

## CHILI PLANNING BOARD

June 14, 2005

A meeting of the Chili Planning Board was held on June 14, 2005 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 Jim Martin.

PRESENT: John Hellaby, Dario Marchioni, Karen Cox, John Nowicki, Ray Bleier, Dennis Schulmerich and Chairperson Jim Martin.

ALSO PRESENT: Richard Stowe, Counsel for the Town; Daniel Kress, Director of Planning, Zoning and Development; Larry Nissen, Town Engineer; Fred Trott, Traffic Safety Committee representative; Bill Arnold, Fire Department representative.

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

### PUBLIC HEARINGS:

1. Application of Stephanie LeVan, owner; 83 Percy Road, Churchville, New York 14428 for renewal of conditional use permit to allow a two-family dwelling at property located at 2343 Westside Drive in R-1-15 zone.

Stephanie LeVan was present to represent the application.

MS. LEVAN: Hi. I'm Stephanie LeVan.

JAMES MARTIN: I believe, about a year or so ago you were granted conditional use. There were a lot of things that had to be done in order to make it compatible for two-family living. We have a note from Mr. Kress that says they're in compliance with everything that is necessary to meet that building code regulation; is that correct?

DANIEL KRESS: That's correct.

KAREN COX: Thanks for working with the Building Department.

JAMES MARTIN: Since this basically has been changed into something of a more permanent nature, I think a recommendation is that rather than grant some time-defined conditional use, that we make this a permanent conditional use for two-family residence at that address.

DANIEL KRESS: That would be consistent with how you handled this sort of two-family situation in the past.

### COMMENTS OR QUESTIONS FROM THE AUDIENCE:

ELAINE WELCH, 2341 Westside Drive

MS. WELCH: I object to this use. I do live next door. I have talked with other people in the neighborhood who also object. The house, as you're probably aware, is up for sale, so the current owner is not a resident, does not live there and is now seeking to sell the home to someone else. I think it will change the character of the neighborhood because it will make it more transient with people coming and going. I'm aware of the house. I know the house. It is a split level, so even though it is a two-family, it may meet code, but really is not a very roomy accommodation for two families. I do object. I know there are other neighbors that object to it also.

JAMES MARTIN: Are you presently trying to sell the property?

MS. LEVAN: My husband and my sister and her husband bought the house together. We bought it at auction. \$70,000. We have put thousand of dollars -- I have a list of the things we have done to the house. We learned a lesson that we will not ever again buy a house at auction. There were many, many things that were wrong with it that were not disclosed in the realty disclosure form. We have spent thousands of dollars fixing that house. So we decided if we could

unload it, we would. We're at the end of our second extension of trying to sell the house and we have no more extensions so our Nothnagle contract ends at the end of this month. We have had no offers. So we own the house, and we will own the house for the foreseeable future. It is our intention that we will remain the owners of this house for at least another five years until we can fix all of the issues that now we have disclosed on the realty -- the realty disclosure form, and there are many, and that's why people don't offer to buy it.

JOHN NOWICKI: Is this owner-occupied? Are you living there?

MS. LEVAN: I don't live there.

JOHN NOWICKI: Just rent out to people that come in there?

MS. LEVAN: They're Roberts. Currently the girl that is moving in upstairs -- we had a Masters of social work student. The man and his wife that live downstairs are a Masters of social work students. It was our intention to rent to Roberts' Masters program people. We have had one tenant that has not been a Roberts student.

JOHN NOWICKI: Has the property been damaged in any particular way through the rental process?

MS. LEVAN: Not at all. We have made thousand of dollars of improvements on the property and it is much better than what we bought it a year and a half ago.

JOHN NOWICKI: You're saying in the marketplace you will not be able to extract what it is worth?

MS. LEVAN: I know through our extensions with Nothnagle, we're not able currently to extract what it is worth. So we have a list price on it, and we haven't had offers.

JOHN NOWICKI: What would be the possibility of going back and just converting it to a single-family? What would your opportunities be at that point to sell it as a single-family home?

