombined into one, and that will be a separate tax account.

MR. MATTER: Yes, sir. Very good point.

The conversation I had with the Assessor, she raised some points about going in that direction and I see no downside to it, so absolutely we would create -- rather than combine this back to the parent parcel which was created years ago, we would create a separate tax I.D. number for these 49 lots.

JAMES MARTIN: I understand there is a fair amount of, I will say, undeveloped property that is going to be used for agricultural purposes and you do have an agricultural dispensation, or whatever the term is, on that particular property; is that correct?

MR. SHIELDS: Yes, sir.

JAMES MARTIN: That's all I had.

PAUL WANZENRIED: The ag area that you speak of is the pink parcel here, outlined in pink?

MR. SHIELDS: No, sir. The ag area is approximately 100 and -- 160 acres of that area that is in the pink. The pink area is -- the headings were cut off on the overhead, but the pink area is the parent parcel. It's approximately 230 acres. The blue area is what we're proposing to create an additional parcel out of. That is the 39 lots.

The area that is being farmed is really, um -- it's the western third, and then about the bottom third, kind of in the direction of -- of Black Creek. I don't know if I have a better exhibit of what is being farmed right now. I don't think I brought anything with me, but it is approximately 160 acres of that 230 acres.

PAUL WANZENRIED: What are Parcels 1 and 2 owned by Vista Villas? Parcel 1 would be to the north of your existing subdivision. Parcel 2 is going to be sandwiched between your subdivision and the occupancies or lands owned on Archer Road.

Are they forever wild?

MR. SHIELDS: Parcel 1 and 2, are you referring to the area owned by the Homeowners' Association?

JOHN HELLABY: Those were the areas that were intended to have those fairways and greens put on them which I don't think has ever been done.

JAMES MARTIN: The three golf holes that were approved in Phase 1.

PAUL WANZENRIED: Here, here and --

JAMES MARTIN: They were graded but not put in, as far as I know.

MR. SHIELDS: There were two of the three holes were built, graded. Um, the maintenance of those holes, I don't know if that has been 100 percent, but that area is actually owned by the Homeowners' Association.

PAUL WANZENRIED: Both of these?

MR. SHIELDS: Both of those, yes, sir. But the -- the golf holes, two of the three were built. Part of what we're doing to try to -- to try to address the slow sales is we working with the members of the Homeowners' Association who are the seven -- the seven owners in the subdivision to try to reduce the required assessments in the -- on the property. So we're talking to them about reducing services, or anything we can do to try to -- really just try to bring down the cost of living in the subdivision. And the golf holes, two of the three that were -- they -- two of the three were built complete. Um, we're working with them, and they're entertaining the idea of basically getting rid of the golf holes, allowing them to become forever wild area. And the reason for that is that the maintenance costs that are associated with those has an effect on the assessments that the residents need to pay.

JAMES MARTIN: Okay. I think if that plan goes forward, are -- we're going to have some additional discussion, because part -- as part of Phase 1, we approved that with the lots, okay, and three holes with golf. If you're going to take those out of the site plan, then I think we're going to have to have you back before this Board. I'm looking to the side table for whether that is true or not true at this point.

MR. JONES: Yes. I think we would agree with that.

JAMES MARTIN: So I don't think you can just cavalierly abandon those, okay? The same thing with the Homeowners' Association. I mean, that is filed with the State Attorney General, right? I mean, any changes to that would have to be reviewed by our Town Council.

MR. SHIELDS: Absolutely. We're going through the Attorney General's Offices to make these changes. The fact they would have to go through the Town is something we're not aware of.

JAMES MARTIN: Well, I think our Assistant Town Counsel would like to see whatever you're proposing, okay? I mean, we had a -- subject to approval originally from the Assistant Town Counsel, so I think he would like to see it.

MR. SHIELDS: HOA approved by the Town Council?

JAMES MARTIN: Pretty standard procedure, yes, for him to review that.

MR. SHIELDS: Okay.

JAMES MARTIN: Sorry. I interrupted you Paul (Wanzenried).

PAUL WANZENRIED: That's all right.

So the Clubhouse Drive and the Prestwick Lane, I see Prestwick Lane has -- I don't know what you call it, I turn that goes into Troon Terrace. But that will -- what happens at the end of Clubhouse Drive?

MR. SHIELDS: Clubhouse Drive is what we -- is what I spoke to Mr. Lindsay this afternoon about designing and building a temporary turnaround. At what -- at what will be the

temporary terminus of Clubhouse Drive. If that is what you're asking.

PAUL WANZENRIED: Yep.

KAREN COX: So if that blue parcel, you know, eventually gets sold and the access to that parcel will then be either through Clubhouse Drive or was it Prestwick?

MR. SHIELDS: It is going to front both Clubhouse Drive and Prestwick Lane.

KAREN COX: So it wouldn't be a marooned parcel?

MR. SHIELDS: No. No. It would not at all.

KAREN COX: And some of those lots that are shown in the area outside of the blue, I assume, are not developed? If you said there are only seven -- seven owners -- or are they all developed?

MR. SHIELDS: The lots that are outside of the blue area --

PAUL WANZENRIED: That would be along Clubhouse Drive.

KAREN COX: Clubhouse and Prestwick.

MR. SHIELDS: The infrastructure is in. Somebody could come and build a home tomorrow. The infrastructure is set up for that. When you say "developed," the seven of those lots are built on. The rest are vacant, but the infrastructure is there.

KAREN COX: And would you -- would you be looking to sell off those developed -- or those lots to anybody -- anybody, you know, who was desiring to build there? I mean, in other words, could we end up with a situation where it looked like of -- like a mish-mash architecturally?

MR. SHIELDS: That is not our plan right now. The same builder, Mr. Bill Tucci, who was involved in the project before us, so he is our builder of choice right now.

KAREN COX: I know that doesn't really have a bearing on this plan, but it was just something I wondered when I was looking at it.

MR. SHIELDS: The Homeowners' Association does have an Architectural Control Committee and review process, which no matter what -- which builder would come in or try to come into the subdivision, they would get to meet -- they would need to go through the review process by the Homeowners' Association.

KAREN COX: Just so I understand -- I understand what the idea is about the golf holes. Are you looking to also dissolve the HOA?

MR. SHIELDS: Not at all. Not at all.

KAREN COX: I just wanted to make sure we put that in the record.

MR. SHIELDS: No. The HOA, we have no intention to dissolve that. It serves the purpose in the subdivision. It is simply looking to reduce the assessments that the HOA is required to charge its members to -- to meet its obligations.

JOHN HELLABY: Well, allow me to vent for a minute. You know, you said that the sales of the lots have fallen flat. Well, imagine that. I -- this project came in here, was supposed to have an 18-hole championship golf course, and the people I really really feel sorry for are the ones that bought those houses in there because now we're in here once again, hacking another big piece out of this project, walking away from it, and if the lots sell, they sell; if they don't, they don't. I mean, it is always on the take, take, take situation and you're going to end up, you know -- they said, a mish-mash mess over there. And I really, really feel sorry for those people that bought over there.

And now that they have cleared all that land in anticipation of putting in that golf course, you're never going to restore it to what they hogged out of there. So, you know, that is just my rant, but, you know, I understand. You got to save dollars here and there, but I don't think this is the way to do it. I honestly don't.

