

CHILI PLANNING BOARD  
June 12, 2007

A meeting of the Chili Planning Board was held on June 12, 2007 at the Chili Town Hall, 3333 Chili Avenue, Rochester, New York 14624 at 7:00 p.m. The meeting was called to order by Chairperson James Martin.

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

**ALSO PRESENT:** Brad Grover, Traffic Safety Committee Representative, David Lindsay, Engineering Representative; Keith O'Toole, Assistant Counsel for the Town; Dick Schickler, Conservation Board Representative; Ed Shero, Assistant Building & Plumbing Inspector.

Councilman Schulmerich, Town Board Liaison, was also present.

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

**JAMES MARTIN:** I just want to announce I don't think our public address system or microphones are working tonight. I would appreciate everybody speaking in a little louder tone of voice so everybody can hear everything tonight.

**PUBLIC HEARINGS:**

1. Application of New Hope Community Church, owner; c/o Passero Associates, 100 Liberty Pole Way, Rochester, New York 14604 for preliminary subdivision approval of one lot into two lots to be known as New Hope Community Church Subdivision at property located at 3355 Union Street in R.M. zone.

Ed Freeman and Carl Jenks were present to represent the application.

**GEORGE BRINKWART:** I would like to recuse myself from this application.

**JAMES MARTIN:** You're recused.

**MR. FREEMAN:** Good evening. I am Ed Freeman.

**JAMES MARTIN:** Speak loud so we can all hear you. I will ask that probably over and over again tonight.

**MR. FREEMAN:** I'm Ed Freeman, Vice President of Survey for Passero Associates. Our offices are located at 100 Liberty Pole Way, Rochester, New York 14604. I am here tonight on behalf of the New Hope Community Church located at 3355 Union Street, tax account number 144.080-01-007.12 to be divided in two parcels of land. The northerly parcel will contain 14.043 acres of land, and this is the parcel that will be retained by New Hope Community Church. All of the structures the Church currently owns will be located on this parcel that they retain.

The southerly parcel will contain 8.60 acres of land. This parcel is being sold and is in concept meetings with this Board regarding a project called Kings Crossings Apartments. This approval we're asking for tonight are both preliminary and final subdivision.

Monday Passero received comments from David Lindsay, Town of Chili, Lu Engineers. Mr. Lindsay had two comments. Federal and/or State wetland located on the property will be illustrated on the subdivision map. I have been in contact with FRA Engineers, and they have had the Federal wetlands flagged out. They will provide me with that information and I will add it to our map. We did not find any State wetlands on the parcel.

The second comment "We have no further comments regarding the subdivision. If final Planning Board approval is granted, we do not request it be upon Town Engineer approval." Passero Associates has received no other comments from any other agencies.

Are there any comments?

**JAMES MARTIN:** Anything else?

I believe we have discussed this before. There was some issues about, you know -- assuming that the other project goes forward that, you know, the part and party does the lot that you're trying to subdivide, you know, there is an apartment complex which is proposed to go into that location, okay? It was -- there was concern about secondary access to that location. That would be provided, I believe, from the church property to the -- the potential development next door. I am hoping -- and there are no more issues -- I'm sorry, the issues have been resolved around that particular --

**MR. FREEMAN:** I do not -- I never heard of that issue at all. FRA did not express that to me today when we talked.

JAMES MARTIN: So FRA hasn't given you any information on this?  
 MR. FREEMAN: No. Right now they said they have just been in for concept, I believe.  
 JAMES MARTIN: I don't have any other significant questions.  
 JOHN NOWICKI: I have some questions. Again, could you tell me -- my notes here, who is -- who is the guy -- Mark DelRoy (phonetic), or Del -- who is that.  
 MR. FREEMAN: He is a representative from the church.  
 JOHN NOWICKI: He signed it as owner of record.  
 MR. FREEMAN: Owner of record or representative from the church property.  
 JOHN NOWICKI: Okay. And who is going to own the second parcel?  
 MR. FREEMAN: The second parcel is being sold. Um, the -- I believe the client for FRA is Mark VanEpps. I don't know the name of his company.  
 JOHN NOWICKI: Who is he and what does he do.  
 MR. FREEMAN: I believe -- I'm not sure who he is, but I believe he is in the process of proposing an apartment complex for that 8.60 acres of land.  
 JOHN NOWICKI: I think they asked the last time some more information about him, what he builds, where he builds. I don't know this guy.  
 MR. FREEMAN: This is the first time I have been to the Board for the subdivision.  
 JOHN NOWICKI: I'm not comfortable not knowing this information.  
 PASTOR JENKS: I'm the Senior Pastor of the church.  
 JAMES MARTIN: Please come up and state your name.  
 PASTOR JENKS: Carl Jenks. Mark (VanEpps) is a developer. He has done developments in Victor and in other places in the county. And we have been in conversation with him for a number of months now, and we have seen examples, you know, photographs of his work and we have also seen sketches. Um, and he is a developer that has been in business for, I think, 20 years.  
 JOHN NOWICKI: Okay. We asked for that the last time, that we be supplied locations so the Board members here could visit those sites and take a look at the work he does and look at the quality of work he does. We have not received that.  
 PASTOR JENKS: Okay. This is my first appearance, so...  
 JOHN NOWICKI: Well, we gave it the last time, whoever made the presentation.  
 PASTOR JENKS: I have no idea who that was. It wasn't anybody from the Church.  
 JAMES MARTIN: Mr. Shero, I would request you pursue Mr. VanEpps, because that was stated to him at the last time he appeared before this Board, that he was to provide to the Building Department a list of other projects that he has constructed so that we or some of the Board members, you know, could go and take a look at quality of the buildings that he does, okay? If you haven't received that yet, and I don't think you have, because I have not seen a copy.  
 ED SHERO: I have not.  
 JAMES MARTIN: I would like that pursued by the Building Department. Thank you.  
 JOHN NOWICKI: I want to let the audience know, and the Board also, the Zoning Board, it appears they granted them a variance; is that correct, for the setback requirement? Are you aware of that.  
 MR. FREEMAN: No, I'm not.  
 JAMES MARTIN: That is part of the Kings Crossing development. We're just talking about subdivision of the lots.  
 JOHN NOWICKI: Well, my point is, they're connected.  
 JAMES MARTIN: They are connected, but --  
 JOHN NOWICKI: I just want you people to realize where I am going here with this thing, because we might be wanting to subdivide it. I want to know who is going to own it and who is going to build it and who is going to be paying taxes on it.  
 At this point, I will let that sit.  
 JAMES MARTIN: I don't think this applicant is prepared to answer that.  
 MR. FREEMAN: No, I'm not. FRA would have --  
 JOHN NOWICKI: For me to vote on it, I want to know and I want some information. I am not going to vote on a blank sheet.  
 MR. MARCHIONI: I can understand John (Nowicki)'s point. He wants to know what is going to happen with this property. You're subdividing right now. It is idle property, but you're subdividing it. You're subdividing it for a purpose. The purpose is to sell it to a developer. We want to make sure you have enough acreage here that the developer, you know, does the right thing.  
 The other thing is, is this property in a drainage district?  
 MR. FREEMAN: That I'm not aware of.  
 JOHN NOWICKI: Doesn't say so in the application.  
 JAMES MARTIN: That came up at DRC. You were supposed to check on that, Ed (Freeman). Is it in a drainage district?  
 MR. MARCHIONI: If not, we're going to ask you to do that.  
 The other thing is --  
 JAMES MARTIN: All right. We need verification.  
 MR. MARCHIONI: Also, from our Town Engineer, he suggests that Federal and State wetlands located on the property be illustrated on the subdivision plan.  
 MR. FREEMAN: Yes. We're in the process of that, getting that information from FRA because they had the Federal wetlands flagged and there are no State wetlands on the parcel. We'll add that to our map once I get that information from FRA Engineering.

MR. MARCHIONI: I think the Chairman brought out a subject pertaining to another exit to this developer that is going to take over this property, all right? Is that going to be given to him, or -- if not, there is going to be a lot of problems there, with two exits.

PASTOR JENKS: The fire exits?

MR. FREEMAN: A cross easement.

MR. MARCHIONI: For a road. Is there a commitment made that he is going to get that from -- to come through the Church property?

PASTOR JENKS: Nobody has approached us about a separate exit for this property. We have been approached about an access for emergency vehicles. We have not been approached about another exit.

JAMES MARTIN: That is what we're talking about. You have been approached.

PASTOR JENKS: We have been approached about the access for emergency vehicles, and we're fine.

JAMES MARTIN: That is what we had asked to have happen. There should be an easement agreement in place, Carl (Jenks). No, that is fine. That is different than a separate exit, though.

JOHN NOWICKI: In conjunction with that, Dario (Marchioni), and correct me if I am wrong, when we discussed that at the last meeting we had on this particular application, there were some concerns about the quality of the parking lot that this access would be going into. You haven't finished building the addition to the church yet or the site work on that project, correct.

PASTOR JENKS: Correct?

JOHN NOWICKI: We had some concerns over that access road being completed and who is going to complete it and who is going to pay for it.

JAMES MARTIN: You're right.

JOHN NOWICKI: I can't see where the money is going to come from.

So that is on the record. It is all on the record so we know where we're going with this thing.

MR. MARCHIONI: You can understand our position. We're approving a subdivision, but you want to know what is going to happen with this approval of the subdivision, where it is going to lead to. So if we have a knowledge of -- understanding what is happening here.

PASTOR JENKS: We have been told -- we have said that we'll grant the access. That is all that I am prepared to answer in regard to that. There has been no approaching us by anyone at this point in terms of what the nature of that road is supposed to look like, whether it is a -- whether it is paved or non-paved or stones or what.

MR. MARCHIONI: My next question is, the property, the church members, or whoever owns this property, they have been coming to the meeting to see what is going to happen to this, the property they're selling? Have they been in touch with this developer up to now?

PASTOR JENKS: Yes.

MR. MARCHIONI: They have. So they know.

PASTOR JENKS: Yes, they do.

MR. MARCHIONI: This is not news to them.

PASTOR JENKS: No. It is totally approved by the Church.

JAMES MARTIN: I think I have touched on a critical issue here, is having that emergency access point from your property to the lot that is being subdivided.

PASTOR JENKS: Right.

JAMES MARTIN: There has to be means to get to that and I don't know where you are in your construction phase over there as far as the paving, what is going to happen around the front of that addition that you're putting on there, because emergency vehicles can't go through three feet of snow to get to an emergency access.

PASTOR JENKS: We have an access road around behind the building, and our understanding is that it would be a continuation of that.

JAMES MARTIN: And is that access road going to the proposed property line?

PASTOR JENKS: Well, it would. It would. I mean right now it goes around our building. There has been no need to go to the proposed property line because there is nothing there.

MR. MARCHIONI: I'm in doubt of what is going to happen here.

PASTOR JENKS: Well, anything more you gentlemen can tell me that would help me pursue this, I would be glad to hear.

MR. MARCHIONI: If you're in touch with what is happening so far with this developer, all our concerns that we presented to that developer for this access road -- this road -- the area where this access road is has to be plowed during the wintertime for emergency vehicles, has to be maintained. It is on the Church property.

PASTOR JENKS: Sure. It would be plowed with the church road.

MR. MARCHIONI: The commitment has to be made, a deal made with them so all these things come in place.

PASTOR JENKS: How can we make a deal before we have a deal with him?

JOHN NOWICKI: Do you have a contract in place yet?

PASTOR JENKS: Yes, we do.

JOHN NOWICKI: For the purchase of the property?

PASTOR JENKS: Yes. Well, but this issue came up after that contract.

JAMES MARTIN: I believe he told us he has an option to purchase that lot, right, at this

point?

PASTOR JENKS: Yes. That is what it is.

Even if we were denied, we still need this lot subdivided because we still are going to sell it.

JAMES MARTIN: You know, again, even -- assuming that the subdivision goes through and we'll deal with the next set of applications for the apartment complex, obviously we'll have to hammer on that issue very emphatically to insure that this proposed emergency access road is done correctly and has a maintenance agreement. All those things have to be in place. Part of it is probably going to be your responsibility and maybe part of it will be the other party's responsibility, assuming that that goes forward, so... Anyhow, okay.

Anything else?

JOHN NOWICKI: We want to see a timeline on it, when all this stuff will happen on the Church's part of it.

KAREN COX: Yes, but that would be tied to the site plan approval for whatever goes in that parcel. It's --

JOHN NOWICKI: They will have to supply all this data before I vote on anything.

JAMES MARTIN: Well, the Pastor told us the road exists.

PASTOR JENKS: There is a road. There has been a road for years.

JAMES MARTIN: All right.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

JAMES MARTIN: Move to close.

KAREN COX: Second.

The Public Hearing for this application was closed at this time.

^ SANDY vote on that was five --

^ SANDY John Nowicki voted no to close the public hearing END OF NOTE.

JOHN HELLABY: I understand the concerns to the overall site plan and conformance and whatnot, but I also understand the needs of the Church to convey this property to get income, which I will hope will finish the building that they started some years ago there. Regardless whether it is the developer that was before us originally or another developer.

PASTOR JENKS: That's exactly right, sir.

JOHN HELLABY: I think a lot of these questions that came up this evening are more appropriate at the site plan approval process. I believe these people are going about it the right way. They came in. They want to subdivide the property. They're not breaking any zoning laws, creating non-usable lots or anything, so it would be tough to say no, they couldn't do it.

JOHN NOWICKI: I don't have a problem with the subdivision of the property either.

JOHN HELLABY: But again, I agree with you, we need to hammer when they come in for the site plan.

JOHN NOWICKI: Exactly. That is what my negative vote --

PASTOR JENKS: Are these two separate issues? Help me to understand.

JAMES MARTIN: The subdivision is relatively straightforward. You have a right to sell the property. Okay?

PASTOR JENKS: Okay.

JAMES MARTIN: You have a right to request a subdivision, all right, in order to enable that to occur. At least in my quasi law training.

On the other hand, whoever decides to develop something on that lot -- and we already had some discussion with the potential developer to have an apartment complex on that property.

PASTOR JENKS: Right.

JAMES MARTIN: He is going to face a significant amount of scrutiny by this Board when he comes in before us for approval of his site plan.

PASTOR JENKS: Right.

JAMES MARTIN: And part of that obviously will be enabling emergency vehicles to have a secondary access to that parcel of property.

PASTOR JENKS: Sure. I understand.

JAMES MARTIN: Which involves your particular --

PASTOR JENKS: Right.

JAMES MARTIN: -- piece of property still because they have to come across that to get to that piece.

PASTOR JENKS: Right. I understand.

JAMES MARTIN: So that is, I think, the issue, you know -- we have some concern about who it is going to be. We have an idea based on preliminary discussions we have had with this VanEpps, who has already come in with a proposed site plan --

PASTOR JENKS: Right.

JAMES MARTIN: -- and shown it to the Board. We have critiqued it, made some changes. So assuming he proceeds, he will be the person who will be scrutinized by the Board. If he decides to bail out, all right, then somebody else comes in. They will face the same scrutiny.

PASTOR JENKS: I understand that. I guess my understanding why I'm here tonight is for the separation of the two parcels.

JAMES MARTIN: That's correct. That's correct. We're not hammering you on the site

plan issues of what might go in next door. We don't really know for sure at this point. But we just want to be sure, you know, it is not something that the Town would really not want to have on that particular piece.

PASTOR JENKS: I understand that concern.

JAMES MARTIN: And you wouldn't want to have something unsightly next door either.

PASTOR JENKS: No, definitely not.

JAMES MARTIN: Okay.

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: Although the application sheet indicated different, based on what I was told, they have paid the fee for final.

MR. FREEMAN: Application sheet does have preliminary final checked.

JAMES MARTIN: They have paid the fee for final.

JOHN HELLABY: Application to the drainage district?

JAMES MARTIN: I believe it is in the drainage district, but that needs to be verified. I will put this in as a condition, verify, all right, that property is in the Chili Consolidated Drainage District. If not, they will have to make an application through the Town Clerk, to the Town Board, requesting inclusion of the property into the drainage district.