MS. LEVAN: More limited than they are now. We put \$20,000 into making it a double, and I hear Mrs. Welch's comment about it not being roomy, but it is actually a very nice dwelling. The Building Department has been in there, and not Mr. Kress, but another one actually commented it was a very nice apartment and asked us how much we were planning on renting it for. And they are two very nice apartments. We have put a lot of money into them.

KAREN COX: Correct me if I am wrong, when you bought this house at auction it was a two-family, right, or it had apartments?

MS. LEVAN: I think at different times more than one family has been there, but it was not zoned -- it was not -- many of the homes -- my husband and I also own 58 Sunnyside Lane which is a legal multi-family and was when we bought it. We were an owner-occupied family. Many of the homes in what was formerly known as Rettick Acres (phonetic) are double families, a lot of professors who rent to students. Our desire is not to rent to people who are transient in the sense of being bad for the community, but transient in the sense that they're students on their way to earning degrees. And right now, of the four apartments, 58 Sunnyside is two apartments, and 2343 Westside is two apartments. Of the four apartments, I'm renting to all Roberts students currently. They're not -- they're not bad people.

KAREN COX: No. I understand that. I just wanted to make sure that it was known that that was a -- not a legal two-family when you bought it, but it was being used as such. You didn't turn it into a two-family?

MS. LEVAN: Yes.

KAREN COX: You did?

MS. LEVAN: Yes. We turned it into a two-family. Last year we did. We applied, and it was -- there was a photographer living there at one point. Then a man that we bought it from had tried for a number of months to sell it and he sold it at auction, and we have learned the painful way that he wasn't a person of integrity. So he lied on his realty disclosure form.

KAREN COX: Too bad.

DENNIS SCHULMERICH: It is not obvious to me, based on what I'm hearing, granting permanent two-family status for this would be appropriate.

JOHN NOWICKI: I tend to agree with that statement.

DENNIS SCHULMERICH: I would question why we even approved it as two-family. The house has been a single-family dwelling, just recently converted and just because the current owner has happened to invest money, assuming approval of use of conditional two-family, whether permanent or not, it is not sure the hardship she created herself was --

DARIO MARCHIONI: We have approved this already prior.

JAMES MARTIN: Right.

DARIO MARCHIONI: We had no objection from any of the neighbors.

MS. WELCH: I objected before.

MR. SMITH: I live across the street in Ogden. The reason I'm late is because I couldn't find the Town Hall.

JAMES MARTIN: Would you please rise and state your --

RAYMOND SMITH, 2342 Westside Drive

MR. SMITH: Raymond Smith. I live at 2342 Westside Drive, which is directly across the street from 2341. But I'm in Ogden. Okay? As you all know, I live in Ogden. That is why I was late getting to here, because you moved the Town Hall and I had trouble finding it.

Ray Bleier arrived to the meeting.

MR. SMITH: I understood it was open for discussion.

JAMES MARTIN: This is a public hearing.

MR. SMITH: When it is my time to speak, I will speak.

JAMES MARTIN: You can speak now.

MR. SMITH: In the first place she said it was a multiple dwelling when she owned it. It was not. There was one man there named Cooter (phonetic) and he lived there, he occupied the house or his family and I assumed that they foreclosed the mortgage on them and the bank sold the property at auction, public auction.

As far as turning it into a multiple dwelling and having college students move in, that is fine. Except college students have an unknown amount of relatives. Where they all come from, I don't know. But on weekends, it is horrible. And the six, eight cars -- they have more cars there than they can park on the driveway and they have to put them on the lawn or they park them on the street and leave them there overnight. You don't know, because you're not around to look at it, but I am. I object to having it -- a family dwelling more than one. It was originally a one-family dwelling, and I think it should stay that way.

JAMES MARTIN: Mr. Kress, have we had any complaints regarding this property?

DANIEL KRESS: None that have been communicated to my office, sir.

JOHN NOWICKI: We would probably have to research that. If you wanted to find complaints -- I'm not sure that the complaints this gentleman is talking about would go to the Building Department. They would probably go to the Sheriff's Department. So you would have to check the Sheriff's Department for any complaints as far as noise, crowding of cars on the street or what have you. And any violations. So that is another area of discussion.