That's it.

JOHN NOWICKI: Is what you're doing -- how many lots are you taking out of that blue area? How many lots?

MR. SHIELDS: 39.

JOHN NOWICKI: That will be a separate parcel, all by itself?

MR. SHIELDS: How many will be -- will remain?

JOHN NOWICKI: No. Just a blank piece of land.

KAREN COX: It will -- the blue will be one parcel.

JOHN NOWICKI: The blue will just be -- you will get rid of the lots and just make it a piece of land, parcel of land?

MR. SHIELDS: The land would revert to a single parcel. I -- it is not even proposed to be a buildable lot.

JOHN NOWICKI: Separate tax account number.

MR. SHIELDS: Yes.

JOHN NOWICKI: What about the purple land, what is all that for?

MR. SHIELDS: Under my original application we were combining the blue to the pink. At this point, the pink is just shown for reference. This really has no bearing on the parcel outlined in pink.

JOHN NOWICKI: That is another tax --

MR. SHIELDS: Currently its own separate tax ID and it will remain so.

JOHN NOWICKI: The roads coming up where the blue is, what about the turnaround? I see in the letter that you're talking about turnarounds here, but will we have to have some kind of letters of credit or cash on hand to make sure that they're done and fixed and kept up so these people can have the trucks out there to turnaround and plow snow?

DAVID LINDSAY: We'll certainly need an easement. I will want to have some

conversation with the developer about what is required for our typical turnarounds and make sure they're constructed in accordance with our standards, certainly.

MR. SHIELDS: That's fine. I believe you will find that temporary turnaround -- what it is, at the end of Prest -- I'm sorry, the end of -- yes, Prestwick, there is the entrance to what was going to be Troon Terrace, so I think we'll find that an acceptable turnaround, work with Mr. Lindsay to make sure that is the case. We would propose to build something at the end of clubhouse, as well.

As far as a letter of credit goes, I think it is definitely worth noting we had over a \$400,000 letter of credit on this project since -- since we started construction. We have -- we have had that with Town, we have kept it current and that is in place right now.

JOHN NOWICKI: Well, my concern is for the people that are existing there already. Somewhere along the line you have to put in permanent turnarounds, because you're not going to be -- I don't see you coming back in to create more lots in the future, so these people -- when will you put the permanent turnarounds in?

JAMES MARTIN: I think it is possible, but in the future, this could go back to some form of individual lot development, John (Nowicki). When that might happen, nobody knows at this point. I think David (Lindsay) is -- has talked to the developer, and that -- and that they will be putting in satisfactory turnarounds, you know, where the stub -- those roads are, but I guess if you have a vision, something might happen some day, that more houses may go in there. We have no idea at this point. You would have to be back before this Board for approval --

MR. SHIELDS: We --

JAMES MARTIN: -- for individual lots again.

MR. SHIELDS: Yes, sir. What we're proposing, we leave ourselves with -- we leave ourselves with 37 lots to be developed. So -- so we're certainly not selling ourself short. The reason, just to be clear, as well -- the reason that we chose the division line between keeping a lot and letting it go is based on the infrastructure already in place. We're dissolving, if you will, the lots that don't have infrastructure in place that could be developed tomorrow. That leaves us with 37 that could be developed immediately.

This is all in an effort to generate sales, to -- you know, somebody mentioned walking away. No way, shape or form are we walking away from this project. Are we changing it drastically? Depends on your perspective. You could absolutely say this is the case. We have been very transparent with the -- there is actually five homeowners and two renters in the subdivision. We have been very transparent with them to what we're proposing to do. They are -- they are all receptive, understanding, supportive of what we're trying to do. They would -- you know, did they buy into something different than what we're getting now? It would seem so. Um, but I don't feel that -- that they're holding us -- I feel that they're understanding of our position.

As far as the golf holes go, I can absolutely understand, we were -- we were -- you were promised one thing. We're going in the other direction. I guess another point of clarification to make is, I think with the exception of two of those homes, the remainder of them were -- were purchased and built after it was decided that there would be three golf holes rather than 18 or 27 or whatever the other previous application was. So with the exception of, I think, two homes, everybody else, um, was not necessarily sold this -- this bill of goods. I just think that is worth mentioning.

JAMES MARTIN: I just think in the future, something could be developed beyond the 37 lots.

JOHN NOWICKI: So we just have to be careful to make sure that we get -- all of the easements are taken care of properly and you're satisfied that those turnarounds are to Town standards and will be good for the people that are living there. Okay? So that is all I have got for now. I want to keep an eye on this one.

JAMES MARTIN: Your current letter of credit, that is still -- we still have access to that, correct?

DAVID LINDSAY: Yes, we do.

JAMES MARTIN: So they have \$400,000.

JOHN NOWICKI: As long as we have a current letter.

JAMES MARTIN: Thank you.

RICHARD BRONGO: I just have a quick question. Have those roads been dedicated to the Town that are in that tract, or are they still part --

MR. SHIELDS: The portion in the blue has not been dedicated. The -- the roads that are in front of the 37 lots we proposed to keep have been dedicated.

RICHARD BRONGO: Okay. That is where the turnaround is going to be, in that area, right?

MR. SHIELDS: The turnaround, we would probably provide an easement over the temporary turnaround. Whatever we end up constructing the clubhouse, probably would go within an easement. What is existing on Prestwick is within the limits of the right-of-way.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

DOROTHY BORGUS: Just a question. Under the present situation and the approvals they have, can this -- can these owners sell these lots off to other builders?

KAREN COX: That's what I asked earlier.

JAMES MARTIN: I think as Mr. Shields pointed out, the HOA maintains architectural control. So that you just couldn't come in there and build anything hodgepodge. It would have to be approved by the Homeowners' Association. I can remember when we originally heard this would be one builder building a very common architecture on the whole site, if I remember the discussion we had at that time. I think that is still what applies, Dorothy (Borgus), at this point.

DOROTHY BORGUS: I would -- as well as architectural style, I also would be concerned about the quality of the building done. If various builders are allowed to come in and buy off lots. As -- as the financial picture, um, gets a little tougher and tougher, you want to be sure that you have got something in writing that -- that that can't happen. Because we have seen that before in this Town.

KAREN COX: What do the covenants of the HOA say? That is what is really going to govern.

JOHN NOWICKI: Can we have that reviewed by our legal?

JAMES MARTIN: I have already asked to have that done.

JOHN NOWICKI: Because I would want that as a condition.

KAREN COX: What is that?

JOHN NOWICKI: That they can't sell these lots off to other -- say five or six other builders and you end up with some real dumpy looking stuff in here. That is not going to be fair to the people that are living in there.

KAREN COX: Well, they would -- correct me if I am wrong, but they have -- I mean -- I mean, we're in an HOA, and the Board has control over --

JOHN NOWICKI: That is what I want to make sure, that the HOA has control.

DAVID CROSS: I don't think they can be told who builds the lots.

PAUL WANZENRIED: Did you not say that the HOA has Architectural Review?