The Board discussed proposed conditions.

DECISION: Approved by a vote of 4 yes to 1 no (John Nowicki) and 1 abstention (George Brinkwart) with the following condition:

1. Applicant shall verify that property is in the Chili Consolidated Drainage District. If it is not, application will have to be made for inclusion.

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

INFORMAL:

1. Byrne Dairy - requesting relief from condition imposed on 12/13/06 to allow the outdoor storage and sale of seasonal products at property located at 3771 Chili Avenue in G.B. zone.

Mike McCarthy was present to represent the application.

JAMES MARTIN: What is your position?

MR. McCARTHY: Real Estate Manager.

In an effort to provide goods and services to the community, we ask for relief from the condition from last December, to allow us to display the seasonal goods related to our store's sales, related to the fueling and convenience store goods such as drinks, oil, washer fluid, water and charcoal. We have been -- had -- in the past they have allowed us to make those displays outside underneath the cover of the awning around the building. Most of the competition around has similar displays up and down the street, Hess and Arrow Mart. That's it.

JAMES MARTIN: Anything else?

MR. McCARTHY: That's it.

JAMES MARTIN: Okay. What this Board is trying to do, in an effort to, I believe, begin to alleviate some of the clutter that appears outside of, you know, several retail stores in the Town of Chili, and looking at any ordinance in the Town Code that specifies what can and cannot be done, we have begun a process of beginning to either eliminate or to restrict, all right, the amount of material that can be displayed outside of any retail location.

We started with an applicant who is going to put a similar type of operation in place over in North Chili, Hess Corporation, and we basically gave them the same restriction that we gave to Byrne Dairy at the time you came in to renew your conditional use permit.

The gentleman that appeared before us that night essentially agreed that there would be restrictions placed, all right, on the outside display of sales --

MR. McCARTHY: Right.

JAMES MARTIN: -- items.

And, you know -- nothing has happened and all of a sudden we have about 500 Adirondack chairs outside your store, the store down at the corner of Chili Avenue and Union Street. Fairly unsightly displays of various things, and, you know, it just continues to look like a hodgepodge, all right, outside, sitting on your porch. Okay? And I think, you know, in the interest of fairness, and I won't disagree that there are certainly other stores in the Town of Chili similar to the establishment that Byrne Dairy has had that are doing this, and there are some major retailers in the Town of Chili that are doing this, okay? And it puts us in a little bit of a difficult position to say to some applicants you can't do it, you know, when 100, 200 feet down the street you have somebody that is doing it, but, you know, they weren't in before us for conditional use renewal or for some other application that allowed us to, you know, prevail upon them to eliminate the

outside display of these things with the exception of fuel products and things like that.

So as I say, it puts us in a little bit of a difficult position from a fairness perspective. And one thing that has crossed my mind, okay, that would allow maybe some flexibility, but also would assist us in trying to control some of this, and I will throw this out for the Board's consideration, because it is my idea at this point, and certainly I will hear comments pro or con on this, but perhaps in the absence of a Town ordinance controlling this, which hopefully we'll have some day, I would say that maybe we would limit, all right, the square footage area or the linear footage area outside of the building that may be able to be used for outside display so that we don't have stuff strewn all of the way across the front of the building, looking terrible, that it would be displayed in some sort of neat fashion and maybe there should be some shielding put in place so people driving by won't look down and say, "Oh, look at that mess down there."

I don't know what the answer is at this point, okay, or maybe it may be the Board's pleasure that we just go all of the way back to the total restriction and -- but we'll see where it goes from here.

So that is my editorial comments at this time. I guess I will turn it over to the Board and listen to what suggestions they may have at this point. Karen (Cox)?

KAREN COX: Well, I don't disagree with your assertion. I'm in agreement with your decision, assertion and agreement with Jim (Martin) that there are businesses all over the town that have outside sales. So it does go to a fairness issue. I like your idea. I mean I think if you -- I was just over there the other night, and if you remove the -- the big tower of chairs that was there this spring, which has gotten smaller, they do have shelving built that displays the oil and the charcoal. You know, and it is a nice display of things relative. But when the chairs appeared, it just started to really not look very aesthetic, and I drive by there every day on my way home from work. So, you know, I -- to me it seems like at least more fair to say yes, a certain linear footage and have it displayed neatly, and then at least we're trying to be fair, lacking some kind of ordinance that will give us some teeth.

JOHN HELLABY: I think what got us to this point was the public's comments back in December. Prior to that meeting, I checked the record, and basically it just simply stated all outside sales per Town Code. There were no restrictions per se. I think it was your lack of keeping the thing orderly that arose the public's concern on this whole deal with the Christmas tree sales, the soda promotions. The car dent remover is what pushed it over the top.

MR. McCARTHY: That was nothing ever related to our business.

JOHN HELLABY: It wasn't related to your business, but it was in your parking lot. That's the problem. That is considered outside sales. Again, I think that is what upset the general public.

I understand your concern wanting to display things outside, but I can also tell you it is human nature to push the envelope. Great idea, okay, 20-foot under the canopy, but the overzealous sales guy will be shoving that chair out, shoving the chair out and they don't have the manpower nor the ability to enforce these things.

KAREN COX: Well, they have a Store Manager.

JOHN HELLABY: I, unfortunately, for one, like the way it is written. I will tell these guys, my opinion is if it is changed to allow you more room, I see no way of controlling it. You will eventually end up right back in the same boat you have been. But again, that's my personal opinion. I mean that is what got us here, unfortunately. If there was some common sense to control it, but again, people change, store operations change, people change and the overzealous people try to push more and more into the box and it just keeps growing.

JOHN NOWICKI: I am agreeing with other Board members and possibly they will have to restrict the area that is being used for that type of displays. And again, I agree with what you say, not until we get an ordinance or something in place and people that are in the department that can enforce these codes, I think we're stuck.

KAREN COX: Let me ask you this: I know the store personnel overturns. It is just the nature of the business. There is a Store Manager, correct?

MR. McCARTHY: Yes.

KAREN COX: Is that a type of position that is volatile, changes a lot?

MR. McCARTHY: No. We have had two managers, store managers since we opened. The current one has been there for about two and a half years. Two years.

KAREN COX: So then there is somebody from Corporate, I assume, that comes on a regular basis?

MR. McCARTHY: There is a District Manager that covers the Rochester area. She has been here -- with us for 12 years.

KAREN COX: We would expect -- I guess I will throw this out. We would expect that if we -- if we approve this, that, number one, somebody from Corporate is keeping an eye on it. Number two, that the manager also, you know, is held to be responsible to keep that in order. And, you know, if they're purchased by salespeople, then Corporate needs to say, you know, you can -- we can take this and not this. I guess.

MR. McCARTHY: Okay.

JAMES MARTIN: I can guarantee you that if we granted some sort of partial relief tonight from that condition, that if that is violated, the Building Department is going to hear about it in spades, no questions about it, okay, and my expectation is they will come out there and they will cite you for violating that condition, okay? I mean if this, you know, were to come to pass. So just a word of warning, because I know that that will happen.

MR. McCARTHY: Yes.

JOHN NOWICKI: I assume if this got passed, it will go into conditional use -- the remaining time on the conditional use.

JAMES MARTIN: Right. And it would be -- we would put it in place. If something comes out of this, we would put it in place for the remaining time with the current conditional use granted last December, subject to the review at the end of that period.

JOHN NOWICKI: I wouldn't mind seeing a condition, if it gets approved, of names and phone numbers of the local management that can be contacted quite quickly for the records for the Building Department. That's all.

GEORGE BRINKWART: Jim (Martin), I like your suggestion. I think that is a viable way to do it. Exactly, put that in the conditional and leave that -- when the time comes back to renew that, we can take a look at it at this time. At this point we can grant a modest amount of floor space to see how the performance is and how they do.

MR. MARCHIONI: Picture is worth a thousand words.

Do you have pictures of other stores, on how it is done nice and neat, where it is good looking and you can still do the same thing and minimize the area?

MR. McCARTHY: I don't have any with me tonight.

MR. MARCHIONI: I'm not visualizing here. I can just imagine pallets of this, pallets of that. Whereas a nice -- you have some display on one side and then the other as a walk-in, not spread all around. I mean, I like something to look at, to say, "Wow, I will accept that." Can you help me out here?

MR. McCARTHY: I don't have anything with me this evening that depicts that.

MR. MARCHIONI: But in general, what I am saying, you're allowed this much area, but what will it look like?

MR. McCARTHY: Right.

MR. MARCHIONI: I don't know if you understand what I am trying to say. If I see another store that you have, and I know you have a lot of them, and some of them are beautiful looking. They're well done, well maintained. And -- if -- we would like something like that in Chili.

JAMES MARTIN: It's a shame. You built a very nice looking store there, and then it just deteriorates from an appearance standpoint with all that stuff stacked on the front porch.

MR. MARCHIONI: Not only that, but you can give that to your manager, a copy of that and it will say here is what the people want at all times so she has a visual appearance she can refer to in her operations. We want you to do business. You're doing a good business there. You're serving the community. We want to keep you, but on the other hand, we have a concern.

ED SHERO: More comment than question. My concern is when you change things to neat and orderly, it becomes subjective. What might be neat and orderly to you might not be neat and orderly to me or somebody else. I would hate to see anything changed to go into anything subjective like that.

In this situation, I wasn't at the December meeting and read the minutes. It seemed like the Byrne Dairy agreed to -- I think the way this is worded is fuel-related products only. We were -- during the winter it was even a stretch using the windshield water fluid. Is that fuel related? How do you define that? My feeling is I don't think any of the products out there will make or break their business. I think that is what was agreed to. I don't think the product should be there. And we don't have -- one thing I definitely agree, we don't have the manpower or the ability to enforce the codes as we probably should be. I would just like to see the Planning Board give us some relief on this to either let them have the sale or the outside sales or don't let them have the outside sales displays.

JAMES MARTIN: I think one other issue that has been brought up again is some products like charcoal lighter, even windshield washer fluid is considered to have some flammability. I know the Fire Marshal from time to time has expressed a fair amount of concern about some of these products being interior to a retail location. I know most places do it. You can buy this, you know, starter fluid at Home Depot.

KAREN COX: They have sprinklers, though.

JAMES MARTIN: Yeah.

We're between a rock and a hard spot trying to be fair and yet strict at the same time.

GEORGE BRINKWART: It would be helpful if we saw the plans, "This is the area we're considering putting the outside storage," saw some dimensions. You know, if it is 20 by 30, 30 by 40. This is the area. Now it is kind of vague. It doesn't help the Building Department either.

JAMES MARTIN: That's not a bad suggestion, all right.

KAREN COX: Showing it on their site plan? Isn't that what we did with the -- isn't that what we asked Hess to do, put it -- we asked that it be put on the site plan?

JAMES MARTIN: I don't recall, to be honest with you. I don't remember the restriction, but I don't recall if it was a site plan requirement.

What does everyone think about George (Brinkwart)'s suggestion that we ask Byrne Dairy to come back with a visual proposal to us as to what it would propose to do at that store, that we would have some sort of an idea of, you know, what we would be looking at, and --

JOHN HELLABY: If they're going to come back with a site plan, of where -- where stuff can be stored, I would like to see a composite list of everything they plan on selling in that spot, as well. From soda pop to Christmas wreathes to whatever.

MR. McCARTHY: We won't be doing the Christmas trees or Adirondack furniture.

JOHN HELLABY: What you plan on putting out there. I want to know what you plan on putting out there. Is it chocolate syrup, I don't know, whatever. You come back with a

comprehensive list of everything you plan on putting on that sidewalk, along with that site plan.  
MR. MARCHIONI: And this site plan will be posted where a manager can see it and refer to it, if we do approve it.

MR. McCARTHY: We definitely can do that.

JAMES MARTIN: I think based on George (Brinkwart)'s suggestion and what we're asking the applicant to do, I would like to see that -- I would like to see the list before we go ahead and approve relief from this condition. I mean that -- I think there might be some room, all right, to maneuver here, okay, but that would be very beneficial to us, to be able to visualize, you know, and again, maybe we need to kind of give you some guidelines. Something in the area of -- I forget what the width of that front porch is. Any idea?

MR. McCARTHY: That building, I'm not sure. I believe it is about 60 feet.

JAMES MARTIN: 60 feet. The front porch, across the front?

MR. McCARTHY: Yes.

KAREN COX: The west side is taken up now by the ice machine and the propane. I mean the west side of the door.

MR. McCARTHY: At the far end?

KAREN COX: Yes.

MR. McCARTHY: That takes up -- that is 7 -- that is 13 feet.

JAMES MARTIN: Taken up by the propane?

MR. McCARTHY: The propane and the --

JAMES MARTIN: The ice machine is around the west side of the building, I think.

MR. McCARTHY: I believe there is two, one on each side.

JAMES MARTIN: Well, can we say you would come back with a visualization to us of somewhere in the vicinity of 15 to 20 feet, no more than that --

MR. McCARTHY: Uh-huh.

JAMES MARTIN: -- of display area?

MR. McCARTHY: Yes.

JAMES MARTIN: What you're going to display. And that way we can get a better idea, but I'm of a notion right now to table this pending you coming back, all right, and get those visual impressions, and then we would deal with it at that point, based on what we see.

What does the Board think about that?

JOHN NOWICKI: I think that is appropriate at this point. If he wanted to also bring some photographs in of other stores and -- I have seen some other stores that are very well maintained and they look pretty good. Again, it might be a management thing, too. You know, how managers run these things. So I would just make a suggestion we table the application.

James Martin discussed the proposed conditions with the Board.

JAMES MARTIN: I make a motion to table this.

JOHN NOWICKI: Second.

DECISION: Unanimously tabled by a vote of 6 yes for the following reason/finding of fact having been cited:

1. Applicant shall provide to the Planning Board a diagram of the area to be utilized for outside display of sales items not listed in the approval letter dated December 14, 2006. The display area shall not exceed 20 linear feet. The applicant shall also supply to the Planning Board a comprehensive list of all potential items to be displayed.
2. Ignazio Battisti - requesting amendment to final subdivision approval granted on 12/12/06 for the Battisti Subdivision located on Golden Road. Applicant is requesting to permit phased development with Phase 1 consisting of Lots 14, 15 and 16.

Robert Fitzgerald was present to represent the application.

MR. FITZGERALD: We are back again tonight. Rob Fitzgerald, Project Engineer with Avery Engineering.

My client has asked me to look into how we could break this up into several phases because there is so much mitigation between wetlands and the foundry removal. We feel really it could only be two phases, the first phase being what we're showing tonight, which is the existing house and the building lots in front of that. With that, we wouldn't have to get involved with the wetlands mitigation or soil management plan. So we thought this would be a, quote/unquote, easy first phase, just a small phase so the client could recoup some of his money and have some money to invest into all of the mitigation he has to do for the second phase.

So tonight we're here for Phase 1 of the Battisti Fitzsimmons Subdivision. Any questions the Board may have, I will answer the best I can.

JAMES MARTIN: Well, one thing is for sure. If I go back and review the record, all right, the December 13th meeting, one of our conditions was that all existing structures that we provided in the list needed to be demolished and all debris to be removed from the site prior to the mylar being approved, okay? And that would -- if this gets approved and we go to phasing, that condition would still exist for the entire site, as far as I'm concerned.

MR. FITZGERALD: That is one specific question we did bounce off Mr. Battisti, as well. He is aware of that condition. He was okay with that.

JAMES MARTIN: David (Lindsay), you made a comment and then followed up in your notes. They are going to need a SWPPP for the entire site in order to do Phase 1.

DAVID LINDSAY: My understanding is yes, they will.

JAMES MARTIN: They will.

So --

MR. FITZGERALD: That is something we can provide, as well. I'm not sure, and maybe I will have to talk with Mr. Lindsay about this and the DEC, too. I'm sure we have to have the SWPPP in place. I'm not sure if we have to do inspections for this phase or not.

DAVID LINDSAY: We can talk about that later.

MR. FITZGERALD: It is something we can work out.