MR. SHIELDS: HOA, yes, sir, does have an Architectural Control Committee, but that is separate and -- somebody please correct me if I am wrong, but that is separate from the HOA or anybody, for that matter, deciding which builder can come in and submit plans to the HOA and have those plans approved and then build a home.

PAUL WANZENRIED: But the HOA -- would be my understanding, that the HOA can dictate or adhere to the standards of what is being built in there. Not necessarily who is building in there. I could build in there. Karen (Cox) can build in there and David (Lindsay) can build in there, but as long as we're building the same style consistent with the neighborhood, that is what the HOA would govern.

MR. SHIELDS: Yes, sir. Agreed.

DOROTHY BORGUS: My concern is not so much -- well, the architectural style, too. But the quality. We have -- you all know that we have builders that build good houses and builders that cut every corner there is, and we just don't want to end up with a lot of poor quality housing up there. That is my point.

Thank you.

BARB DENIGRIS, 254 Archer Road

MS. DENIGRIS: I'm on the downhill side. I have to admit I'm not sure what I am looking at. Is that Archer Road up at the top? Where is Archer Road?

PAUL WANZENRIED: Left.

KAREN COX: Off the screen on the left.

MS. DENIGRIS: Going horizontal or down? Oh, there is Archer. Okay. Now it makes sense.

The concern I have is, and we have had this issue before, is that all of the excavation -- in fact, there is a lot of -- has already taken place up at the top of the hill. We have seen bulldozers and trucks and everything going back and forth. Whatever they do to the top of that hill, the water runs down into our backyards. And we have not had a wet spring, and several of the neighbors, including myself, my pasture is getting a lot of water now.

And several neighbors, Sally next to me, two doors down, she has about that amount of water in her basement -- or in her backyard (indicating). So the drainage problem has come back. So whatever you're doing up there, I -- I'm assuming you have already started clearing the way and are razing all of the lots? Before you -- before you come before the Board, or not? What is the excavation? I guess I should ask what is going on up there.

MR. SHIELDS: You have seen equipment over there in the past three to four weeks. That equipment was relative to farming operations. There -- the work that is required to be done --

MS. DENIGRIS: Bulldozers?

MR. SHIELDS: Yes.

MS. DENIGRIS: Why would you have bulldozers for a farming project?

MR. SHIELDS: I think they moved a bunch of structures. Catch basins and whatnot, manholes. And they also were leveling out some areas to make -- to increase the area that could be farmed.

MS. DENIGRIS: So up at the top of the hill then, from where we are, that is going to turn into farmland?

MR. SHIELDS: No. Not -- not as -- not -- that's not our intention right now, to farm that area, no.

KAREN COX: Where is 254 on that map? 254 Archer Road.

MS. DENIGRIS: Coming from the bottom, I'm 1, 2, 3, 4. I'm the one that is the L shape, that has the pasture there. Those are the houses, the original houses that were there before all of

this ever started happening.

But we have had drainage problems down there. So if you're going to start scraping more stuff off the top of the land there, the hill, it just comes straight down on us. All of the water drainage. So we're -- so we're concerned about that.

And you're saying that whatever has been going on there has to do with farming projects that are going on up at the top? They're going to plant what, corn or something up at the top of the hill?

MR. SHIELDS: I'm not sure exactly what you mean by the "top of the hill."

MS. DENIGRIS: The top of the hill for us is where that blue area is. The -- I see the road, whatever that -- whatever the street name -- what is it? Prestwick, comes in. It comes in and heads south at an angle, and all of that -- Prestwick goes up to the top of the hill. And there is a hill, a range, a ridge that was originally there anyway that paralleled the houses down on Archer Road. And over the period of years of digging away at that, and moving dirt around, we get a lot of drainage down that hill.

They corrected it for a while, but now that you're up there again and you're leveling it and moving all that dirt, that is going to change things again.

JAMES MARTIN: I will write a condition on it that says the Town Engineer shall review all aspects of current drainage conditions on the site to insure there is no negative impact on the residents on Archer Road.

MS. DENIGRIS: Thank you.

JAMES MARTIN: Michael (Hanscom), David (Lindsay)?

MIKE HANSCOM: That's fine.

JAMES MARTIN: If this is happening, it has to be stopped.

MR. SHIELDS: The work she is leaving --

JAMES MARTIN: I'm not worried about the work she is referring to now. I will have the Town Engineer work with you and whoever else he needs to work with just to insure that we're not having negative impact on those residences on Archer Road, based on something that is going on on your site. End of discussion.

MS. DENIGRIS: One other question. We were wondering about renters. We were told originally they -- those were properties that were going to be sold and owned.

MR. SHIELDS: There are.

MS. DENIGRIS: Not rental properties. Apparently the rentals are the -- is the townhouse there, where there is two -- what do you call those? Two living --

JOHN NOWICKI: Condos?

MS. DENIGRIS: Condos, whatever they are. There is a building there, housing -- house that has two renters in it.

JAMES MARTIN: I think we went back to the original proposal. There was a combination of town homes and condominiums. I think there was a proposal for both owners and rental.

MR. SHIELDS: The rentals are rent-to-own. Somebody has not bought it as investment property. They're rent-to-own. It is not both town homes. It is one patio and one home.

JAMES MARTIN: We would have to go back and look at the record on that, but I remember there was some discussion about that when it came before us.

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

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

JAMES MARTIN: I think we pretty much understand what they're trying to do at this point. I will go ahead and make a SEQR determination before we go forward at this point.

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

JAMES MARTIN: I have picked up four -- three conditions at this point. Any easements that need to be refiled shall be agreed upon between the applicant and the Assistant Town Counsel.

Any revisions to the current Homeowners' Association agreement shall be reviewed and approved by the Assistant Town Counsel.

The Town Engineer shall review all aspects of the current drainage conditions on the site to insure there is no negative impact on the residences on Archer Road.

Anything else?

JOHN NOWICKI: Well, I just -- I want to hear from Mike (Hanscom), the Town Engineer, to just make sure that his observations here, what he has spelled out here are adhered to.

JAMES MARTIN: Are you basically satisfied with the answers that have come forth so far from Mr. Shields on this?

MIKE HANSCOM: Um, I am, yes. The only thing --

JAMES MARTIN: Use the microphone, please.

MIKE HANSCOM: Sorry. The -- the answers he gave to the -- to my comments on the

letter I'm satisfied with.

On the side table thing that we did talk about he may have to address is the sanitary sewer and the water mains that are outside of the dedicated right-of-way, okay? Um, we may need to talk to Pure Waters and the Water Authority about whether or not you need to provide them with an easement for those areas.

MR. SHIELDS: I believe there are easements -- one easement over the water main has already been granted to the Water Authority and the easement over the sanitary sewer has already been granted to the County.

MIKE HANSCOM: Okay.

MR. SHIELDS: I can get Liber page for that information.

MIKE HANSCOM: And the map -- I didn't see them called out on the maps here.

JAMES MARTIN: Can I make this subject to -- to --

DAVID LINDSAY: Make it subject to our approval like we typically do and we'll capture those before we sign off on them.

JAMES MARTIN: So Condition Number 4 will be pending approval by the Town Engineer and Commissioner of Public Works, okay? Everybody got that?

JOHN NOWICKI: Mike (Hanscom), you will apply your comments here to that request, right?