JAMES MARTIN: A letter to -- that you wrote regarding the Monroe County Department of Health. Basically they approved it, but they had a condition that soil testing be completed by the owner confirmed, okay? And therefore, that's something that is going to have to be done. Right? Has soil testing been done on those four lots or is that what -- are you referring to that in this letter?

MR. FITZGERALD: Soil testing will be required for these three lots, just to clear them from any contaminants or foundries.

JAMES MARTIN: Okay.

MR. FITZGERALD: That is something we have been working with Joe Albert from the Health Department on making revisions to our soil report for this first phase, because the majority of it does just not apply.

JAMES MARTIN: Obviously no permits issued until that soil testing is complete and verified that you're clean.

Dario (Marchioni)?

MR. MARCHIONI: I understand his position. I have no questions.

GEORGE BRINKWART: You have obtained all of the permits from the DEC, the Article 24 permits for disturbances of the wetlands.

MR. FITZGERALD: Yes. We have our joint application permit in hand.

GEORGE BRINKWART: Because it looks like for some reason those permits let you down, this is the only way out for the rest of your subdivision.

MR. FITZGERALD: That is another point, too. If we are phasing this, he will have to act on Phase 2 relatively quickly. I think there is a two-year term on that, which we wouldn't want that to expire because then we would be going through the whole process again, possibly, if we couldn't just simply do that.

JOHN NOWICKI: How many years you been working on this thing? Four, five?

MR. FITZGERALD: I have -- straight out of school I have been with Avery Engineering for ten years and this was one of the first projects I actually worked on, from a sketch plan point of view. Got dropped for several years, picked back up, dropped, picked back up.

KAREN COX: Sounds like a County project.

JOHN NOWICKI: I have a file at home, I didn't bring it, because I couldn't carry it with all of the rest of the other stuff we bring in. It's huge. I just want to ask you a couple questions -- a letter here from December 2006, and the approval here required that the -- all of the debris be removed from the site prior to the mylar being signed. That was on Lots 4, 5, 9, 10, 13, 17 and -- has that been done?

MR. FITZGERALD: Bits and pieces has. To completion, no, it has not been.

JOHN NOWICKI: Now, somehow we got to make sure this gets done before anything else happens there. I don't want to see any problems with this one. We put too much time and effort into it, and we have got to get a letter of credit, cash in the bank, I don't care how we do it, but it has to get cleaned up before anything happens.

KAREN COX: When they talk about debris, does --

JOHN NOWICKI: Frame shed, silo, grain building, trailer, loading ramp, coop and frame building. It's all listed.

KAREN COX: Yes. That's -- that's the condition you talked about earlier, Jim (Martin)?

JAMES MARTIN: Yes.

JOHN NOWICKI: The other thing was the applicant to mark the Liber and Page of Deeds of all existing easements on the mylar. Do you know if that has been done?

MR. FITZGERALD: Um, I'm not sure, but I will make sure that's done.

JOHN NOWICKI: The driveway easement subject to approval by the Planning Board attorney.

Keith (O'Toole), has that been brought to your attention?

KEITH O'TOOLE: I don't recall.

JOHN NOWICKI: Again, those things are satisfied, somehow -- again, I don't -- we got to have some power here to get this stuff done.

MR. FITZGERALD: Well, and now -- if this phase does go forward, we would be following up on these items just for these three -- phase lots and not the other.

JOHN NOWICKI: Ed (Shero), so you hear, I don't want a building permit issued on this thing or something until this is done, period. We need enforcement here somehow, somewhere. The sooner we get started on it, the better off we'll be.

KAREN COX: The mylar won't get signed unless --

JOHN NOWICKI: That is what I am saying. I don't want anything done, no permits

issued or anything until this is cleaned up and ready to go. I want it on the record and I want the Building Department to hear me loud and clear. Period. That's all I got.

JOHN HELLABY: They said it all. All I got to add is I will see you in a year maybe. On how often it comes back.

MR. FITZGERALD: Hopefully for Phase 2, the final phase.

KAREN COX: I don't have anything. I'm not going to pile on Rob (Fitzgerald).

JAMES MARTIN: He still plans to proceed with the total project; is that correct?

MR. FITZGERALD: He does. He is looking at his first phase being some seed money.

DAVID LINDSAY: Just a couple things, Rob (Fitzgerald). Maybe when you send the mylar in, maybe if you can modify your notes to say instead of to be moved, those buildings, has been removed, put an X through it to clear it up for us, the structures that are supposed to be demolished. And can you also copy me on your soil testing that you're going to do on those three lots and then forward to me your approvals from the DEC as well as verify them?

MR. FITZGERALD: Yes.

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.

JOHN NOWICKI: I thought we did SEQR on --

JAMES MARTIN: We did SEQR. I'm just doing it on the amended.

KEITH O'TOOLE: Nothing wrong with doing it to be cautious.

JOHN NOWICKI: Um --

KEITH O'TOOLE: Truth be told, we did SEQR, reviewed the entire project and merely -- a phasing line is merely a minor modification.

JAMES MARTIN: I know.

JOHN NOWICKI: Is there anything here we want to be cautious about on the SEQR issue?

KEITH O'TOOLE: No, not at this point.

JAMES MARTIN: Pretty well --

JOHN NOWICKI: Just being careful. That's all.

JAMES MARTIN: I understand.

JOHN NOWICKI: Just being careful what is going on around the County lately.

JAMES MARTIN: So basically you're saying we don't have to do it if we don't want.

KEITH O'TOOLE: We don't have to.

JAMES MARTIN: Okay. I will rescind that. We will not do SEQR on this.

JOHN NOWICKI: I feel better on that because we have done a lot of SEQR on this.

JAMES MARTIN: On the application itself.

James Martin reviewed the proposed conditions with the Board.

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

1. Per the Monroe County Department of Health, no permits will be issued until soil testing has been completed and it has been verified that no contamination exists on the proposed three-lot phase one project.
2. All previous conditions imposed by this Board remain in effect. It should be noted that per the condition imposed on December 13, 2006, all structures listed to be demolished shall be removed from the entire site prior to the mylar being signed and building permits being issued.
3. Application of Joe Gomes, owner; 2652 Chili Avenue, Rochester, New York 14624 for request to rehear application for preliminary site plan approval to allow a parking lot for 11 vehicles at property located at 2652 Chili Avenue in R-1-15 zone.

Larry Heininger and Joe Gomes were present to represent the application.

James Martin explained the history of this application.

JAMES MARTIN: We basically denied it without prejudice, which allowed the applicant to come back and request a rehearing by the whole Board and that is what we're here to talk about tonight, whether or not we'll grant a rehearing of this application. And I understand that there has been some modifications based on the discussion we had that night around the site plan itself?

I don't know if I want to go into a huge amount of detail on that because obviously we'll have to come back and review that, but clearly you have done some things around the drainage issues. You have done some things around some shielding of the property adjacent to this particular location. Um, and you know, some grading back, hopefully with some relief of the flooding that occurs in that very low spot in the back between the two properties.

So there has been, you know, some action based on discussions we have had the night it

was denied without prejudice.

So at this point, do you have something that you would like to present and then we can go ahead and make --

MR. HEININGER: Really quickly you summed it up very well. Larry Heininger here from Larry Heininger Engineering. With me here is Joe Gomes. Again, you indicated what the procedural thing is, and your attorney said that the way -- the way to do this is to decide to rehear this at another meeting, I assume, in July. Um, we had a choice of just resubmitting what we had, or to do the work that was requested in the April 5th review from Lu Engineers. Joe (Gomes) elected to have me do that. I spoke with Dave Lindsay about it. What you asked for was to lower the shrubbery from an arborvitae down to something about knee high, which is holly and yew, and that is on the west side of the parking lot where there is already a stockade fence on the neighbor's side.

On the east side of the parking lot we're putting in a low wooden fence. We showed the swales on either side of the parking lot to capture the runoff from the parking lot and put in a hard-piped system to take it on either side of the building and into the backyard, and the soils are a Colonie loamy fine sand, which is essentially a beach sand. Colonie is west of Albany. Colonie soils are an adulterated deposit from glacial outwash, so basically beach. What -- and I did the calculations, which I submitted to Dave (Lindsay), so he has those, of how much runoff comes off the site, which is a very, very small amount.

Actually, what I recommended to Joe (Gomes) is when we scoop out a little extra volume in the backyard, to actually push that to the west side and create a berm so that the parking lot on the west of him doesn't run back into his property, because with their soil capped up with an asphalt cap, all their runoff goes to the closest neighbor, which is him. He really doesn't have a problem with the neighbor to the east, which is residential, because she is on the same Colonie soil and her drainage is going into the ground faster than running horizontally into his rear yard.

So that sums it up. If you would like to reschedule us for your July meeting, we'll be here.

JAMES MARTIN: Very good. I would note that you did hear us that night --

MR. HEININGER: We did discuss a water garden, but given it is sand, you can't grow any -- so we have a red oak which does well in sandy soils back there. And that's also why there are white pines, because they tend to like sandier soils, as well. That is what the existing things are.

KAREN COX: This is way better than the first one I remember seeing, however long ago that was.

MR. HEININGER: This has been designed and engineered. There is a difference.

KAREN COX: I would not disagree with that. Just because I wasn't here at the April meeting and probably was one of the reasons why you're back, it appears to me as though there is like -- that the Conservation Board is not in agreement with the landscaping shown on this plan, but it sounds as if the landscaping that is shown on the plan is what was asked for; is that correct?

MR. HEININGER: I haven't seen any comment from the Conservation Board. What are they suggesting?

KAREN COX: They're saying the Conservation Board prefers the original request of April 2nd, where we suggested plantings of 6 foot arborvitae on the east and west side of the property. 4 foot yew and holly are not good screening material. But what I heard from you, Larry (Heininger) is the holly and yew combination shown on the plans was requested by the Board.

MR. HEININGER: Well, the -- I will say it was dialogue, because the west side of the property has a stockade fence, so it doesn't make sense to put two fences there. That's just dumb, okay? But the way I read your fences, hedges, walls and screenings in your zoning is that any front yard, provided they do not exceed 4 feet in height. So I hadn't seen that when I put in 6 foot arborvitae and it obviously flies in the face of your zoning. All you're really trying to do is have something about as high as this piece of furniture so you don't see the shiny grille of a car. Um, so that's why -- and I suppose if you let a yew bush, depending on which yew bush you grow, they can get pretty tall. They can get as high as what you're sitting behind.

KAREN COX: Well, I -- you know, I'm not a conservationist, but to me it seems like in this area arborvitae, after a while, start looking mangy. So I -- so I kind of -- I guess I like what is shown on the plans. I guess I shouldn't -- I will say I like the landscaping that is shown on the plans now, but before I made that statement, I just wanted them to understand --

MR. HEININGER: It is kind of like the low bush is the petticoat to the higher fence on the west side. It is like foundation plantings on a Victorian home. And on the east side, we did have landscaping and board -- what I heard was we would prefer to have a fence on the east side. And the fence has to be 4 feet or less, per your zoning. So it is pretty straightforward.

KAREN COX: Okay. That is what I have.

JOHN HELLABY: I ain't got nothing really. I'm more concerned what the neighbors' thoughts are and that won't take place until the next hearing.

JOHN NOWICKI: I agree with Al (Hellaby). We have the neighbors' concerns to be concerned with. I want to hear what the Conservation Board has to do to challenge this gentleman's comments.

GEORGE BRINKWART: What did we decide about the length of the parking spaces? They're shown here as 18 and the code is 19?

JOHN NOWICKI: Variance required.

JAMES MARTIN: Well, it is either a variance is required or we look to -- assuming we

hear this again, that we waive that requirement.

GEORGE BRINKWART: I think if we hear --

MS. NEDER: Can't hear.

JAMES MARTIN: I'm sorry. There -- the issue was that the length of the parking spaces, okay? And they're supposed to be 18 feet; is that correct?

MR. HEININGER: Yes. We -- I discussed this with Dave (Lindsay), and back about two months ago, we agreed that your -- some towns like 10 by 20 and some towns require 9 by 18. So someplace in there is a happy medium. What we came up with is that 18 feet with the 24 foot drive lane gave us the extra room for the landscaping and the swales on either side, but by making the parking spaces 8 1/2 -- or 9 1/2 feet wide, it gave you that little extra room for opening doors, which most doors get dinged by the neighbor's door than people actually backing up and hitting them with their bumper. So we felt that 18 feet and 9 1/2 wide was kind of the sweet spot on the bat for this type of parking lot, for a private business.

And it also then gave, if you think about it, if I now take a foot away from green on either side, that just compromises the root zones or the things that need -- the other things that need to go in on either side. And I think David (Lindsay) indicated that in your site plan approval you could grant a waiver for that.

DAVID LINDSAY: What we talked about was the through width and the parking lot being acceptable at 24 feet. The 18 feet is a number that the Board has accepted in the past for other applicants and it is just a matter of you waiving the requirement in your approval.

KAREN COX: There is thought that's been obviously put into coming with up the depth.

JAMES MARTIN: Assuming we were to vote to rehear this, we could deal with that at the application.

GEORGE BRINKWART: I think I would like to see some field tests to verify your percolation rates in each one of the infiltration areas.

MR. HEININGER: Sure. There is only one, but...

GEORGE BRINKWART: Well, your sheeting on both sides east and west.

MR. HEININGER: Right. I'm going into a swale then that actually drops down into a drainage inlet, into a pipe and then is captured and sent to the rear.

GEORGE BRINKWART: Have you considered using perforated pipe there to help your cause a little bit?

MR. HEININGER: No.

GEORGE BRINKWART: You're counting on infiltration in your swales before it gets to the hard.

MR. HEININGER: I will be glad to perk the soils and bring in a Ziplock bag of soil, too.

GEORGE BRINKWART: That is basically your argument, that water will infiltrate, wherever it runs, across a grassy swale area, correct?

MR. HEININGER: No. My argument is -- well, I guess part of the argument. But that when you're adding a very, very small -- increasing the imperviousness of one year, you're increasing the runoff of the whole site by a very small amount, and I think we're down to the .08 CFS, so you need to create a little more volume to store that over the duration of the critical storm. And I calculated out that volume to be 48 cubic feet, which is basically 15 feet square, 3 inches deep. So I can take a 15 by 15 area and scrape out.

GEORGE BRINKWART: I understand that, but I guess in your letter that you presented to the Planning Board you say, "Here we are not recommending a water garden. The drainage will percolate to the existing ground." I agree with that. All I am asking is some perk tests in those areas where the water is going to perk in. I think that would help your cause, as well.

MR. HEININGER: To tell you the truth --

GEORGE BRINKWART: It would demonstrate to us that you have good perks. If it is sandy soil, it will probably get five minutes or less perks and I think that will help your cause.

MR. HEININGER: I agree with you and I'm glad you asked because I actually thought about bringing in soil samples and doing that, but I thought that might be a little bit overkill, but now that you asked, that is a very reasonable request.

GEORGE BRINKWART: Thank you.

MR. HEININGER: Okay.

JOHN NOWICKI: Who does your soil analysis or perk test?

KAREN COX: Perk test is not a soil analysis.

JOHN NOWICKI: How deep are you going to go?

JAMES MARTIN: There is a standard for perk tests.

MR. HEININGER: Perk tests generally go down 18 inches minimum for a standard feel. I will dig down 18 inches and bring some in bags of material. But there is a huge area, and -- of Colonie sand. Excuse me while I shuffle here for a second. I will hand this to Karen (Cox), who does look at this. The site is -- marked in yellow there. And COB is Colonie -- Colonie sand, which is a deep, moderately well-drained soil.

Anyway, I will bring it in, do the perk test. The water will run away from me. I was doing a perk test last week Friday where we dumped gallons of water in very sandy soil out in Rush where we had to saturate it for over an hour so we could even get it -- get it to work. It was running away faster than it came up to the first nail.

GEORGE BRINKWART: I think what you're saying is exactly right. If you can do a perk test and demonstrate that, I think that would help your cause. Given the proven fact that you're not going to present a drainage problem to your neighbors.

MR. HEININGER: When I saw that, I didn't realize there was so much Colonie sand as

historically Pittsford. And the East Rochester School District has that material. I didn't realize that there was that much over here. I guess I'm curious what type of ag operation was on Colonie sand. So if you guys can tell me that next month.

JOHN NOWICKI: You don't hear too much about sand in Chili.

KAREN COX: Mostly clay, with explosives to excavate.

MR. HEININGER: We'll see how accurate it is, right?

DARIO MARCHIONI: I have a letter here that is concerned about snow storage and your calculations. I don't have anything to say you have enough storage for snow or not. What is your engineering analysis on the worse scenario, or is there --

MR. HEININGER: We have indicated on our plan that in the event of extreme snowstorm one of those parking spaces there is going to be a snow storage spot. The one to the front and to the west there will have snow on it. So you will go from 11 spaces to 10, if we get one of those March blizzard dumps.

DARIO MARCHIONI: I don't think you will have any business when you have that much snow anyway.

MR. HEININGER: We generally stay home, right?

DARIO MARCHIONI: Just thought I would --

MR. HEININGER: But that is what we decided to. You know, hey, that is what happens in a big parking lot. There are spaces that just don't get used.

KAREN COX: We lose about ten spots every winter where I park.

MR. HEININGER: I will be glad to do your perk test and don't mind doing it at all.

ED SHERO: The only comment I would to make, this past winter, I wouldn't call it a severe winter, but we already got complaints about pushing the snow on somebody else's property. I just think it is an awful small area to try to put this into. There is not enough room for snow removal as it is.

DARIO MARCHIONI: I don't think you can in this case. You have a fence on both sides, right?

MR. HEININGER: Uh-huh. Going --

KAREN COX: The complaints for this particular property? You said you got complaints for a property -- for this particular one?

ED SHERO: That's correct.

KAREN COX: Which side?

ED SHERO: From the neighbors to the east.

KAREN COX: Okay. There is going to be a fence there.

ED SHERO: I'm saying -- I understand that. I'm -- do you think that is enough area to put snow into?

KAREN COX: Well, I mean -- he has already -- he indicated that if they -- if they run out of snow storage, basically they will have to lose a parking spot. But the fence will keep the snow from dribbling over to the neighbor's yard, if you will. It should.

ED SHERO: Is there any way they can be hooked up to storm sewers?

KAREN COX: That's up to the State.

MR. HEININGER: No. No. There are no storm sewers on Westside Drive.

ED SHERO: How is the parking lot at Lexington, how is that drained?

MR. HEININGER: Pardon me?

ED SHERO: The Lexington and the apartments, how would that drain that parking lot?

MR. HEININGER: It sits there until it builds up enough head and slowly works its way westward until it finds -- I think it is about 300 feet away. When it sits up there and builds enough head, it backs up on Joe Gomes' property where it then infiltrates into the soil. So that is why I have said, if we took this dirt and created a berm, he would force their water away from him and would not be providing them a recharge area, and they would have to go out and sink their own dry well in their own parking lot to let the water recharge. But that parking lot was put in a long time ago.

DARIO MARCHIONI: So what you're saying is actually taking other people's --

MR. HEININGER: He is taking the uphill drainage from his neighbor to the east, flowing down onto his property and the neighbor to the west is -- is -- the gradient is so flat it flows back into his property, also.

DICK SCHICKLER: I will comment on the landscaping.

We were looking at screening and the best screening material is really -- there are many types of screening, but arborvitae seems to work best. And there are different types of arborvitaes. Basically hollies and yews are not a good screening material. That is what we discussed.

MR. HEININGER: We also could use globe arborvitaes.

DICK SCHICKLER: Doesn't grow very high.

MR. HEININGER: I know.

KAREN COX: But do you necessarily want to go high in the front of a business? I understand that the neighbors on that side want some screening, but it will start to look like Fort Knox. There are places around Town where they have done that, and to me it detracts from the business.

JAMES MARTIN: I would have a concern about, you know, sight distance on the road, too, if we got, you know, some tall stuff all of the way out there. Okay? So -- and with the provision of a fence going in there, I mean, our basic concern was headlights shining into the neighbor's house and those types of things. Hopefully that would prevent that from occurring.

Is this something you want to rehash with the applicant prior to if we vote to --

DICK SCHICKLER: Is there fence on both sides of these things, or just the one side?

JAMES MARTIN: There will be fence on both sides.

MR. HEININGER: There is existing fence on the west side, and there is proposed to be a new fence on the east side.

Now, on the west side, we're calling out for five blue -- blue holly boy/girl mix so you get the berries, and then three yew Chadwick, which are a small yew, and then again five blue holly. That is 13 pieces of plant material spaced approximately 5 feet apart or whatever so they don't crowd each other. If you guys want to think of plant material and look around your gardens and your neighbors' gardens and make a suggestion as to the type of plant material that is evergreen and doesn't get unruly.

DICK SCHICKLER: Arborvitaes, they were planted at the car wash last year, you can take a look at those. They have them along the complete perimeter of the car wash. They are emerald greens that don't get out of hand.

KAREN COX: The car wash is just a much bigger area. You know, I'm not trying to be an expert. I understand. But if you -- if you put something in that is 6 feet on each side, it is going to look like a ton of -- with the size of this lot. I --

DICK SCHICKLER: But if he has a fence on one side and they're putting on the other side, I don't know if that would probably work out.

KAREN COX: There is a fence on both sides. I don't know.

MR. HEININGER: My point is that your zoning says any front yard provided they not exceed 4 feet in height.

KEITH O'TOOLE: That's true, but the site -- the Planning Board can impose additional conditions to make the site plan.

MR. HEININGER: So I'm just saying you need to be aware, if you say we like emerald greens, arborvitae nigra. I have those in my yard. They're now probably 15 feet tall. But if that is fine, then we'll put those in.

JOHN HELLABY: I almost think the applicant has to rehash it with the Conservation Board and then just in general, looking at this, I think it would be a good idea, because in my mind, I don't think that fence along the east line extends back far enough. It ends at the end of the paved area.

DARIO MARCHIONI: Can you extend that fence?

KAREN COX: The east line?

MR. HEININGER: Yes, we can.

JOHN HELLABY: I think those -- I think that is something that should be taken up with the Conservation Board. You know, I just --

MR. HEININGER: We can take it back a few more feet so it is even with the -- to the building line.

DARIO MARCHIONI: That would make more sense.

MR. HEININGER: Hypothetical, take it back to the building line. That's fine.

DARIO MARCHIONI: Good observation.

JAMES MARTIN: All right. I think if we vote to have this reheard, I'm going to basically request that they review it again with the Conservation Board, okay, for final.

MR. HEININGER: That's fine. Not a problem.

BRAD GROVER: If this is the property I'm thinking about, is there a driveway out onto Westside Drive?

MR. HEININGER: No. You can't drive through.

BRAD GROVER: That was our concern, the drive-through, people cutting through.

JAMES MARTIN: Basically the vote would be to rehear this application before, hopefully, the full Board. Assuming it does go through tonight, probably in July. Basically I captured one thing.

James Martin reviewed the proposed conditions with the Board.

DECISION: The Chili Planning Board granted a rehearing of the original application that was denied at the April 10, 2007 meeting. In the interim, the application shall:

1. Review the landscape plan with the Conservation Board for final approval.
2. Conduct a perc test in the area designated for drainage collection to verify soil condition will allow percolation in a timely manner.

There was a recess in the meeting.

FOR DISCUSSION:

1. Mark Schwartz, University of Rochester, 601 Elmwood Avenue, Rochester, New York 14642 for proposed off campus parking facility at property located at 1420 Scottsville Road in G.I. zone.

Duncan Jackson, Tom Fromberger (phonetic) and Mark Schwartz were present to represent the application.

192

MR. JACKSON: Good evening, Mr. Chairman, members of the Board. My name is Duncan Jackson. I'm with the MRB Group. We are the engineers for the University of Rochester on this project. With me tonight is Tom Fromberger from my office and Mark Schwartz, Director of Facility Operations for the University of Rochester.

Purpose of us coming here tonight is to accomplish two things. First of all, to explain to you what we're doing or what we would like to do, and second of all, to map out some kind of a procedure as to how to go through our approvals, should that happen.

We have passed out two photographs. The reason we did two is because in the airport area, due to security reasons, the Google is very fuzzy. That is the one that you see all of the parking laid out on, and the other one we gave you is the pictometry. You can't -- we can't lay things out on the pictometry maps because you can't get a straight-on view. You have to have a bird's eye view from one side or the other.

So in short, our proposal is to redevelop the now vacant Logan's Party House at 1420 Scottsville Road into an off-site parking area for the University of Rochester.

The Logan's site, which is right here (indicating), is approximately 5.6 acres, and it is zoned General Industrial.

This site, or these two sites I should say -- one is zoned by Rochester Gas & Electric, and the other is by National Grid. That is approximately 3.7 acres.

The existing Logan's site accommodates approximately 250 spaces, in this area, and another 82 spaces over on the Niagara Mohawk and National Grid site.

Access to the site is opposite Old Beahan Road, via this driveway right here (indicating).

The site improvements that we intend to do, first of all, we'll demolish the existing 20,000 square foot building. There are approximately 2,200 square feet of out buildings that will also go. We'll then clean up the site.

We are proposing two storm water management areas. One here (indicating) and one here (indicating). Those, of course, will be developed in accordance with whatever the topo is on the site. Right now, everything kind of flows to the back. There is a -- there is a very large -- there is culvert under the parking lot here (indicating), goes through a 24-inch culvert into a swale back in here which it drops down about 5 feet. So this swale that goes along the old railroad tracks is something that we may be able to use for our discharge. But that again, as I said, will show up when we do the survey.

We have had discussions with National Grid and Rochester Gas & Electric about having a parking easement here (indicating). They're amenable to that. That, of course, has all got to be worked out, because things like where we're going to locate the light poles and so on under the wires -- if we can locate them under the wires.

The parking lots, the lighting in the parking lots will be done in accordance with the dark sky parameters, and will cover this whole area (indicating).

Um, depending on the use of the lot, and I'm not sure right now if it is going to be a 24-hour-a-day thing or a periodic -- I mean 8 to 5, whatever it is, um, we could put to -- put the lights on timers to reduce the energy use.

Landscaping is shown on the plan, and we would put perimeter landscaping around -- with berms along Scottsville Road, at least to make it look presentable.

There are no mapped wetlands on this site. We intend to maintain the existing access, except we'll improve that by having two out lanes and one in lane.

Access to and from the University of Rochester will be by a shuttle, and we have put in several shelters where people can stay out of the weather while they're waiting for the shuttle.

There will also be a full-time attendant on the site, and we're considering putting in a gate in this area here (indicating).

Off site we have met with New York State D.O.T., relative to this plan, and what we have to do, Scottsville Road, as you know, is four lanes now, and that shows it pretty well on the pictometry photo that you have. We have to put a center lane in, center turn lane in all of the way down through -- 350 feet on this side and 750 on this side (indicating). It is a considerable amount of work on Scottsville Road. It will be widened on both sides to balance the center lane.

KAREN COX: Not cheap.

MR. JACKSON: Upon completion of a comprehensive traffic study, we may even meet the warrants for a traffic light at this intersection. We don't know that yet. Our wish, as you can see, is to maximize the parking on this site. Parking is a real problem at -- on the U of R campus, especially with all of the building now. Buildings go into parking lots, parking lots have to be relocated. We are in the process of preparing to build a parking garage, which is going to be -- take quite a while to do yet. So this is going to facilitate the loss of some of the parking area on site.

The ordinance calls for 75 foot setback along Scottsville Road. Now, we have shown 25 feet along Scottsville Road, and the same along the zoning line here (indicating). Um, it calls for 75 feet on Scottsville Road. The present parking for Logan's is within 10 feet of the right-of-way line. The buffer, there -- the ordinance calls for 100-foot buffer along the zoning line here (indicating) because the zoning here (indicating) is -- or rather the zoning over here is General Business (indicating). And our zoning is General Industrial. So we need to have a buffer in here, which we would ask for relief from in addition to the relief along Scottsville Road.

Since there is no specific provision in the ordinance for a parking lot, um, we would ask the Planning Board to refine the procedure to develop a site plan as we have proposed it. At this point, I would ask for your recommendations, and entertain any questions that you might have.

JAMES MARTIN: That was going to be my first comment. Keith (O'Toole), I have read the code, General Industrial and Light Industrial. There is nothing in there specific to a parking lot, per se. But obviously those things that are permitted in those two zones would require parking lots. So I'm not exactly sure whether we would consider this to be a similar use type of situation, or, you know -- I guess we need some guidance as to what from a code perspective we could consider in the way of conditional use to allow a parking lot, per se.

KEITH O'TOOLE: I have some trouble with it, frankly.

Parking lots are typically accessory uses, and when we have permitted them in the past, we have either permitted them on site, directly on site with principal use, or across the street from one. And that's deemed an expansion, but for the fact that the right-of-way is in the -- you know, is in between. A parking lot by itself is not a permitted use in the GI District. At least that is the way I read it.

MR. JACKSON: Zoning does permit some flexibility there, though, as far as a similar use being permitted as a conditional use.

KEITH O'TOOLE: It does, but what is a parking lot similar to? I mean is it similar to a bottling plant? I mean is it similar to truck and equipment sales? I think that is a bit of a stretch.

JOHN NOWICKI: How does it compare to parking lots around the airport that are privately owned where they shuttle people back and forth from those parking lots?

KEITH O'TOOLE: I don't know of those lots or their zoning district.

JOHN NOWICKI: What is the difference? They're the same thing.

KEITH O'TOOLE: Maybe.

JOHN NOWICKI: Use is the same thing.

DARIO MARCHIONI: Shouldn't we have a special zoning in -- I mean -- for parking lots and put it in our books? Now would be the opportunity to do it, so let's do it so we can deal with this situation.

KEITH O'TOOLE: If the Board believes it appropriate, you can make a recommendation to the Town Board to modify the GI District.

DARIO MARCHIONI: That is the way I would go. So in the future, if we see a similar thing, we're prepared for it. We have done it with other projects.

KEITH O'TOOLE: I would point out, of course, being the Devil's advocate, if I were the Town Board, I might want to ask what does this do for my tax base? Are we chewing up valuable GI land which will be nothing more than paving and striping? But then, that's just an observation.

DARIO MARCHIONI: That's their decision.

KEITH O'TOOLE: Yes, it is.

DARIO MARCHIONI: We're not the politicians.

JAMES MARTIN: Clearly, this would remove a fair amount of acreage off the potential tax rolls. I know Logan's is going to close down because they can't sell it, but, you know -- when I read through the code, I couldn't come up with any conceivable way that we would look at this as conditioned, you know, under -- our current zoning code.

Let me -- maybe you don't know the answer to this, and I'm just fishing around for some facts here. I mean, do you have any idea what the duration or lifetime of this particular parking lot would be? I mean, are they going to use it forever, or is it just going to be a temporary thing until they build some structure over at the University of Rochester?

MR. JACKSON: There is a possibility, and correct me if I am wrong, Mark (Schwartz), but there is a possibility that we could be out of here in somewhere's between five and ten years. At that point, the -- actually the site would increase in value to someone like Target or whoever would want to move in there because of the dollars that we have spent improving Scottsville Road and the entrance. You know, we're talking an expenditure probably of close to \$3 million for this parking lot. And --

JAMES MARTIN: That includes --

MR. JACKSON: It is very critical to the U of R to be able to have this off-site parking areas so that they captain their construction projects.

JAMES MARTIN: And that estimate includes the road improvements?

MR. JACKSON: Yes.

KAREN COX: That's a lot of money to put in for five to ten years of use.

JAMES MARTIN: Yes. It is highly speculative whether some big box would be interested in the property in five to ten years.

JOHN NOWICKI: Keith (O'Toole), if the Town Board was to take this before them, would they consider a payment in lieu of taxes? If you're concerned about the tax base, would they have any authority on the way to regulate or determine if there was an opportunity to get a payment in lieu of taxes?

KEITH O'TOOLE: There is a provision in the Town Code for incentive zoning. I haven't researched it for quite that application, but potentially, yes.

JOHN NOWICKI: So we have an opportunity there to take a look at that.