JAMES MARTIN: You okay with that, John (Nowicki)?

JOHN NOWICKI: Yes. As long as these comments are taken care of.

JOHN HELLABY: With all of the drastic changes that have taken place over there over the years, I don't know what the Board's feeling -- I guess it doesn't really matter one way or another. There is a big real estate sign down at the Archer and Beaver. Has a little -- little golf green and a flag. I would like to see that thing personally go away. I don't know what your thoughts are. Because its doesn't actually demonstrate what is even there.

JAMES MARTIN: Is that a permitted sign under our current code, David (Lindsay)?

DAVID LINDSAY: I apologize. I was speaking with Mr. Hanscom on a different issue. Could you --

JOHN HELLABY: Down at the corner of Archer Road there is a real estate sign from when the development was originally proposed. It has got, you know, the "golf villas" or whatever on it. Out in front of it they have a little fake golf green with a flag stuck in there and all these rocks. It's not a right representation of what they're proposing there any more. I would like to see that thing just be removed. Or upgraded.

MR. SHIELDS: I'm willing to agree to remove the golf component of that sign.

JAMES MARTIN: I think your previous comments about your planning to eliminate the golf holes --

MR. SHIELDS: Only makes sense.

JAMES MARTIN: To get that sign out of there.

MR. SHIELDS: I think that is acceptable. Just to be clear, it is acceptable to remove the golf components of it?

JOHN HELLABY: Does it have the right name of the facility on it now? I thought it still alluded to all of the golf course and stuff. I think that sign has been up there for a number of years now. The original developer put that sign up. I know Pooler didn't put it there.

MR. SHIELDS: I -- I would have said it has the right name, but I --

JOHN HELLABY: Look at it.

JOHN NOWICKI: Time to adjust it or remove it. Adjust or remove.

JAMES MARTIN: I will say applicant to remove golf reference on ad sign at corner of Archer and --

MR. SHIELDS: Sure.

JAMES MARTIN: So we have five conditions now.

Just to reiterate, subject to Town Engineer and Commissioner of Public Works approval. To remove golf reference from ad sign at corner of Archer and Ballantyne.

DECISION: Unanimously approved by a vote of 7 yes with the following conditions:

1. Any current easements that need to be refiled shall be agreed to between the applicant and the Assistant Town Counsel.
2. Any revisions to the H.O.A. agreement shall be reviewed and approved by the Assistant Town Counsel.
3. The Town Engineer and Commissioner of Public Works shall review all aspects of the current drainage conditions on the site to insure that there are no negative impacts on the residences on Archer Road.
4. The applicant shall remove the golf reference on the advertising sign at the corner of Archer and Ballantyne Roads.
5. Approval is contingent on final approval by the Town Engineer and Commissioner of Public Works.

JAMES MARTIN: Please work with the Town Engineer. I do not want these people

adversely affected on Archer Road by this project. We have been up and down the road on this thing I don't know how many times. I'm sorry you haven't sold more lots than they have sold, but hopefully it's going to get better.

MR. SHIELDS: Thank you, everybody.

3. Application of Anthony DiChario, owner; 100 Air Park Drive, Rochester, New York 14624 for preliminary site plan approval to erect a 6,240 square foot warehouse addition at property located at 100 Air Park Drive in GB zone.

Jesse Sudol was present to represent the application.

MR. SUDOL: Good evening. My name is Jess Sudol with Passero Associates here this evening on behalf of Mr. DiChario and AmChar Wholesale. We are requesting site plan approval for a 6,240 square foot building addition to an existing warehouse at 100 Air Park Drive. The site is located between Scottsville Chili Road and the river on -- across from the airport basically.

The addition is proposed in order to satisfy a need that they have for a lot of their inventory, which they're pretty much overflowing at the brim, and if you have been out to the site or had a chance to look at aerials, you will see that has resulted in some tractor-trailers and some on-site storage which we acknowledge is not permitted, which our client did not realize was not permitted until we brought it to their attention. But the good news is with the proposed addition, we're proposing to remove outside storage, all of the mess that is back there now and bring it inside the building and organize it in accordance with the rest of the facility. It will also allow us to clean up some of the parking and add some striping.

Again, it's a fairly straightforward building addition. It matches what is there today. There will be one building-mounted light. There will be a couple overhead doors that will serve as loading docks, and other than that, it will be basically identical to the existing building. The lot size is 2.8 acres. With the addition of building and minor pavement improvements, we'll be within all of the applicable aspects of the zoning code.

We did receive the comment letter from Mr. Hanscom. If you would like, I can answer any particular questions. For the most part, we don't have too many problems with them.

I would like to address a few, however, specifically. One of those being the dumpster. We do recognize that we will have to put the dumpster enclosure --

JAMES MARTIN: Why don't you go ahead and go down through these because it will probably save some questions from the Board if you answer them.

MR. SUDOL: Okay. Number 1 involves the parking lot striping. We are proposing to stripe those additional 27 parking spaces. So they will be striped and we can clarify that with a note on our drawing.

JAMES MARTIN: Will there be any additional employees coming in as a result of this addition?

MR. SUDOL: No. There is not going to be -- there might be one or two. Not proposed to be many, but we have a parking requirement that is driven by the zoning ordinance we need to meet.

JAMES MARTIN: Thank you.

MR. SUDOL: We will be providing the striping in Number 2 that is requested for the loading dock areas. That will be similar to the striping that is currently shown on the site plan.

We will make sure that all of the exterior lights are dark sky compliant.

Number 4 is just stating that they -- Mr. Hanscom concurs with our parking requirements on the site plan.

Um, Number 5, we will, again, provide a dumpster enclosure which basically meets all of the requirements of the Town of Chili. And we can provide a detail of that on the final plan to be reviewed and approved by the Commissioner of Public Works and the Town Engineer.

Number 6 cites some aerial photos and some discrepancies in pavement. Our plan was prepared off a survey, and actual topographical survey that was prepared about two months ago, so right around the end of March.

Number 7, as stated earlier, there are semis -- or trailers from semis that are currently stored in the back. Our intent is to remove all those from the site, from the site and take the inventory currently being stored inside them and move them into the proposed addition.

Number 8 involves a potential temporary construction easement from the adjoining property. We do not feel that that is going to be necessary based on the fairly simple means and methods how this building will be constructed.

Again, the Building Department is welcome, or will be monitoring the construction to make sure we don't go over that 5 foot mark. If you do notice the neighbor to -- that we would need the easement from happens to have the same last name as our client, so if we did have to pursue that, I think it would be pretty simple. But again, we don't plan on encroaching on their property. 5 foot from the building wall to the property line is enough for us to come in from the east, the right side of the drawing, set our columns, work our way out, and then basically proceed in that manner. Anything that would have to be done on the back side could be done within that 5 feet.

And we will extend the silt fence as noted in comment Number 9.

That is it.

JAMES MARTIN: Anything else?

MR. SUDOL: No, not at this time.

JAMES MARTIN: There was -- I do have comments from the Fire Marshal. I don't know if -- I don't think you got a copy of this. Basically, indicating that his review finds that the site plan is okay, but it will require Fire Marshal review and approval of the extension of the sprinkler and fire alarm systems to the warehouse addition. So that is fairly -- fairly standard procedure as far as the Fire Marshal.