JAMES MARTIN: Um, I think we're in a legislative quagmire here because we don't have code that would allow this Board right now to give a green light at this point.

Keith (O'Toole), I would think that appearance before the Town Board might -- you know, we could recommend, all right, that this be reviewed by the Town Board to see if they want to make an amendment to the provisions of the General Industrial to allow this to occur before we would even begin to deal with site plan issues and those types of things.

Keith (O'Toole), I -- if you're of that mind, or if the Board is of that mind, you can send a

194

letter of recommendation to the Town Board. The Town Board, in turn, wouldn't necessarily schedule a hearing because what they're really doing is asking that legislation be proposed and one of the Board members would have to be willing to propose that legislation. So perhaps they may wish to have informal discussion with one or more Board members, perhaps the Town Supervisor, before they go down that route.

JOHN NOWICKI: So what do we do with this? Table this until we hear from the Town Board?

KEITH O'TOOLE: This is just discussion.

JAMES MARTIN: This is just discussion.

DARIO MARCHIONI: We want to be in a position that we wouldn't be challenged at a later date here.

JAMES MARTIN: Under the zoning code we have no authority to recommend, you know --

JOHN NOWICKI: It will be Town Board action is what you're saying.

JAMES MARTIN: To me it seems as though, and based on what Keith (O'Toole) has said, we need clarification of -- from the Town Board. We need legislative action, so I guess what I would do would be to write a letter to the Town Board indicating that, you know, you have come before us, you know, with this proposal, based on current zoning. We can find no provision that would allow us to write the green light for your project at this point. As Mr. O'Toole said, we would then have an informal discussion with maybe the Supervisor and one of the other Town Board members to determine what the path forward would be from a Town Board perspective, but to me, I think that is the next step. Because I think our hands are tied at this point, given the zoning situation that we faced.

MR. JACKSON: Is it something that the Planning Board can recommend to the Town Board?

JAMES MARTIN: I think what I would -- what my letter to the Town Board would indicate is that we have a -- we have this request that we have discussed for the parking lot. There is nothing in our current zoning that would allow us, all right, right now to give you a green light to proceed with the project; that the Town Board, if it deems appropriate, all right, should review this and decide whether or not they want to make a change or amendment to our current zoning code, all right, that would allow, you know, this type of a project to proceed in a General Industrial zone. Because I think, as Mr. O'Toole has stated, basically this would go off the tax rolls, all right, if this parking lot went onto this piece of property. General Industrial is a fairly valuable piece of property in the Town of Chili. There is no question about that. And, you know, if you put a parking lot in there, it would restrict, you know, some company from coming in that wants to provide 100 jobs, all right, and a factory on this location.

You can understand the difficulties that we face here.

MR. JACKSON: I understand. But you understand our situation?

JAMES MARTIN: I understand the University of Rochester's problem. There is no question about that.

MR. JACKSON: We're stuck.

JOHN NOWICKI: We also understand what the University of Rochester means to the whole community, because that is a big part of Monroe County, there is no question about that.

JAMES MARTIN: It is a big part of our future. No question. So we don't want to, you know, be obstructionists from the standpoint of what the University of Rochester needs clearly. It is a benefit to the whole area, to allow the University of Rochester to -- to prosper, okay?

JOHN NOWICKI: I think the Town Board, through some notable thinking, could maybe come up with a solution that would be good for everybody.

MR. JACKSON: Would that discussion with the Town Board, would that involve us, or just the Planning Board and the Town Board?

JAMES MARTIN: No. It would involve certainly you and the University of Rochester.

MR. JACKSON: Okay.

DARIO MARCHIONI: You have to make your case to them.

MR. JACKSON: Okay. So we need to send them a letter requesting a --

JAMES MARTIN: Well, I will put a -- I will send a letter to the Supervisor and the Town Board indicating that the discussion -- the discussion we have had tonight and the difficulty that we face. You certainly -- I think Keith (O'Toole), they would be free to send in, you know, a sum of their position to the Town Board, and we will have some discussions with them and it will be their responsibility then to return, all right, an answer to your request as far as future action goes on this particular activity. Okay?

MR. JACKSON: Okay.

JAMES MARTIN: Hopefully it won't drag on too long because I know you're in a hurry to get something started, if there were to be --

MR. JACKSON: We're holding up one of the building constructions until we get this built. And it looks like this not going to get built until next summer anyway.

JOHN NOWICKI: You do have the presence of a Town Board member here tonight, so that particular person has heard this conversation, I'm sure, and he will have some way to discuss this with other Board members.

JOHN HELLABY: Something that might help his cause, correct me if I am wrong, but isn't the southern almost over a third of this in an easement situation, which renders most of that property virtually worthless anyhow?

KAREN COX: For building.

JAMES MARTIN: It is still in a GI zone.  
 JOHN HELLABY: Right. But I'm saying just in his defense, you say about future development. I mean you won't do anything there anyhow.  
 MR. JACKSON: There is no way that parcel is going to be developed. That's true.  
 JOHN HELLABY: You know that whole southern end is all tied up. You couldn't build there anyhow.  
 JAMES MARTIN: It is all problematical.  
 JOHN NOWICKI: Because of the power lines going through there.  
 JAMES MARTIN: So I think that is our path forward. I mean you basically came to find out, you know, where we want to go, and, you know, I will have a conversation post haste with Mr. Schulmerich, who is in the back of the room, from the Town Board, who is our liaison, and hopefully it will not delay this any longer than is absolutely necessary to make a determination.  
 MR. JACKSON: Thank you.  
 JAMES MARTIN: Anything else I can say?  
 JOHN NOWICKI: I think you have legal counsel and Town Board people here that can make clear the message.  
 MR. JACKSON: Thank you.

2. Bill Howard, 3313 Chili Avenue, Rochester, New York 14624 for proposed ice cream parlor in a portion of building at property located at 420 Ballantyne Road in PRD, FPO, FW zone.

Bill Howard was present to represent the application.

MR. HOWARD: Good evening, Board members. Bill Howard. Business owner, 3313 Chili Avenue and 27 Old Chili Scottsville Road, the old Chili Lanes Bowling Alley.  
 About a month ago, we put two letters of intents in the Building Department's hands regarding change of occupancy at Fedele's Bakery building at 27 Old Scottsville Road and also letter of intent to move the existing Gelato's ice cream parlor over to 420 Ballantyne Road. Um, the letter of intent for the current tenant that is in the Building Department right now waiting for a building permit, which FRA is handling right now some code review. The --  
 JOHN NOWICKI: What project is that for?  
 JAMES MARTIN: This is for Fedele's Bakery.  
 MR. HOWARD: 27 Old Chili Road, which was Fedele's Bakery, who went out of business and filed bankruptcy, and the current Gelato's ice cream parlor that is still there and existing. So we would like to -- so the letter of intent that came in for the ice cream parlor, again, we just needed to add a bathroom. Letter of intent. They asked us to come in front of the Board for discussion, so we're looking to you to advise what next direction has to be taken.  
 JAMES MARTIN: I guess the main point of discussion is, you know, again, the zoning issue from the standpoint of PRD and then basically PRD would allow anything that is in Neighborhood Business also to be -- to go into a PRD zone.  
 And if I go down through the list, those of us that are old enough to remember soda fountains --  
 JOHN NOWICKI: I saw that.  
 JAMES MARTIN: John (Nowicki), are you old enough to remember soda fountains?  
 JOHN NOWICKI: Yes, I am.  
 KAREN COX: So am I, hate to say.  
 JAMES MARTIN: They basically served ice cream sundaes, ice cream float, all of those types of things, and, you know, they are a permitted use with a drugstore in a Neighborhood Business District, okay? I know that is a bit of a stretch.  
 JOHN NOWICKI: Is that on conditional use?  
 JAMES MARTIN: Actually, it's a permitted use in a Neighborhood Business District, okay?  
 As I went down through the other, you know, permitted conditional uses in both PRD and Neighborhood Business, you know, again, there isn't anything specific to an ice cream parlor type of situation, but as I reviewed your plan, essentially you want to take, you know -- would that be essentially the east half or the west half of the building and --  
 MR. HOWARD: The east end of the building, which is approximately under 1,000 square feet. What we would like to do is let it co-exist with the driving range.  
 JAMES MARTIN: It would co-exist with the driving range.  
 JOHN NOWICKI: Golf shop out?  
 MR. HOWARD: No, still there.  
 JOHN NOWICKI: That would be as you face the building to the left of the golf shop?  
 MR. HOWARD: No. I thought you were talking about the existing building.  
 JAMES MARTIN: Forget Fedele's.  
 MR. HOWARD: Now we're over to the 420 Ballantyne Road.  
 JAMES MARTIN: As far as I know, the change of use request for the Fedele's is -- that's done, right?  
 MR. HOWARD: It's pending. There is a code review that you being an inspector would like to have done. It was, I believe, finished today. They're just putting the documents together to get them over to the Building Department, which hopefully then will issue the building permit to allow that to continue with the restaurant.

JAMES MARTIN: So we're just talking about the ice cream business.

MR. HOWARD: Right. So what is happening is, we -- they need -- they want the whole building. So rather than put Gelato's Ice Cream out of business, what better fit than to have it over at a putting course, chipping course, driving range, hole-in-one contest.

We have two teaching pros, Bob Hill and Roger Sawyer, over there now. Hours of operation have been open from 9:00 a.m. to 9:00 p.m. They're doing golf clinics. They met with the Chili Recreation. They're doing a bunch of wonderful stuff with the churches, the schools. So the thought process is, again -- I know we have another application pending I just received from Keith O'Toole last month, was for the soccer complex, which we're going to be back in, hopefully in the near future to proceed with that, but this would also help enhance that property, put it all together, have a place for recreation, ice cream, um, rather than put Gelato's out of business, and the owner is here, Mark Ferris, now.

So we thought it would be a good fit. So we're coming to you, the Board, to ask you what would you like us to do to make this work?

KAREN COX: So as I understand it, you -- somebody -- the reason you want to move the ice cream out is because somebody has expressed interest in --

MR. HOWARD: The whole building. They want Gelato's out of there.

KAREN COX: A perk for a business purpose?

MR. HOWARD: Restaurant. Italian restaurant.

KAREN COX: He is not -- okay. I will hold that question.

JAMES MARTIN: You know we have that under 115-15-C-6, uses of a similar character, but not specifically listed. We always have that gray area that we can work on.

MR. HOWARD: Or --

JAMES MARTIN: You know, applicant had to apply to the Planning Board for conditional use permit. All right. Such permits will be granted upon a finding of the Board that said use is indeed the same general characteristics of all permitted uses.

So comments, Dario (Marchioni)?

DARIO MARCHIONI: We're always trying to improve business in our community. If this is a service to that -- to the operation, ice cream -- I like ice cream myself, so sometimes I got to go all of the way to Greece to get a good ice cream cone. And it's not -- I don't see any problem with it.

JOHN NOWICKI: I got to address an issue. The idea is a good idea, I think. But there are some issues on traffic that I would be concerned with because of the speed zones in that area.

I'm also concerned about the property that is -- what it is being used for now. I drive by there every day and I see unregistered vehicles, piles of stuff all over the place. What is all that? Since when -- are we having another junkyard like we have across the street developing or --

MR. HOWARD: No.

JOHN NOWICKI: What is all that stuff?

MR. HOWARD: DEC, and Army Corps, and this goes back to the three fill permits issued by the Town of Chili, whether there was going to be a map amendment done or not with the political arena that has been going on, we did voluntary compliance to stop all operations, even though we had a fill permit that was issued by the Town of Chili. Three different occasions. Three different building inspectors. Three different engineers.

Um, so what has happened now -- I talked to Joe Kessler today from the Army Corps of Engineers. We're getting together with -- a meeting with him. Since we are in voluntary compliant mode, we are not allowed to move anything to hide it in the back, not -- not to go back to disturb anything, not to proceed with anything other than I tried to clean it up, put it behind the berm so you wouldn't have the visual --

JOHN NOWICKI: But these vehicles have come in.

MR. HOWARD: There are dozers.

JOHN NOWICKI: Where are they coming from? They're unregistered.

MR. HOWARD: From the Archer Road site that was around the corner.

JOHN NOWICKI: Those are cars.

MR. HOWARD: Two trucks. There are two dozers. There is a pickup truck.

JOHN NOWICKI: What does that have to do with the site on Archer Road?

MR. HOWARD: What --

JOHN NOWICKI: What does --

MR. HOWARD: That was the stuff being used on the other site. So it has been moved to this site until --

JOHN NOWICKI: Cars?

MR. HOWARD: Yes. They are registered. I don't know what you're talking about.

JOHN NOWICKI: There are no plates on them.

MR. HOWARD: There are plates on every one of those cars.

JOHN NOWICKI: Not the ones I have seen.

MR. HOWARD: There are plates on every one I seen.

KAREN COX: Some were moved from the Archer Road site, what would have --

MR. HOWARD: We weren't allowed to put them in the back. We weren't allowed to hide that view until we can get on with this project.

KAREN COX: They can't be put anywhere else?

MR. HOWARD: Where would you like me to put them?

JOHN NOWICKI: Send them to Metallico and get them shredded, gees. All that junk piled up over there is ridiculous.

MR. HOWARD: They're in the process of being sold anyway, a lot of stuff. We have partnered up with some new people?

JOHN NOWICKI: Ed (Shero), go take a look at it. Boy.

MR. HOWARD: If we were allowed to continue with the project, we wouldn't have this problem.

JOHN NOWICKI: There is stuff added on a regular basis. Added every month. These people are dropping junk off over there.

But back to the project.

JAMES MARTIN: Let's go back to the request.

JOHN NOWICKI: There would be some site considerations I was concerned with, mostly traffic and -- because of the speed zones in there and the sight distances and -- I would have landscaping issues to deal with, and all kinds of things.

MR. HOWARD: This is a preexisting building?

DARIO MARCHIONI: The building is there.

JOHN NOWICKI: I don't care. It still has to have parking lots. I want to see the parking lots, the layouts.

MR. HOWARD: They're all there.

JAMES MARTIN: Okay. Let's --

JOHN NOWICKI: I want the junk out of there.

JAMES MARTIN: If there --

MR. HOWARD: I want the junk out of there.

JAMES MARTIN: If there has been any proposed changes to the exterior site plan of the building, we would need to see that, okay?

MR. HOWARD: There is nothing. It is only interior. There is only a bathroom being added. That was it right there.

JAMES MARTIN: The path forward that we're talking about right now is what does Bill (Howard) have to do in order to allow this project to proceed.

MR. HOWARD: Exactly.

JAMES MARTIN: Now, so certainly, you know, depending on the outcome of the discussions here, you know, you can go away understanding what you will have to do.

MR. HOWARD: Thank you.

JAMES MARTIN: Okay.

KAREN COX: Would you expect that the number of cars going in and out, the traffic would increase somewhat with the addition of the ice cream just from --

MR. HOWARD: I think it is a destination for recreation. People will come there to do the putting course, the chipping course, the driving range and they will see, like -- just like they buy a bottle of pop, they would buy an ice cream. They go hand in hand. Any other facility you see throughout the counties, they're together. Um, it is just a good fit, good marriage. Rather than put Gelato's out of business, which doesn't make any sense, this is a way to put this together.

And yes, I would love to clean that up. I want to get that cleaned up. If you look at any of my other properties, they're clean. So I have been handcuffed.

DARIO MARCHIONI: I would vouch for that. He does have clean properties throughout Chili, except in that area.

JOHN NOWICKI: Well, this one --

JOHN HELLABY: Unfortunately --

JAMES MARTIN: Unfortunately, this has been a very difficult --

JOHN HELLABY: I unfortunately have to agree with Mr. Nowicki on his site down there. You know, 30 years of just being a dumping ground down there, and unfortunately it is a main thoroughfare to this community and everybody that passes through there gets the impression this whole community looks like that.

MR. HOWARD: Well, I had a plan in place. It was there.

JOHN HELLABY: Again, I understand the concept. I'm looking for traffic studies, because you wouldn't believe how many cars I seen laying on their sides down there with somebody trying to scoot around. Not only there, but on Ballantyne Road to come to the ball park down there.