MR. SUDOL: Will be part of the building permit review with the -- for the building.

JOHN HELLABY: One quick question. The -- the end wall on the existing warehouse, is that entire wall coming out to access the inside, or is there just a couple of doorways?

MR. SUDOL: There will be a couple of doorways that align -- it is all shelving to the ceiling, so it will line up with those aisles, if you will.

JOHN NOWICKI: You're prepared to comply with Mr. Hanscom's requirements on this letter, the engineer's letter?

MR. SUDOL: Yes, the majority of them.

JOHN NOWICKI: For example, providing construction details for the dumpster.

MR. SUDOL: Absolutely.

JOHN NOWICKI: Number 5.

MR. SUDOL: No. We are willing to comply with all of them. The one I just wanted to make a clarification on that we did not feel it was necessary, to obtain a temporary construction easement from the property to the west.

JOHN NOWICKI: Conservation Board. Their statement is the Conservation Board inquires as to what the crates on the south property line contain. And one percent of the construction project cost should be placed in the Town of Chili Landscape Fund.

MR. SUDOL: To be perfectly honest with you, I don't know. I'm not sure what is in those crates, but I have been assured by the owner this will be removed as part of this project from the site.

JOHN NOWICKI: Within a short period of time.

JAMES MARTIN: Upon completion of the project.

MR. SUDOL: I didn't mention this, but they plan on starting construction immediately upon all applicable approvals.

JOHN NOWICKI: You have no problem with the requirement with the Chili Landscape Fund, 1 percent?

MR. SUDOL: I believe that is standard on all projects. There is not much we can do there.

JAMES MARTIN: That definitely is standard.

DAVID CROSS: Jess (Sudol), I don't see any handicapped spaces identified on the parking. I'm assuming they're up front. Maybe there is three of them there.

MR. SUDOL: The main entrance is at the northeast corner of the building. There is one there. I will make sure we show that on the final plan.

DAVID CROSS: With a 6,000 square foot addition, what is the increased number of handicapped spaces required per ADA?

MR. SUDOL: I believe it goes from two to three, so we'll make sure that we show that.

DAVID CROSS: Just make sure that that is clear.

DAVID LINDSAY: Just one question. I see the -- the slot drain there for the loading dock. Where is the roof drainage going to go?

MR. SUDOL: The roof drainage? We're going to put a small pipe that runs from the roof -- or I'm sorry, the roof is flat. It will be tied in internally.

PAT TINDALE: I just wondered if they were contemplating any landscaping at all.

MR. SUDOL: No, the -- not -- the front area that is basically viewable to the public, the front of the building, the north face is already pretty well landscaped. They don't see any benefit in landscaping the area to the back since it is a pretty industrial area back there.

PAT TINDALE: It depends on what they consider well landscaped. It could be improved upon. If they're not going to do anything, then just like John (Nowicki) said, 1 percent of the total cost of the project goes to the landscaping fund for the Town.

MR. SUDOL: I would like to make one clarification. On our letter of intent -- I don't know if this would be an issue or not, but we did request preliminary and final site plan approval --

JAMES MARTIN: I have that noted.

MR. SUDOL: Okay. I just saw on the agenda it was just preliminary.

JAMES MARTIN: I have that noted.

JOHN NOWICKI: We got the money, right? (Laughter.)

JAMES MARTIN: Just one minute. I just want to check one thing. We do have a provision in our code under the formation of the Architectural Advisory Committee that says that any application regarding alteration, expansion, modification of existing buildings in the following districts -- and General Business District is included in that -- should be reviewed by the Architectural Advisory Committee. Since this structure is essentially, you know, an addition that is going to look like the existing building, if I understand your letter of intent and everything that has been stated here tonight, I'm opening this up a little bit for discussion before the Board before we go to the Public Hearing portion of this and whether or not since we don't have a representative here from the Architectural Advisory Committee, whether or not we really feel it should be subject to their review or whether we would waive that requirement as part of the process tonight.

JOHN HELLABY: I personally think it should be waived.

JOHN NOWICKI: I do, too.

DAVID CROSS: As long as it blends in with the existing building.

JAMES MARTIN: So I have got four that say to waive it. All right. So we'll -- you know, I will make a note of that before we finish tonight, we'll put a motion before the Board, assuming this goes forward, that that requirement would be waived.

MR. SUDOL: Thank you very much.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

DOROTHY BORGUS: I have two questions. What is this building currently used for?

JAMES MARTIN: You can answer that, Mr. Sudol.

MR. SUDOL: It is currently firearms and --

MR. VAN DE WATER: Distribution, wholesale distribution.

DOROTHY BORGUS: That was going to be my next question. Are there guns involved?

My next question, my second question, are there guns involved?

JAMES MARTIN: I'm assuming so, if it is firearms and --

MR. VAN DE WATER: Distribution, yeah, warehousing. Highly regulated business, Miss Borgus.

DOROTHY BORGUS: But there has been a lot of publicity about this before, so is this Board comfortable with more guns?

KAREN COX: Well, they're there now.

DOROTHY BORGUS: But there has been evidently problems.

JAMES MARTIN: I'm more comfortable having it inside a well constructed structure instead of in the back in trailers.

DOROTHY BORGUS: This entire building which is how many thousands of square feet?

JAMES MARTIN: 6,000.

DOROTHY BORGUS: Not the addition. I'm talking -- I'm assuming it is the same tenant that will take on the addition as currently uses the rest of the building.

JAMES MARTIN: That's correct.

DOROTHY BORGUS: How many total square feet are we talking about here?

MR. SUDOL: It's going to be -- excuse me for a moment -- currently 21,000 square feet with the additional 6 will be 27,000 square feet.

DOROTHY BORGUS: Okay. So -- so what has been being stored in these trailers, which are going to be removed? Is that guns?

JAMES MARTIN: I have no idea what is in there. Do you have an idea?

MR. SUDOL: I'm not sure what is in there, but it's not guns. They make sure the guns are secured. It's a lot of the other miscellaneous stuff that goes along with that.

DOROTHY BORGUS: Okay. I'm sure that Mr. DiChario has done business in this Town long enough, he knows those trailers there are not allowed, so it is kind of annoying to sit here and hear them plead ignorance they didn't know that these were not permitted. So I'm glad they're going away.

JAMES MARTIN: So are we.

DOROTHY BORGUS: But note should be taken then, Mr. DiChario should be at least advised that those are not permitted. If he is not aware, which is hard to believe, he should be instructed.

KAREN COX: I think Mr. Sudol mentioned --

MR. SUDOL: We have advised him of that current non-compliance.

JAMES MARTIN: Thank you.

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

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

JAMES MARTIN: Two things. I will go ahead and make a SEQR declaration at this point.

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

JAMES MARTIN: At this point, I make a motion that the Board grant a waiver to the Architectural Advisory Committee review of this project.

JOHN HELLABY: Second.

The Board was unanimously in favor of the motion.

JAMES MARTIN: Okay. As far as the preliminary site plan, they have paid their fee for final. I will go for a consensus of the Board on whether or not we waive final on this application?

JOHN HELLABY: That's fine.

JAMES MARTIN: I have a unanimous yes, so we will waive final.