But I will expand it a little further from what Mr. Nowicki said. I'm very displeased with the 300 acres plus of deforestation down there and all of the garbage that is lying down there, the empty trailer box, and I for one, and I know you say keep it to this project, this was part of that golf course presentation at one time.

MR. HOWARD: Right. It was.

JOHN HELLABY: Before I even look at this and consider this, I would want all of that concrete debris, those end pieces, all of that mess.

MR. HOWARD: Can't touch it, John (Hellaby) until --

JOHN HELLABY: You won't have my vote until that is cleaned up over there.

MR. HOWARD: Can't even. We're working through it.

JOHN HELLABY: Just keep piling on and piling on.

MR. HOWARD: Again, this is not something I have done. This is something the political world has done, and I had the fill permits and the Town has issued those fill permits. If I was allowed to continue, that place would have been cleaned, looking like a golf course and to this day, done. Done. So because of the -- because of what has happened, John (Hellaby).

JOHN HELLABY: There has to be answers to the problem.

MR. HOWARD: There are attorneys. And they're on it.

JOHN HELLABY: I guess they're the ones that are going to solve the problem.

JOHN NOWICKI: They will get it cleaned up and solved.

JAMES MARTIN: I think we're getting --

JOHN HELLABY: We're getting sidetracked.

JAMES MARTIN: You're getting sidetracked from what we're trying to do here.

MR. HOWARD: The problem -- I understand everybody's concern. The problem is I have set back for three years and I have been litigating, litigating and I have won at the State level, Federal level. I can't tell everybody what has been going on. I can't tell everybody what really has been happening here. I want this place cleaned up. If you look -- like I said, look at any of my other properties. They're not like that. None of them are like that. I have been handcuffed, guys. I put \$1.4 million cash in a bank account and had final approvals and you ask me how this project doesn't get done. Ask yourself how? How can there be cash in a bank account, all approved, all done and this project doesn't get done?

JAMES MARTIN: Time out.

MR. HOWARD: Instead of always attacking, you have to understand what is going on here. Um, and again, I sit here, and I take the punches and I take it, I take it, I take it, but I'm telling you, you -- you don't know what is going on.

JAMES MARTIN: I think that is part of the issue.

MR. HOWARD: I would love to tell you all.

JAMES MARTIN: This is basically tied up in a lot of litigation and things that people cannot publicly discuss at this point in time.

MR. HOWARD: Because nobody wants to know the real story.

JAMES MARTIN: I think we're getting two things mixed up here. We're talking about an ice cream parlor going in an existing building. Yes, there are concerns.

MR. HOWARD: Yes, they will be cleaned up.

JAMES MARTIN: And the path that has been strewn with a whole bunch of stuff, okay? And so I understand your concerns. I don't like it either.

MR. HOWARD: Neither do I. But I have had to live with it.

JAMES MARTIN: But we're not here to talk about that. We're here to talk about how do you get a path forward to put an ice cream parlor into an existing building. Okay.

KAREN COX: I -- that is -- I would chime in and say that is what we really have to concentrate on. Yes, everybody wishes it would be cleaned up.

JOHN NOWICKI: There has got to be a path to clean it up.

MR. HOWARD: John (Nowicki), I would love to meet -- you come to my house.

JOHN NOWICKI: Nothing will happen on this Board until that junk is out of there.

JAMES MARTIN: John (Nowicki), there will be a path.

KAREN COX: So this place goes out of business because we're being hard-headed?

JAMES MARTIN: You're penalizing --

JOHN NOWICKI: For months and months and months have gone by and we can't get that junk out of there?

MR. HOWARD: Welcome to my world.

JAMES MARTIN: You're penalizing him for something that is not in his.

KAREN COX: It's not in his control. I'm not going to vote -- or not going to withhold a vote.

JAMES MARTIN: We're not voting on anything.

MR. HOWARD: Just discussion.

KAREN COX: You know, to sit there and withhold a vote and possibly put somebody out of business because things aren't moving along as fast as everybody would like them to move, and I don't profess to know anything about this litigation, but, you know, you can't not vote on something and hope that it is going to give us a desired outcome on another parcel. It is just -- that is not even right.

MR. HOWARD: The other parcel is going to happen. It's all done. I just need to straighten this last piece out. This is the last piece that gets it done. The other side has all been straightened out.

DARIO MARCHIONI: Let's go.

JAMES MARTIN: Hang on.

KAREN COX: Let's see what we need to do to move this along.

MR. HOWARD: Thank you.

KEITH O'TOOLE: On the zoning issue, the last time I have seen a soda fountain was in the Strong Museum, but that particular soda fountain was in essence for ice cream, confections, soda. That is what a soda fountain is. I don't think it is a push to say an ice cream parlor is a similar use of similar character and so I think Mr. Howard can apply for a conditional use permit as described in the NB District that happened to be treated as a use of a similar character to a soda fountain. I think that is a legitimate argument. Obviously you would have to make that finding, but I think it is, you know, worthy of consideration.

As far as the conditional use permit conditions would be -- should you get to that point, we look at the area of activity. We look at the parcel of land upon which the particular buildings is located. We don't argue adjoining parcels on other projects notwithstanding whatever litigation may or may not be occurring and who is involved and who is liable. That is not before this Board, and this Board, I should respectfully point out, doesn't speak for the Town as a whole on those issues. It just speaks to the planning matters.

And so while I think we can certainly talk about the existing building, the existing parking

and the impacts that would be caused by adding an ice cream parlor to those premises, and while I think we can certainly look to the parcels as a whole, and if there are issues of cleaning it up, trash, debris, whatever, I think we can look at them. I don't think we can go off parcel and look at those other things. Nothing further.

ED SHERO: I'd just like to say that I think -- saying the Board not acting on this is putting Gelato's out of business is a rather ridiculous statement. The landlord is moving them, not Town -- not the Planning Board. Um, we have had a lot of problems with the businesses down there. Gelato's is constantly putting their signs on the Town property and we're constantly picking them up.

Real estate billboards. We have sent you letters. They are illegal. You have done nothing about it. They are left up.

The fitness center constantly puts a name sign on Chili Avenue and they have even roped it or chained it to a tree, which you had to threaten the Highway Department to cut it down and throw it away.

I applaud Mr. Nowicki for standing up about cleaning up the mess. There are a lot of problems here that I think should be addressed.

DARIO MARCHIONI: You're talking about a zoning situation here or personal opinions here?

ED SHERO: Probably -- well, I think there are zoning issues and probably personal opinion has clouded it.

DARIO MARCHIONI: Because if it interferes with you enforcing the zoning ordinances, that is what I would like to hear more into.

ED SHERO: What is interfering? We're trying -- we try -- like I --

KEITH O'TOOLE: If I may, I think Mr. Shero is expressing some frustrations he has experienced from a code enforcement point of view.

JAMES MARTIN: I understand.

DICK SCHICKLER: For the record, we're just concerned about the storage of vehicles there. So that's it.

JAMES MARTIN: Well, I guess based on the discussion we have had, the path forward would be to submit an application for approval of a conditional use, all right?

MR. HOWARD: Okay.

JAMES MARTIN: I would certainly, as part of that -- you know, any proposed changes to the existing site, any impacts on traffic, anything that might be pertinent.

MR. HOWARD: Those are being done, Jim (Martin). Those -- because of the other application.

JAMES MARTIN: That is the path forward as I see it. And we go from there.

MR. HOWARD: Okay.

JAMES MARTIN: I can't guarantee where it is going to go, but that is the path forward. Okay?

JOHN NOWICKI: So they would come back in under a conditional use application.

JAMES MARTIN: They would come back in with an application with a conditional use permit to allow the ice cream parlor to become part of that existing structure.

MR. HOWARD: Just one question to the Building Inspector. How long have you been here?

KEITH O'TOOLE: Let's not get into --

MR. HOWARD: I'm just wondering because he is saying all this. I'm wondering where you got this notes or where this all came from.

JAMES MARTIN: Time out. Not in order of the discussion.

MR. HOWARD: But he made statements. I'm just wondering where all this came from? I don't even know this man. I never even met him. I never got a letter from him.

ED SHERO: That's not true.

MR. HOWARD: I never got a letter from you.

ED SHERO: That's not true.

JAMES MARTIN: Outside of the public hearing.

JOHN NOWICKI: So we'll then go under conditional use and site plan procedure approvals.

JAMES MARTIN: That's correct?

JOHN NOWICKI: And everything that applies to that, to the letter of the law.

JAMES MARTIN: All right.

DECISION: As indicated by the Board, applicant will need to file a conditional use permit application for hearing before this Board.

Applicant is asked to prepare an outline of any potential changes to the existing site plan and to also consider any impact on traffic.

3. McFarland Development, c/o Schulman, Curtin, Grundner & Regan, 250 S. Clinton Street, Suite 502, Syracuse, New York 13202 for proposed subdivision to combine six lots into one lot at properties located at 3127, 3131, 3137 Chili Avenue, 778 & 780 Paul Road, and 5 Pikuette Drive in G.B. zone.
4. McFarland Development, c/o Schulman, Curtin, Grundner & Regan, 250 S. Clinton

Street, Suite 502, Syracuse, New York 13202 for proposal to erect a 14,820 sq. ft. retail store/pharmacy at properties located at 3127, 3131, 3137 Chili Avenue, 778 & 780 Paul Road, and 5 Pikuet Drive in G.B. zone.

Betsy Brugg, Alex Wisniewski and Jeff Taw were present to represent the application.

MS. BRUGG: Thank you and good evening, Mr. Chairman, members of the Planning Board. If you would just give us a moment to get set up here.

For the record, my name is Betsy Brugg. I'm an attorney with the firm of Fix, Spindelmann, Brovitz & Goldman. With me tonight is Alex Wisniewski from RJ Engineering, who is putting up his portable easel, and Jeff Taw, our project architect.

As you might recall, we were here several months ago in connection with a request for a rezoning of a portion of the project site. Um, I will just kind of do a little overview as a refresher here.

This is our first appearance in connection with the site plan and subdivision. We're here on a concept basis tonight.

I think everybody knows the site is at the corner of Chili and Paul. We were here several months ago with a conceptual drawing and we were successful in obtaining a rezoning of two of the parcels that are part of our site. The site consists of six existing parcels and Pikuet Drive. As you may recall, as part of the approval process, we will be requesting an abandonment of Pikuet Drive so that it can be incorporated into the site.

Just to give you a little more background, we have been in the process of working and meeting with Joe Carr here at the Town and the New York State D.O.T. and also working in conjunction with the County to address all of the issues related to Pikuet Drive and the Pikuet Drive right-of-way, and as that relates to the Paul Road and Chili, Chili Avenue.

Um, let's see. Since we were last here, in addition to the rezoning, we have started working on development of the full plans. Um, started to work on landscaping. There has been some effort to start working on architecture. I know that is something that is really extremely important to this Board in particular.

Um, what I would like to do is defer to Alex (Wisniewski) to do an overview of the site plan, defer to Jeff (Taw) on the architecture. Also in this time we have been at the Conservation Board and the Traffic Safety Committee. And there have been some comments that have resulted from those meetings and we like to address those a little bit later after we have had a chance to overview the site plan, if that is acceptable to the Board.

JAMES MARTIN: All right. Go ahead.

MR. WISNIEWSKI: Hi. My name is Alex Wisniewski, President of LJR Engineering, working on behalf of the developer. Just to extend maybe a general overview of the project, um, the developer, McFarland Development, intends to accommodate the new development -- the existing structures within the site area would be demolished. The redevelopment would consist of a 14,820 square foot Walgreen's Pharmacy with drive-through service, which is typical of the freestanding drugstores you see under construction in the Greater Rochester area.

Um, the site will consist of the paved parking surfaces, landscaped areas. There will be on-site control of storm water runoff. We're very cognizant of the neighbors to our east here and we're proposing buffering along this eastern flank of the property (indicating).

Um, the proposed use is permitted now within the current GB zoning and consistent with the Town's Comprehensive Master Plan Update.

We have laid the parking and access areas in a fashion that promotes adequate ingress and egress of pedestrians, vehicles, fire protection equipment and delivery trucks.

All of the utilities necessary to serve the site are readily available for connection at Chili Avenue and Paul Road.

We don't anticipate any significant environmental impacts. There is obviously positive impacts of the redevelopment, increased tax base, both sales and property, jobs creation; in my opinion, an aesthetic improvement of your prominent corner here and the potential to trigger further economic development in the area.

The project budget costs exclusive of the land acquisition is in the 2 1/2 to \$3 million range. The site construction would be completed approximately six months subsequent to receipt of all of the necessary approvals. Walgreens would need approximately another month there to fixturize and install their merchandise.

Approximate business store hours would be 7:00 a.m. to 9:30 p.m., Monday through Saturday; 8:30 a.m. to 6:30 p.m. on Sundays. Once the redevelopment is complete, Walgreens will purchase the property from the developer.

Just to get into some specifics of the engineering, um, I will step back to the existing conditions for a moment.

As Betsy (Brugg) pointed out, the site is currently compiled of six separate tax parcels as well as the Pikuet Drive right-of-way. I have outlined the Pikuet Drive right-of-way in green. We are currently having discussions with D.O.T. and the Town relative to the abandonment and then a parcel acquisition of that right-of-way by the State D.O.T. to create ultimately our proposed exterior property boundary.

The site currently has -- there's two access points on Chili Avenue, one of which is Pikuet Drive. The second point of access is an existing driveway to one of the residences. There are also currently two access points on Paul Road, both driveways to the existing homes on Paul Road.

The site generally drains in a southwesterly direction from Chili Avenue towards the residential properties that front along Grinnell Drive here to the east (indicating). Um, there is a significant grade differential across the site, too, which I will get into specifically as we talk about the grading plan that has posed some challenges with the development of the property, but there is, I think, approximately a 26 feet grade differential from one corner of the site to the other that we have had to work with. And you will see as a result we'll need some retaining walls on the property. It's presented some challenges as it relates to getting a grading plan that would be acceptable to Walgreens because they have very specific requirements in terms of their slope requirements, minimum and maximum slopes.

Under the proposed development, subsequent to demolition of the existing structures in preparation of the site, the new development, we would consolidate the two existing driveways into one driveway location on Chili Avenue, and the two on Paul Road would also be consolidated to one location on Paul Road. Um, we have submitted these plans, an earlier illustration of these plans to the New York State D.O.T., which has jurisdiction of both thoroughfares currently, and there is a letter included in the application package. They have reviewed that and accepted the locations. They have given us some specific guidance on the geometry of those driveways, and we'll obviously work with State D.O.T. in obtaining the appropriate highway work permit as the project moves forward.

As Betsy (Brugg) pointed out, the project was recently presented to the Traffic Safety Committee. I haven't seen any specific response from them yet, but I do believe there has been some dialogue relative to adjustments potentially to access points that I would be happy to discuss with the Board.

We have provided parking sufficient to meet your code as well as Walgreens' needs. I believe there is currently 78 spaces proposed and based on the square footage of the building, your code would require 74 spaces. Um, dimensionally it would meet your code requirement for the size of the spaces. The driveway aisles are all a minimum of 24 and in some cases 30 feet wide, so from an access standpoint we're confident we have the appropriate configurations.

We have a loading area designated for the northerly side of the building. Um, there is compactors that are located within enclosures within that loading area, and there is also a tote enclosure, concealing anything -- any -- any objects that would be stored outside.

Um, we do propose to improve the street scape along Chili Avenue and Paul Road. We're going to -- obviously once Picket Drive is -- is abandoned and removed, we'll extend the existing sidewalk from that point across the balance of the frontage of the site, as well as extending a new sidewalk down and along Paul Road and trying to promote pedestrian access immediately to the front of the store.

Um, that's generally it for the layout.

Just to get into some specifics on the grading and drainage, sheet C-21 of our set that was submitted. As I pointed out, there are some challenges posed to the site due to the grade differential between Chili Avenue and Paul Road and the maximum differential is 26 feet of fall across the site. Um, it will require a small retaining wall at the one corner of the parking lot. I think the maximum height of that wall will be 4 feet and we also need a small wall along Paul Road that ranges from basically 0 feet to, I think it is 4 feet or 5 feet at its highest point at the easterly end and then it tapers off again into the grade.