The Board indicated they were willing to waive final.

MR. SUDOL: Thank you.

JAMES MARTIN: On the application itself, I have four conditions that approval is pending final approval by the Town Engineer and Commissioner of Public Works.

Applicant shall comply with the Town Fire Marshal requirements.

Applicant to comply with the Conservation Board fund requirement.

And the dumpster enclosure construction per the Town Engineer comment will be completed.

DAVID CROSS: Adequate handicapped spaces.

JAMES MARTIN: Applicant to provide adequate handicapped designated parking spaces.

RICHARD BRONGO: And that the architecture on the addition match the current facility.

JAMES MARTIN: I'm sorry.

RICHARD BRONGO: The architecture on the addition match the current structure.

JAMES MARTIN: Yes, it will.

DECISION: Unanimously approved by a vote of 7 yes with the following conditions:

1. Approval is pending Town Engineer and Commissioner of Public Work's final approval.
2. Applicant shall comply with the Town Fire Marshal requirements.
3. Applicant to comply with Conservation Board fund requirement.
4. Applicant shall construct a dumpster enclosure per town standards and obtain zoning permit.
5. Applicant shall provide adequate handicapped parking spaces per Town Code.
6. Applicant shall remove all semi trailer storage units from the property upon completion of the warehouse addition.

The Planning Board by motion and vote waived the requirement that this project be reviewed by the Architectural Advisory Committee.

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

JOHN HELLABY: Mr. Chairman, I would like to recuse myself on the next discussion item as my wife is the Assistant to the Vice President for RG&E.

KAREN COX: You get to recuse yourself a lot. (Laughter.) That should be an interview question for Planning Board, do you have any relatives --

JOHN HELLABY: I know everybody.

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

JOHN HELLABY: Thank you. I will stick around. I want to hear it.

FOR DISCUSSION:

1. Rochester Gas & Electric -- proposal to erect seven equipment buildings totalling approximately 5,000 square foot at property located at 760 Chili Scottsville Road (west side of road) in AC zone.

Brendan Bystrak was present to represent the application.

MR. BYSTRAK: Good evening. My name is Brendan Bystrak with LaBella Associates. I'm here on behalf of RG&E this evening.

I realize this is an informal discussion for a project that is going to require a subdivision, preliminary and final, a special use permit, site plan and currently approximately three variances before the Zoning Board of Appeals.

Um, can I speak from over there? Do I need microphone?

JAMES MARTIN: Pardon?

MR. BYSTRAK: Can I speak from over there by the plans?

JAMES MARTIN: Sure. Go ahead. If you can speak up so we can all hear you.

MR. BYSTRAK: The application is first for subdivision. We're currently working our application to submit this Friday for preliminary and final.

The intent is that Rochester Gas & Electric currently owns about 1200 square feet with an address of 689 Scottsville Chili Road, and we're looking to acquire approximately 18 acres which is the Holdings of Chili Ventures on the northwest side of Scottsville Chili Road.

We currently have a purchase and sales agreement with the golf course. This will retain all of the acreage on the southern or east side of the road. That would total about 179 acres.

Our intent is basically a lot line adjustment, to eliminate just the boundaries that join the two. However, because it's not an agricultural use or a residential use. It's, I guess, defined as a major subdivision process, requiring a process through the Board.

The site plan, the intent of the property acquisition is an interconnect. There is a current 24 inch, a transmission main operated by National Fuel Gas Corporation. Referred to as the Empire Pipeline. RG&E would then build what is referred to as a gate station for a point of purchase.

The station would basically connect to that main. It would go through a series of processes that then puts it back out at a distribution pressure for all of RG&E customers.

RG&E currently owns a 20-inch line on the west side of the roadway, so this site really makes it ideal for it. Again, it has the high pressure main and also one of the distribution mains on it.

Before we made application for the Board, we had several studies done. Our first study was a wetland delineation, so the cyan line here (indicating) represents the existing delineation limits of the federal wetland. We also did archaeological Phase 1A.

I believe I have some of that information in the packet. We had several areas that came up as archaeologically sensitive areas, so we did a Phase 1A investigation that came back positive. We did a Phase 1B, which there is actually a 50 foot shovel test, and submitted those reports to SHPO and received a letter of no effect back from them. With that, we developed our initial plan, which is approximately seven buildings on the site. The total square footage is less than 5,000 square feet. Three of the buildings could actually be operated by National Fuel. They still own part of that distribution system up to a point of demarcation where RG&E then takes over.

There are two separate plans that were submitted to the Board. Our first plan -- actually this is the first plan, which is drawing 1.01 of your application materials. That plan would not require a front setback variance, and basically all of the buildings fit between the 100 foot setback being a non-residential use and the existing wetlands.

Our intent is no disturbance, so we don't need a federal wetland permit.

The alternate plan was developed and it shows where our fencing is located, how it would substantially reduce the footprint by getting about a 25 foot variance from the front setback. The right-of-way width on Scottsville Chili Road is normally wide in this location. Measured from center line is about 60 feet and traditionally, a right-of-way is about 66 feet. That occurred back in the 1960s. RG&E has owned a much larger parcel. I believe there is a regulator station there.

When that right-of-way taking occurred, they were left with about 1200 square feet, which is still a valid parcel.

So our intent would be, with the Board's permission, to seek a variance, and what we did was assume would it be a 60 foot wide right-of-way, so 33 foot offset from center line, offset that 100 setback, came up with that hypothetical setback line. What it would do is move that line about 27 feet closer to the right-of-way, and it allows us to compress the station by about 80 feet. I think our plan is about 83 feet.

If you would like, I can go through the process. I don't know if it is applicable or not. Just to kind of describe what the station would do.

DAVID CROSS: Please.

KAREN COX: Yes. It is interesting.

MR. BYSTRAK: We connected to the existing main which operates about 1440 pounds. That comes through -- the first building is 24 foot by 37 foot which has a series of strainers in it to take any impurities out of the natural gas that would be in the pipe lines. There is also a bypass associated with it.

The second step is the gas flowing through there would be metered, so there would be basically two meter runs and bypass run for maintenance on that piping, if needed. Then there is a control building that has all of the computers that would be operated by National Fuel to monitor that station.

Once the gas leaves the metering building, it could travel down to a heater structure. There is several different methods used to heat natural gas. We're trying to go with -- actually the most expensive, but it's a very silent operation, just low-profile equipment. All of the equipment we're proposing to be housed are inside structures. So the natural gas would then be heated.

It would then go through a series of flow controls, basically the last stop in monitoring for National Fuel, and then enter into our first regulator building. So the gas coming in would be heated.

The gas comes in at 1400 pounds and would exit about 300 pounds and that temperature shift, or the pressure shift causes significant drop in temperature and that is the reason for the heating. The gas would then exit out of there at a 20-inch main and continue south to the Mumford distribution area, and also it would continue back north to the city, and that RG&E transmission line.

Um, there is a second step regulation building which takes that 350 pounds down to 120 pounds -- I'm sorry, that is actually what would connect back to the city.

Then RG&E would have their seventh and final building which would be their computer controls.

Again, there is a special use permit required. It does fall under a -- 527-C1 for a public and private utility buildings. So we still need that approval from this Board.

The variance I mentioned, um, the three variances we need typically at the RG&E gate

station project -- this is the fifth one I have worked on and substation projects -- to have a 7 foot chain-link fence with three strands of barbed wire at the top. I believe the ordinance is currently set up, you're allowed to have 4 foot fence in your front yard and a 6 foot fence on your sides and rear yards. So we need two variances there for front and side.

And the third variance is applicable to the three strands of barbed wire again for secured measures.

Setting wise, again, the location has really worked out extremely well for us. Transmission line is there. Our distribution line is there. The closest residential property is about a quarter mile away at the intersection of Humphrey Road. In our dealings with the golf course, we have agreed with those folks to keep the buildings as low-profile as possible, provide landscaping in the front of the buildings. I believe we're also going to look at using chain-link fencing again to soften the visual impacts like a black vinyl versus a standard galvanized finish.

Their other concerns were odors that you would smell, the gas leaking. In that case, we're regulated by the PSC, Public Service Commission. There is no allowable odors to emanate from the site.

The site would generate no traffic. Basically there is a weekly inspection that occurs. They come in and they check the chart recorders, they check monitoring. The station is run remotely from Binghamton. That requires some phone services so there is no communication towers. It is either wireless from the two buildings or will also have natural phone services run in from across the street.

I think that kind of covers all of the brief items. Again, ample space for snow storage. No traffic. We'll need a break in access from the New York State DOT.

And that kind of concludes my presentation.

JAMES MARTIN: Um, you have two proposed site plans up there.

MR. BYSTRAK: Correct.

JAMES MARTIN: Which way are you leaning at this point in time?

MR. BYSTRAK: I would lean towards actually getting the variance to help decrease the overall footprint. In our first plan, we have about one acre enclosed out of the 18 acres. That drops it by over 10,000 square feet and actually pulls us so even our fence line is out of that wetland area. So we would need absolutely zero disturbance and we decrease our impacts by over 10,000 square feet.

We are still working with our gas engineers on another way of defining the footprint and actually reducing the overall scale of the project.

JAMES MARTIN: As far as fencing the project, would it just be around the developed area, I guess, is what I will call it, where your utility buildings are, or will you do the whole property?

MR. BYSTRAK: No, it would just be to the substation itself. Yep.

JAMES MARTIN: All right.

MR. BYSTRAK: Again, we have pulled that at least 50 feet off the road with the intent of being able to put our landscaping on the outside again to buffer the fencing completely.

JAMES MARTIN: All right. Emergency access to the site, um, if it is required, and hopefully it never would be, um, but, you know, as far as the Fire Department goes or something were needed there, um, how would they get onto the site?

MR. BYSTRAK: We have a paved 24 foot wide access, and the intent there is that that distance, even on our alternate plan with the variance, keeps that fence in the same location.

You would have about 80 feet off the shoulder of the road, so you can get basically two service vehicles staged before the security gates would be opened. That is for a typical service.

Typically we would meet with the Fire Department, and there is actually a training facility as the operation is opened up, so they're aware to what to do for emergency response.

JAMES MARTIN: How would they get onto the site if that was required and nobody was there to unlock the gate?

MR. BYSTRAK: The lock has a dual locking mechanism on it. National Fuel would have a key on the top of it. RG&E would have a key for locking on the bottom of it, so either of the locks could be cut for access into the station. Again, dual access for both companies.

There will probably be additional gates located at the ends of the project, so if there is a situation, there is another means of ingress and egress out of the station.

JAMES MARTIN: In a typical operation of a gated facility like this, is there any odor released at all as a result of the activities on the site?

MR. BYSTRAK: No. PSC regulates that. If we were allowed to have the odorant escaping, it would give a false sense of security, so there is an issue. The high-pressure transmission line is not odorized. The odorant is actually injected into that system after the first cut regulators are in place.

JAMES MARTIN: That is totally self-contained within that building?

MR. BYSTRAK: Correct. We have an odorizer that is shown inside the building and then outside to decrease the side of the footprint of the building. It is basically a weather-tight container that we figured would be on the back side, again, screened from the golf course and from the right-of-way.

JAMES MARTIN: You know, you have already indicated that you're applying for the June meeting; is that my understanding?

MR. BYSTRAK: Yes. We actually have a purchase sales contract that expires, I believe, on June 29th. So we're attempting to get before the Board seeking preliminary and final subdivision approval. This will be a separate application once we have worked out the final

building and piping configuration with the gas engineers to then present for a site plan, special use and then for the Conservation Board and the Zoning Board of Appeals.

JAMES MARTIN: Um, assuming everything were to go forward, when would actual construction begin?

MR. BYSTRAK: I believe it would probably begin construction in the spring of 2013.

JAMES MARTIN: Okay. So about a year away.

MR. BYSTRAK: Correct. The intent is if -- if we're successful in acquiring the property, getting through the approvals, if we have approvals by the end of the year, they would prefer to actually begin procurement of a lot of this equipment this calendar year. That way it's on standby ready for construction next year.

JAMES MARTIN: Are there approvals in addition to the local approvals that we have talked about tonight, you know, State, federal permits, those types of things?

MR. BYSTRAK: From our -- I don't believe we have to go before the PSC. I can verify that with RG&E tomorrow and let the Board know. I believe for the interconnect, there is some work that is done with PSC or the Federal Regulatory Commission on behalf of National Fuel. That's on the transmission side and our project is more involved on the distribution side.

PAUL WANZENRIED: Nothing to do with the DEC or anything because you're putting the fence line through the wetlands?

MR. BYSTRAK: There are no DEC -- in the very back there is five different documents from different databases we have researched for every project. Actually, I can flip to that on the screen.

JAMES MARTIN: They're all federally designated wetlands.

MR. BYSTRAK: We're in a federally designated wetland area. The first one we reviewed was the FEMA, and it just shows that this is the existing 100-year flood plain area and our site development occurs well outside of that. So we have no impact on the federal wetland -- or, I'm sorry -- flood plain.

The second mapping is the federal wetlands, so this came off the National Wetlands Inventory Database. And because of that finding, we basically retained Environmental Data Resources. They conducted a wetland delineation for us. There is 46 flags located on the site that delineate the wetland boundaries. Again, our intent is to stay out of that and avoid any federal wetland permit.

The third was from the State Parks, and it did come up in the gray zone, which is archaeologically sensitive areas, so we had dual archaeological. They conducted a Phase 1A, the records check and a Phase 1B. I have copies of the reports for the Board. We submitted that to SHPO, and have a no effect letter back from them.

The last website we searched is the DEC's website, and we look at that for a variety of different items from unique features to State regulated wetlands. The 500 foot check zones for rare endangered plants, and again, we're clear of all those hits on the DEC database.

JOHN NOWICKI: Nice job.

PAUL WANZENRIED: Okay. The -- the 50 foot radiuses that you show here, they're off of valves, so there is a clearance between these valves?

MR. BYSTRAK: There is required distances set from operational equipment, and the valves are both for the inlet and outlet piping, so that if there were to be an incident at the station, that your control valves to shut down a station are 50 feet away from the equipment that would have potential failure. Those potential failure points are typically flagged connected points.