Um, we have proposed guide rails and/or fencing where appropriate at the tops of those walls.

Because the site will result in disturbance exceeding one acre, we'll need to file for and comply with the terms of the DEC SPDES permit for redevelopment projects. We do have a plan in place to accommodate the storm water runoff from the site. Again, currently the site just generally sheets southeasterly. I know at some of the early meetings some of the neighbors were present at there was some discussion of that. And we have made efforts to basically take that, that contributing area away from their lots. The on-site storm sewer system we have designed to accommodate up to a 100-year storm event, which is not typical. Usually a two or ten-year storm event. But the only way we can get the storm water from some of the front portions of the site back to the storm water area is via the piping and for there we have sized piping to handle up to a 100-year storm event. It will discharge to the storm water facility to be located in this general vicinity (indicating), and again cognizant of the neighbors to the east here, we have designed this as a dry detention facility.

I don't know how familiar you are with the new SPDES permit guidelines, but basically the difference, general difference, this storm water management control today versus five or ten years ago is the water quality component of storm water, and that is why you see in often cases what used to be a dry detention facility is what you would now see as a wet pond, and there are issues often raised with municipalities, safety, mosquito breeding, things of that nature. Being we're next to a residential neighborhood, I have tried to come up with a design that would allow this to be dry facility, other than times during a storm event. So it will temporarily store and retain the storm water and the elevation within the detention area would increase in the storm event and slowly recede as controlled by an outlet structure. The rates of discharge will be less than the runoff rates from existing conditions in all storm events. It will then be directed through an underground proprietary water quality structure to provide the water quality component of the SPDES permit and then pipe discharged back out to -- there is a 36-inch storm sewer out at Paul Road, and I believe that would be under the jurisdiction of the State D.O.T., as well, so as part of our highway work permit applications, there would be a utility work permit component of that obviously but we would also have to provide the supporting drainage documentation to State

D.O.T., as well as providing the SWPPP to your engineer and to -- for DEC's review.

Um, we have also tried to promote -- I guess the net effect, the entire parking lot there will be a concrete curb and gutter around the entire perimeter, and that will have the net effect of cutting off this existing contributing area to the neighbors. But in addition to that, that would be directed, you know, through the driveway into the pipe system and discharge the facility, directed out to Paul Road. We have also tried to incorporate actually an overlapped swale that would cut off any additional contribution to the east of the driveway that would consist just of green space, but also directing that to the storm water facility, as well.

Um, let's see. I think that is specifically -- I -- you know, if we get into discussions relative to driveways, there is definitive reasons as to why we're doing what we're doing and the grading and -- comes into play. The elevation of the building that we have got proposed is -- is 570 1/2. Um, for comparison purposes, the intersection of Paul and Chili is on the order of 584 feet. So you have got roughly a 13 1/2, 14-foot differential between the first floor building -- first floor of the building and the grade at the highway here, and from Walgreens' perspective, they have got concerns related to visibility.

Um, there's, you know, an existing stand of trees at the corner there, that for the most part we're trying to preserve. We have submitted -- since the application has been made to this Board we had a landscape architect prepare and present a landscaping plan to the Conservation Committee. I do have a copy of that. I can hand it out to this Board for discussion purposes.

But we're trying to do what we can to preserve the existing trees where the grades will allow it, and in some cases the change in grade necessitates the removal of trees. But from Walgreens' perspective, obviously being a retail enterprise, visibility is key to their success. They have had concerns. I think we convinced them that we can make this work with the differential and the grade change. But -- which is really dictated by the elevation of Paul Road and the point of entry from Paul Road, given with the proximity of the building to Paul Road and the lack of much distance to provide substantial grade change between Paul Road and the building.

To just touch on the landscaping for a moment. I have got -- I will pass out -- I have reduced copies of all of our drawings. I will pass the package out just so you can follow along with me.

The landscaping plan should be the last drawing in that series of drawings.

Just to kind of take you through this a little bit, again, we have got residential neighbors to the east and one of Walgreens' requirements for developments where we abut residential properties is to provide buffering in the form of a cedar fence. The typical height that they propose would be an 8 foot shadow box cedar fence to run along this entire easterly property line. We have also supplemented that with evergreen plantings along that line and where the grade change or actually the lack thereof will allow the existing trees that are along that corridor would remain, as well.

In addition to the cedar fence, we have also enclosed the detention area with what would be a black vinyl -- black vinyl-coated chain-link fence around the front side of the detention basin just to discourage children from playing down in there. We would also run a guide rail along the eastern drive aisle and parking area and then across the area here (indicating) where we have some grade change to the front of the site.

Um, the landscape architect has called out the specific trees that would remain as part of the redevelopment. I believe the Conservation Committee has walked the site and I believe agrees with the selection of trees to remain and/or to be replaced. I think there was a few in this general vicinity that they questioned the need for removal and we'll revisit that. It was really based on the change in grade in that particular area, that was driving that, but we might be able to massage the grading to allow some more of the existing trees to remain.

I think the -- overall I don't know if you've seen specific recommendations from the Conservation Committee to date. I think from -- from the dialogue -- I wasn't present at the meeting unfortunately that you -- but the landscaping architect reported back and Betsy (Brugg) was at the meeting and I have a fairly clear understanding what the requests were. I think for the most part we can comply with the majority of the recommendations. I know the Conservation Committee would like to see more plantings in general, a higher dollar value, in essence, of the planting plan and we have certainly got green space available to do that. I think as part of the cost estimate of the plantings the landscaping architect had included costs for the proposed sodding of the property, and the Conservation Committee has suggested that instead of sodding, maybe putting that money towards more trees. Walgreens has a requirement that disturbed areas be resurfaced with sod, so we're going to continue to do that, but in addition we can certainly supplement and augment the landscaping plan in strategic areas.

I think in particular they wanted some supplemental trees potentially in this front corner (indicating). Again, there is going to be a downward gradient from Chili Avenue as you approach that front parking field so it would be pitching away from the vehicle parked on Chili Avenue as you're looking at the site, but on that embank, I think we can do some things to make it look nice, and particularly from the site itself.

One suggestion that was made by the committee as well was, I believe, they wanted to see a planter bed basically between the building sidewalk and the building itself, and I think they have acknowledged that we may have some spatial constraints with trying to do that. I think the preference was if it could be done was to at least get a planter bed along the western flank of the building.

I have reviewed that specifically with Walgreens and they're very much opposed to doing

that for -- for various reasons, but they -- and I guess the architecture is something we'll talk about here, but they envision they will have awnings across one side of the building and they don't want to have the plantings under the awning. They also don't want to have it immediately adjacent to the main entry point to the building with the heavy pedestrian traffic. You find it just collects debris and the snow removal associated with that, the plantings tend to die off rather quickly. So I think that is one of the main things that we can't accommodate from the request, but really the balance -- the current plan called for 6 to 7 foot plantings of evergreens across the western flank. They suggested those be 8 feet plantings minimum and we can comply with that. So I think for the most part we can, I think, come to terms with the suggestions of the Conservation Committee with the specific exception of the plantings immediately adjacent to the building.

Um, that's generally it for my overview of any documents. I don't know if you want me to pass the baton to Jeff (Taw) at this point to get into architecture, or if you want to fire questions at me specific to the site plan set or --

MS. BRUGG: I think the only other comment I had on the -- I was at the Conservation Board meeting, and, um, there was some discussion about adding annuals and something attractive, not -- not specifically just trees, but something, so we're going to work on that.

But as far as the notion of planting anything over here (indicating), I just want to point out kind of an obvious, but important, point in that we're below Chili Avenue, so you got to keep in mind what really is going to enhance the visibility of the site to the traffic going past here. There is a good chance the folks on Chili Avenue probably aren't going to get a look at this (indicating) because of the grade difference. But they are probably going to get a better look at, you know, any improvements made up here (indicating). I think that really offsets and is probably more appropriate for this particular site and location. I don't have the exact grade differences.

JAMES MARTIN: Just a comment, Betsy (Brugg), in conversation that you and I had. I mean Wegmans deals with that problem very nicely --

MS. BRUGG: Yes. I have passed on that comment.

JAMES MARTIN: -- the steep elevation change from Chili Avenue down to their store and they do a beautiful job of landscaping, all right, along that roadway that goes down to their store. So again, you know, something to think about and give consideration to. It just sounds like, and I already made a note of it, I think it needs to be revisited with the Conservation Board, all right, again, just for, you know, final -- final discussion of this whole thing before we move into any application approval process.

MS. BRUGG: Yes. I did. I actually pointed out to our landscaping architect that, you know, Wegmans was a particular example that was given to us, and we'll take a look at what they have done.

JAMES MARTIN: Engineering questions, let's address those now before we get into architectural.

JOHN HELLABY: Somewhere in these discussions didn't we talk about the possibility of no left-hand turn off the eastbound traffic of Paul Road?

MS. BRUGG: I think that did come up as a -- I think we were asked to look at it before we submitted a formal application to this Board. With the application we did submit a traffic study and a supplemental analysis that was done to look at particular conflicts which Alex (Wisniewski) is prepared to talk about.

Um, at this point, the empirical evidence, the documentation that has been submitted supports the finding that that particular access point, location and the manner in which it is proposed as a full access, full ingress and egress, is not problematic in any way.

JOHN NOWICKI: I think the State issued a letter in regards to that, too.

MS. BRUGG: That's right. The State, and we have also run it a past the County. The State is happy with it. The County is happy with it. All of the evidence shows it will function adequately and that there really isn't any reason to -- to change it in any way.

KAREN COX: I would assume that the -- that the Traffic Board made a recommendation that the driveway on Paul Road be placed as close to perpendicular from Wegmans' drive as possible, but I would assume that that is not feasible due to the grade change that would be required from the driveway to the building?

MR. WISNIEWSKI: There are a number of reasons why there would be a challenge to try to align with Wegmans' driveway.

MS. BRUGG: I think I have to point out the first thing is the location of Wegmans' driveway relative to this property. We do not own the property directly --

KAREN COX: Not directly across. I understand. It is just that it -- you know -- I'm surprised the State didn't comment on it, but one of the things that they look at on their State highways, and the Town does, too, is access management. That, you know, you don't want -- you try to have -- not have staggered entrances. You want to try to get them as, you know -- as directly across from each other as you can. But there are some times where site constraints make that impossible. So that was my question. I'm assuming that that is part of why it is not possible.

MR. WISNIEWSKI: I guess just to start off, number one, and I will talk to the grades in a moment, but if you look at the dimensions of the property and where our eastern property line falls in relation to the driveway, you couldn't fully align the driveway. Typically, and maybe David (Lindsay) could shed some light on this, but my experience with -- with traffic engineering, New York State D.O.T. in particular, is if -- they would rather have a large offset, approximately 150 feet minimum, as opposed to a small offset between opposing roads, and you tend to have a conflict with both turning motions of driveways that are just slightly misaligned

which would cause potential problems for not just the new driveway, but actually the existing one, as well. I think that is why they have agreed with our position of trying to stagger the driveway. It is -- really becomes the midpoint between this existing driveway at Wegmans and the existing signalized intersection here.

Um, that -- that's a -- a major reason in and of itself why the driveway is not proposed at that location. But if you do get into the specifics of the grading and the challenges posed by the grade change on the site, just for example, the road grade at our current driveway location is roughly say 568. Our first floor elevation is 570 1/2 and that is really dictated by maintaining a reasonable slope through the driveway and across the parking lot to the building. So round figures are -- you're roughly 3 feet higher at your building than at the roadway.

Now, for comparison, if you were to try to get the driveway at the easterly end, the grade of Chili drops to 558, so you're losing 10 feet of grade from that point to that point. That will lower our building from roughly 10 feet from what it is currently. Which, again, from Walgreens -- becomes a visibility problem, but from an engineering standpoint, now I have a difficult time getting any grade back up to Chili Avenue. That is why you see our driveway as long. We're trying to maximize the length of the driveway and thus keep the slope of the driveway at a reasonable grade. That becomes problematic adding 10 feet to that grade differential obviously and given the proximity of where the building would be in relation to Paul Road, you don't have a lot of flexibility.

And also from an engineering standpoint, if you were to put this driveway here (indicating), now you have got an easy cut-through from Wegmans to Chili Avenue. People are going to do that, and that's a safety concern.

KAREN COX: I was going to point that out to the Board.

MR. WISNIEWSKI: With the offset it is encouraging using that as a cut-through. I assume to some driving Grinnell is probably used as a cut-through. Just when I have been on the site I have seen people moving there through there. This would -- this would create the same problem here (indicating).

KAREN COX: This was a concern that -- that was expressed back when you guys were first here, was a cut-through. You know, I don't have an issue or I understand the sighting of the driveway. I just want to make sure the Board did. And it does discourage the cut-through traffic, which would have definitely happened.

MR. WISNIEWSKI: There was thought obviously into where that driveway was located. There are several points that lead you to not want to place it there. I think D.O.T. has agreed with our assessment. We have done a trip-generation study. They have done the traffic -- at level traffic analysis. Accident history, it shows it is less than the average along that stretch from Chili down to Archer. Um, he has done a gap study to show you can exit more vehicles than you need to during the peak hour from making even a left turn motion from the site. So I think all of the documents and evidence support the full access driveway. State D.O.T. has agreed, it is their jurisdiction obviously and we would intend to make application for the full access to State D.O.T.

MS. BRUGG: I actually was at the Traffic Safety Committee meeting, and we did present summary of the findings, the conclusions, the studies. Um, they had further discussion after we left. However, there was no basis presented whatsoever for their conclusion. They didn't have any particular empirical evidence. Their recommendation, I think, is based on their general opinion, was my -- that is what I got from that meeting. I think as this Board knows, you know, empirical evidence does carry weight and, um, it can't be refuted by conjecture or general opinion.

Um, I think one of the other points we talked about along the lines of D.O.T. and lining up the intersections, we would probably not qualify or meet warrants for a traffic signal at that location, and they really do discourage lining up intersections where you can't have a signal.

GEORGE BRINKWART: I have a comment, but I don't know if it is engineering-related or not. I guess my -- well, first off, I guess I need to compliment you. It is quite a bit of grading to fit this site in there, but therein lies my issues with this site.

Have you considered, has Walgreens considered modifying their pro-typical layout, which would work fine on a flat site, but modifying that in some way to enhance the contours that you have dealt with, rearranging some of the parking maybe to fit into areas where you have flatter areas and getting rid of some of these retaining walls and just juggling things around to enhance it? Because this is a corner very visible to the community. I mean you have the lawn frontage along Paul Road and Chili. What we do here is going to be very, very visible.

MS. BRUGG: I would just say there are limited options in terms of the building functioning. The location of the entrance relative to the drive-through, relative to the loading, really has -- places some restrictions on the layout of the site. And I do not believe they have ever changed their --

MR. WISNIEWSKI: We have -- you know, we have probably -- this is maybe the -- I would guess maybe the tenth or twelfth one of these that we're doing statewide and I have seen, you know, slight variations of -- of the layout. This is the largest site I have worked on. Typically we have got these on an acre and a half site. We have over three acres to work with here, which obviously if there was an acre and a half site with that kind of grade change, I don't think you could make this work without ridiculous retaining walls, but we have looked at different iterations of this layout and gone back and forth with Walgreens and really have minimized, number one, the length and height of the retaining walls, and they're going to want modular block laid, attractive retaining walls. And part of that is we're trying to keep the height

of the retaining walls down to allow us to do that.

As far as the grade change, I don't know how much you can do. You know, if -- if the site swishes this way (indicating), you have a problem this way. If you swish it this way, you're creating a problem here (indicating). I don't have a concern with the grades that are resulting either within the parking field or around the perimeter of the site. You know, I think it -- the steepest grade would be, you know, bleeding into the storm water facility, which is four on one, which is mowable with a rider. So that is the kind -- that is the kind of grade -- we're not talking about any kind of extreme grade change.