PAUL WANZENRIED: As you enter into the facility, there are valves to the right. Let's see. I'm on C1.01.

Are those valves in the ground or above ground?

MR. BYSTRAK: Those would be the reliefs. As an example, what a relief would look like is in the photographs, I believe on page 4. This -- this quick example, this is a Park Line building. It is actually located underneath the same power lines tapping the Empire Line. This was built on West Bergen Road, Town of Bergen, last August.

Then this is what you would see out the street. It is basically a block valve that comes up to a relief. So basically just a short-term pressure relief. Then on the ground, there is a control valve and on either side of it what are called test tubes. Basically screw-in modern devices, pressure gauges.

PAUL WANZENRIED: Okay.

KAREN COX: Is the reason this is being proposed to -- to improve RG&E's distribution service? I mean, there is a need to make it better?

MR. BYSTRAK: It's kind of a redundant station. There is currently the Mendon station that services -- it is kind of a redundant station but also there for expansion. The western side pipelines are going to have some changes in the operating pressures, so this station will help support those future modifications in the pipelines. So it is a needed station, and actually there is a tap that -- on the Empire Line that was put in back when the Mendon station was built about 20 years ago, so the intent is to actually connect onto that tap. So actually plans were made over 20 years ago, and I believe at the time RG&E did try to secure the property and they weren't successful.

KAREN COX: When you mention the Mendon station, is that the one you can see from the Thruway?

MR. BYSTRAK: Correct. There is a large barn structure that is on that property. That actually has a -- heater buildings in it. It is called a water bath technology. It has a large glycol tank. It has about 3,000 gallons of glycol mixed with water, and it uses that liquid to transfer the

heat. The technologies that we're looking at -- there's two. There is a cold water technology, which is actually a vacuum system with a small amount of Glycol. It is basically a closed steam loop.

Or it's a hot cat unit which uses catalytic heat converters.

Again, those two technologies run silent.

The issues at Mendon included the height of the stack with the silencers and just the aesthetic view of this large piece of equipment. I can provide pictures, if you would like, of the different types of equipment that we're proposing.

KAREN COX: Okay. That is all I have.

JOHN NOWICKI: This particular type of project, is this something that might be going on around upper New York State in regards to the fracking that is going on downstate?

MR. BYSTRAK: Really has no bearing on the Marcellus shale development to the south.

JOHN NOWICKI: Just an improvement to the system?

MR. BYSTRAK: Correct.

DAVID CROSS: Couple things. Architecturally. You mentioned the Mendon station, and it's got a nice look to it. You know, they look like barns, looks like a farm.

MR. BYSTRAK: Correct.

DAVID CROSS: What is different than these light green kind of prefab structures that you show here? Just a comment on that.

MR. BYSTRAK: Actually, Park Line actually did manufacture all of those buildings, except for, I believe, the barn structure at the Mendon station. I did the work there about five years ago. And when they brought the regulators above grade, it is the exact same Park Line structure, just a different color scheme. We could work with the Architectural Review Board.

DAVID CROSS: Yes. It's an Agricultural Conservation area. Um, you know, it's farm -- farmland. It's large lot zoning. I think you got -- you would have to step it up in that regard.

JAMES MARTIN: I think landscaping will be critical.

DAVID CROSS: Certainly screening from the road, yeah. The greens, the berms, that sort of thing.

MR. BYSTRAK: Chili Ventures was quite sensitive to the aesthetic views. They want to make certain we have no impact on their Country Club, on their banquet facility or to their members at the golf course.

DAVID CROSS: Second comment, I do take exception, you list Section 500-27 for Conservation District and what is -- a special permit use is, you know, what they could be. And you characterize it as public and private utility buildings, structures and uses. I -- I disagree with you.

I -- I see this, Brian (Bystrak), as a gas processing facility. I think you would have to put it in the latter criteria there where it would be -- so it says, "but not including corporations, storage, repair yards, warehouses, power plants and similar uses."

I think "and similar uses" definitely applies to what you're proposing here, which is a gas processing facility. So I think I -- my opinion, I -- it would be difficult for this Board to issue a special permit use based on that.

And my third comment, I -- I'm wondering if you consulted the Town's recently adopted Comprehensive Plan, Master Plan --

MR. BYSTRAK: I have not.

DAVID CROSS: -- for future land use? You probably should. It shows Rural Residential in this area inconsistent with what I'm seeing here.

MR. BYSTRAK: We did talk to the Pompas about that, possibly of it ever being developed for residential. With the wetland areas, the existing easements, the property is currently encumbered. There is a 400 foot wide easement across it for the overhead power lines. The federal wetland limits encroach up to here (indicating), so any residential development would be limited to a couple select homes just immediately on the that frontage.

Again, with the State access, each individual homeowner would have to go to the State for a curb cut permit. So we're looking for -- this seemed to be not the highest and best use, but, you know, a comparable use for the area.

The rest of the property, again, is all covered by wetlands and easements to the north.

DAVID CROSS: Nothing further.

MR. BYSTRAK: I will take a look at it.

JAMES MARTIN: Just curiosity, do they have earth tone chain link fences?

MR. BYSTRAK: Not that I'm aware. Typically comes in like a black or green. A lot of times athletic field developments we did in the past we use black chain link. It definitely decreases the visibility of the fencing. That is why we're looking at that as a way of mitigating.

JAMES MARTIN: Research that.

MR. BYSTRAK: Sure. Earth tone vinyl.

JAMES MARTIN: Don't know until we ask.

PAT TINDALE: I have some comments. Our Board is sort of unhappy to see this is in an AC District. You know. We would rather not see it there, but I understand I have to.

Um, the setback thing, I know it decreases your footprint, but we would really like to see it remain as it is and not any closer to the road, because that road, visibility coming from the north and coming from the south, you're going to see this whole array of buildings, all fenced, even some with barbed wire. It is just our Board's feeling on the subject and it was unanimous. Also I'm assuming I will be seeing some landscaping from you.

MR. BYSTRAK: Correct. We're working with Doug McCord, licensed landscape

architect. I believe that is a requirement for the Town for our application.

PAT TINDALE: Good.

JAMES MARTIN: I think overdoing the landscaping is not out of the question here. I think it really needs to be a very, very well designed landscape plan for this site. I'm sure the Conservation Board will be very happy to work with you on that.

PAT TINDALE: Definitely.

MR. BYSTRAK: Getting back to Mr. Cross' comment on the special use permit, if it is not an itemized or -- is there a place that this would fit, in your opinion?

JAMES MARTIN: Well, I think what we'll do is -- we'll ask Mr. Jones to review that and we'll make a determination, but, you know, one way or the other, I -- I think we'll -- we will find in that Chapter, in that section of the zoning something that I think will allow us to move forward and we'll let Mr. Jones give a say -- give us his briefing on that, okay?

MR. BYSTRAK: Very good.

JAMES MARTIN: Anything else? If not, meeting is adjourned. Thank you very much for your presentation. Excellent work.

DECISION: The Board thanked the applicant for sharing its proposal plans for the R.G. & E. natural gas gate station. Per the Board's discussion, site visibility and structure style are concerns. The Board looks forward to working with you as this project moves forward.

The meeting was adjourned at 9:10 p.m.