GEORGE BRINKWART: Your point is well taken and I understand what Betsy (Brugg) is trying to say. You definitely have to have functioning with the drive-throughs to and access to your dumpsters and so on and so forth. Again, the amount of time we have spent on the Board looking at this versus the amount of time you have spent investing in it, granted you can answer these questions better than I can, but, for instance, the pinch point -- because you basically gave a triangular site and you're fitting a square footprint. Your pinch point along Chili Avenue, just off the top of my head, why do we need parking there? If you remove parking, and maybe the employee parking along the entrance, which looks fairly flat. I guess that is the kind of juggling I'm wondering if you considered so --

MR. WISNIEWSKI: We -- again, I mean, I have presented several different iterations of the plan to my client, the developer, as well as to Walgreens. They don't see this, you know, space as functional, usable parking. You know, you're not --

GEORGE BRINKWART: Even though in reality it is.

MR. WISNIEWSKI: Right. But they're -- but it is -- it is so far removed from the building that from -- from obviously a customer use standpoint, it is not valuable. You might get some value out of employee parking, but I think you will find the employees have a tendency to then use valuable customer parking.

KEITH O'TOOLE: Isn't that really not correct? Because in most employment situations the employers direct the employees to park where they're supposed to park and that is why -- that is the way it happens at Wegmans. That is the way it happens at most retailers of any substance. And while I understand that Walgreens wants what Walgreens wants, it is really not ultimately their decision.

Um, with regard to the other Walgreens site on Union Street, they did, in fact, vary from the generic layout. This is really what you have dropped here on the site is the generic layout. I'm -- not to minimize the amount of engineering involved to make the site work, this is a fairly generic design in terms of the site plan. We could certainly alter the parking quite readily.

Enough said.

MS. BRUGG: I do want to point out a couple constraints. I can't speak to the grading and the specifics. But if you have noticed, we have sort of an odd property line. There were some issues that in working on the Piquet Drive issue, um, it came up. Apparently, the State owns more land than the Town realized. I think it is accurate now.

MR. WISNIEWSKI: That is the projected property line.

MS. BRUGG: So we do have some limitations over here (indicating), somewhat obvious point, but it is not beyond me to point out the obvious. The front entrance to the building does need to be visible at the intersection and obviously the parking that customers want is the parking at the entrance, which is really, you know, through this area (indicating). You know, and so -- those are just some obvious points that I think need to be noted.

MR. WISNIEWSKI: Well, and in response to your Counsel's comment, obviously the parking configuration could physically be changed. I guess my -- my position is I don't feel it needs to. I think the site functions well with the geometry we have established. I don't have a concern with the grades. Like I said, the challenge with the grade was insuring we got, you know, reasonable slopes on our driveways, our approaches to the building, the existing slope on the other driveway. Um, you know, if you were able to reconfigure either the building shape or parking field so that this line moved away from Chili Avenue, gentlemen, maybe the retaining wall goes away, but you will still have a slope approaching down to the curb line. Personally, I don't have an issue with, you know, a -- it is a retaining wall again that basically comes out of the ground at 0 up to 4 feet at the highest point and then back down.

You know, I think -- I think the site functions fine with their preferred layout and I don't see an extreme need to vary from it, quite honestly.

GEORGE BRINKWART: I guess I don't want to take anything away from you because it is an engineering marvel. Everything works. You have nice slopes coming in and out and I wouldn't want you to change that. I just don't particularly like that retaining wall and how it is just forced into the site. I think aesthetically it would -- aesthetically I think some other things could be done to enhance those grades instead of having them work against you and requiring you to put in a retaining wall. I don't want to belabor the point, but that is just a thought I have.

MR. WISNIEWSKI: I guess to -- you know, we're hoping to come away with enough direction from our dialogue that I can proceed on the ultimate documents that we're going to submit both as related to the drainage for SPDES. I have to get the lighting consultant to prepare a plan and the geometry of the parking layout obviously is crucial for that. We want to start the process of making application to State D.O.T. Obviously, we're hoping to get enough feedback tonight that I have a comfort level that we're in agreement at least with the general nature of the site geometry and move forward from there. Um, you know, I have proposed -- if this is the retaining wall that we're talking about (indicating), we're proposing an ornamental fence across the top of that. That would be our standard wrought iron 4 foot ornamental fence across there to

soften the visual impacts. Again, this is opinion. I don't personally think a -- a modular block retaining wall, Versa-Lok wall, if you're familiar with that kind of thing, I think that is a nice architectural element myself. I don't see that being a -- you know, a negative necessarily.

KAREN COX: To be honest, I would be surprised if those four parking spaces really get utilized much at all because we have a situation like that up at Byrne Dairy. They get very little use. You know, I kind of see those getting filled up with snow that gets pushed from the parking lot, but that is neither here nor there. People are too lazy to walk.

JAMES MARTIN: Dave (Lindsay), you have given them a letter. I think you have a copy of that. Certainly being something that -- some of the issues you have already talked about tonight, but before you come back again, make sure we have answers to all of the issues that David (Lindsay) has raised in his letter.

MR. WISNIEWSKI: I think David (Lindsay) understands this is not our final full set of drawings. There will obviously be more documentation that would be submitted for further review, but I have no issue with the comments he has raised. I fully acknowledged that we'll develop a full Storm Water Pollution Prevention Plan to accompany the project and we need to comply with DEC, State D.O.T. requirements as well as the Town's. So we'll proceed as appropriate.

DAVID LINDSAY: Another drainage question I think was in my letter. If you could just answer it here. Along the -- I guess the southeast property line you have that swale that runs parallel to the north/south direction there. I wasn't sure where that drainage was going.

MR. WISNIEWSKI: Talking through here (indicating)?

DAVID LINDSAY: Yes.

MR. WISNIEWSKI: Currently there is a fairly substantial -- if you look at the drainage area, there is a fairly substantial area that is currently draining across here (indicating), and probably across the rear of their properties before it comes out to Paul Road. You know, number one, we have cut off the majority of that area with our curb line and our drainage system, but you still have -- we're trying to maintain an offset with the curb line to the property line to provide for some green area. So there is still an area where the grade is -- transitions back to the existing grade.

So I am trying to promote and direct, redirect that storm water that would come off the embankment towards Chili Avenue. I think to your point, what we might potentially be able to do is put an inlet at the end of that swale and tie it back into our new storm sewer system before it goes out to Chili Avenue as opposed to letting it drain overland onto Chili.

Does that answer your question?

DAVID LINDSAY: Where would your emergency spill way be on that pond?

MR. WISNIEWSKI: It is really -- if you look --

DAVID LINDSAY: At the top of the swale?

MR. WISNIEWSKI: I think it is a 565-grade. That is where I am envisioning. It would follow that swale that has been created.

DAVID LINDSAY: Okay. Nothing further now.

BRAD GROVER: Traffic safety. They were at the meeting last week and presented a lot of data and whatnot. Granted we don't have a lot of data to back up our feelings on this, but we're just concerned with the driveway that comes out onto Paul Road, the closest to the intersection up there at Chili and Paul Road there. We know how people drive. We see people coming down off that intersection down from Paul Road towards Wegmans' entrance there and how they race down through there. There is a lot of tractor-trailer traffic now on Paul Road going to and from 490 and we're just a little concerned about that.

JAMES MARTIN: Understood. Thank you.

DAVID LINDSAY: Can I ask another question?

JAMES MARTIN: Yes.

DAVID LINDSAY: I was giving a cursory look to the traffic data and I saw they did a gap analysis for the vehicles exiting the site. Did you look at anything turning left off the site into Paul Road?

MR. WISNIEWSKI: I don't think it was part of his gap analysis. I think he was evaluating the ability for cars to exit the site. I think Gordon's response to the Traffic Board in that regard is there are actually two lanes in each direction on Paul Road at that point. So a vehicle trying to make a left turn into the site was not going to stop traffic on, I guess it would be south or eastbound traffic on Paul Road because there is another lane to circumvent that turning motion.

BRAD GROVER: Which is actually a right-turn lane into Wegmans.

MR. WISNIEWSKI: Correct.

KAREN COX: It would be used as kind of a swift lane, though.

BRAD GROVER: Yes.

JAMES MARTIN: I think that is something you need to look at, because as you come up the hill on Paul Road, there is a left turn.

BRAD GROVER: Yes.

JAMES MARTIN: As you approach the intersection of Chili Avenue, I think you need to look at how the lanes are configured there, because not that far down the road from Chili Avenue somebody is going to be trying to turn left.

MR. WISNIEWSKI: I think he does take into account, and the plans actually do show the geometry of the lanes. You can see the turn lane starting very near the Wegmans driveway so you have two lanes northbound (indicating), or northwest bound, and then there are two basically starting at this point (indicating) southeast bound, and he took that into consideration in the

analysis.

JAMES MARTIN: There is a through lane, through lane and a left-turn lane coming up the hill on Paul Road.

KAREN COX: It is certainly a better layout than some areas where we have businesses.

BRAD GROVER: Does the Town have a traffic engineer that could do a study of --

JAMES MARTIN: I have never --

BRAD GROVER: We don't.

JAMES MARTIN: -- encountered one.

BRAD GROVER: We thought there might have been one just -- thank you.

MS. BRUGG: I think one of the recommendations that our traffic engineer proposed at the meeting was a possibility of a sign, "driveway ahead" on the road as an additional --

KAREN COX: Signs are worth only so much until people start ignoring them.

JAMES MARTIN: Anything else on the engineering? Last pass. Okay. I guess we're ready for some architectural presentation.

KAREN COX: Knock us out.

MR. TAW: Always a tough act to follow. I'm Jeff Taw from Holmes, King, Kallquist Architects. And the Town is -- has made my client, McFarland Development, aware of their concerns about the standard architecture for Walgreens stores, and we have had some informal discussions and we were given some imagery to consider. Um, I had forwarded that imagery onto Walgreens for their review and comment, and they found a lot of the elements that were depicted were pieces that don't -- they don't feel fit in with their corporate image and their architecture.

So my challenge was to try to look at those elements and see what they were doing to make the Town comfortable with the architecture and to try to extract those elements and interpret them with Walgreens' standard elements and prototypical materials.

Um, now I guess for comparison, I have got another presentation board that is a little more developed for another project that contains their standard materials, of their cast limestone, split face block, brick and metal materials. And just to kind of contrast between the two projects -- and first of all, I have to say the color pallet here, I had an intern work on it and he was pulling colors from a different project and we'll be tweaking the color pallets.

I would more like to discuss the particular elements and one of the things that -- I guess we'll start with the window configuration and one of the things was -- did I mention was to increase glazing and we have compacted -- if you see the standard window elements, a ribbon window which laces in between the masonry pilasters of their prototypical design. What we have done in response to comments was to make square punch windows and keeping the prototypical pilaster stone materials.

Brand Grover left the meeting.

MR. TAW: One of the other elements of the suggested design was what I interpret as an attempt to cut the mass of the building with a band of material across the top. The material was not something that Walgreens was interested in using in their buildings, so what I had done was to take their standard canopy designs and extrude it across the full length of the building. Then really, you know, the biggest part of the issue is, I believe, the -- from the corner entry and the tower element of the building. Um, Walgreens' standard design is a stock automatic door unit with a large storefront above and beyond, which is their mortar and pedestal signage, and what we had done was taken some of the imagery, the forms that were presented using their materials. I came up with a couple of designs and presented them to Walgreens. Their response was they would prefer a gable design, but they wouldn't be adverse to a cupola sign such as I have represented and --

DARIO MARCHIONI: Excuse me. Do you have the one we gave you?

MR. TAW: I do.

DARIO MARCHIONI: Can you put it on the wall? The original.

MR. TAW: I don't have the original. I have a small print.

KAREN COX: Who drew that up?

DARIO MARCHIONI: You said you would give it back to us.

MR. TAW: I honestly forgot. I ran out of the office at the last minute.

DARIO MARCHIONI: What does it look like?

MR. TAW: It is a photocopy of your -- this is a -- that is a copy of the imagery I was presented with.

DARIO MARCHIONI: Okay. Okay. Can you give everybody a copy?

MR. TAW: I don't --

JOHN NOWICKI: It looks like you have three different designs --

MR. TAW: Just two. It is --

JOHN NOWICKI: The two on the right?

MR. TAW: Correct.

JAMES MARTIN: Can I ask you what their objections were to the cupola design?

MR. TAW: Um, well --

KAREN COX: Looks a little weird.

JAMES MARTIN: Okay.

MR. TAW: They have yet to -- well, I guess they're more comfortable with the gable design, which is what they have done in similar stores.

JOHN NOWICKI: They didn't like this idea?

MR. TAW: No.

JOHN NOWICKI: Well, we do. We do. Tell them that. We do. Give them the message strong and clear. We like this design.

KAREN COX: I haven't seen that. Can I look at it? I mean --

DARIO MARCHIONI: The full scale one --

KAREN COX: Have you driven by the store in Brighton? I recall when Walgreens was in here for North Chili, the Brighton one was the one we were holding up as the benchmark design, or not benchmark, but as a nice-looking design. And it -- when I drove by it the other day, it kind of looks similar to what is up there.

MR. TAW: Well, you mention that. After I have done my first go-around with this, we were working on another Walgreens that wanted to use that -- the Brighton design, and that was forwarded to me and I saw a number of similar elements. The primary difference is rather than having the canopy cantilevered, they have a colonnade out over the sidewalk. And in discussions with their designers, they have asked me to change the proportion of the entry element to that particular design and, in fact, I just sent them the proportions that I created here and they're very much aligned with that.

And going back to the comment or the question about the design. It's not so much the design that Walgreens objects to, or -- it's rather the particular elements that are involved in it. Their philosophy in their buildings is to use simple, easily maintained and durable products such as the cast limestone and the block and the brick.

Um, I think they probably look at a number of the decorative elements in that design and see them as issues -- items that would be maintenance issues; painting and cleaning. I'm just guessing there at their philosophy. I hope you understand my case here.

JOHN NOWICKI: No. You just got to go back and tell them that we still like this. It was the concept -- remember we asked you to look at that -- about the church that was torn down years ago? This would have a major impact on the feelings of the people in the community. At least they could step up to the plate and consider what this community would like. We don't like that. We like this. So take that back to them and tell them.

DARIO MARCHIONI: And can you give me back my original?

MR. TAW: Absolutely.

DARIO MARCHIONI: I wish you brought it up, because the large scale on the wall would look different.

MR. TAW: I apologize.

JAMES MARTIN: We have made an effort here. We have gone from an F to a D minus.

MR. TAW: You know, I want to say it is my -- my client's intent that, you know, to do everything we can to --

JAMES MARTIN: I understand.

MR. TAW: -- make the Board happy.

JAMES MARTIN: It is Town of Chili, not Walgreens. And I -- I just don't -- that is not what I think we want on that corner.

JOHN NOWICKI: Not what we discussed.

JAMES MARTIN: I think we got some problems, Betsy (Brugg). I mean I don't like it.

MS. BRUGG: I absolutely will take that back to my client.

JOHN NOWICKI: No vote from me on that.

DARIO MARCHIONI: We worked on that for a week and a half, all together, trying to come up with this concept. So we have a lot of stake in this.

MR. TAW: Okay. Any other questions or comments?

DARIO MARCHIONI: Might as well put that away.

MR. TAW: Thank you.

JAMES MARTIN: Any issues, Betsy (Brugg), we haven't addressed?

MS. BRUGG: No. I think we have a fair amount of work to go back and do. And I will certainly keep the staff here at the Town apprised of our progress and as we move along and try.

JAMES MARTIN: Appreciate that.

MS. BRUGG: Try.

JAMES MARTIN: She is very good at communicating with us.

MS. BRUGG: That is important. If we're going to do it right, we need to communicate. Thank you very much. Appreciate your time.

**DECISION:** Applicant should revisit landscape plans with the Conservation Board for final approval.

The architectural renderings presented to the Board do not meet the desire of this Board to provide a signature building at this highly visible location in the Town of Chili.

The May 8, 2007 Planning Board meeting minutes were approved.

The meeting ended at 10:21 p.m.