MS. LEVAN: Just to speak a little bit to that point, I asked our residents -- we have had one tenant that was not a Roberts student. I do ask our tenants, no drinking, no partying, no drugs. We ask them to maintain a fairly strict standard. I'm sorry if they have not.

KAREN COX: Is that a condition of their lease agreement?

MS. LEVAN: Well, I don't have a lease.

KAREN COX: They're just a handshake?

MS. LEVAN: I explain that there -- I don't want drinking or pets or rowdy activity, and on the other side of the house we have a very good relationship with that neighbor. We have -- I think it is kept up quite well, and he is there. So I do much of the work myself. So I am there regularly.

KAREN COX: Could these incidents where the cars have been parked, was it as a -- something that occurred throughout the year, or something that occurred maybe toward --

MR. SMITH: It hasn't occurred since the college closed.

KAREN COX: My question is, from September through when they close, was this something that happened every weekend, or once a month?

MR. SMITH: On a lot of weekends. Maybe not every weekend, but on a lot of weekends. It was more like there were five or six families living over there instead of just two.

KAREN COX: Were they noisy with rowdy parties?

MR. SMITH: I don't know. I didn't go over to investigate. No. I won't say that they were noisy so that you would have to call the police and say they're making too much noise.

KAREN COX: I mean in my neighborhood on a regular basis --

MR. SMITH: Personally, from what I seen from the inside of the house, when Mr. Cooter (phonetic) lived there and owned the house for quite a number of years, I don't see it is suitable, and I don't see where it has been changed to be suitable for a two-family dwelling even.

KAREN COX: Well, the Building Department, you know, approved that. But I'm just trying to determine if, you know, with the -- with the cars parked on the lawn, whether there were -- whether there is rowdiness happening outside, or it is just a -- more of an aesthetic issue. In my neighborhood, on a fairly regular basis, somebody in the neighborhood has a get-together on a weekend, and their driveway is full and the cars spill out onto the road. It is something that we --

MR. SMITH: Occasionally. But this would happen almost every weekend. And it is strange that it happened on weekends and not during the week.

KAREN COX: That happens in a lot of neighborhoods.

MR. SMITH: They were partying. Not rowdy or anything. Probably partying. You know.

MS. WELCH: I just wanted to address a couple occasions, I know one day, it was a weekend, and there were a lot of young people over there. Apparently the woman at the time that was renting was in the home so her daughter invited a lot of the friends in. There were beer bottles, beer cans in my yard all over the place. They were across the street. That was quite a mess. I was picking that stuff up. Then another time later there was a bunch of kids out in the street, actually screeching cars, and calling each other some rather obscene names and I almost called the police that night. I did not. I'm kind of sorry I didn't since complaints seem to be a topic of issue. I was recently concerned somebody was going to get hurt because they are out in the street calling each other names, screeching tires and they came from there.

MR. SMITH: I have found the bottles smashed in my driveway. What they do -- because, I don't know, an odd strange amount of cigarette butts always end up in my driveway.

MS. LEVAN: It is a no-smoking dwelling

BEVERLY NEDER, 82 Attridge Road.

MS. NEDER: My only comment is, without a signed lease, I don't see how any of the conditions the landlord has laid down are enforceable. It is my understanding that with a lease you have a landlord-tenant relationship, and if you spell things out in the lease and they sign it, they're bound to follow it or they can be evicted. Without a lease stating these things, I believe it would be very difficult to evict someone or enforce the conditions that you agreed upon verbally.

MR. SMITH: I agree with that.

JAMES MARTIN: So you do not have a formal rental agreement with any of these people; is that what you have told us?

MS. LEVAN: I don't have it in writing. I am willing to make leases, but to the best of my knowledge, the vast majority of our tenants have been quiet and have respected the no smoking and no drinking. I'm sorry for this incident. We had one tenant that was not a Roberts student, and they ended up leaving. So --

DENNIS SCHULMERICH: I'm hearing inconsistencies.

JAMES MARTIN: We're getting into a he said/she said situation. Without -- I think we would need to, as John Nowicki has suggested, do a little bit of background research with the sheriff zone to find out if there have been any formal complaints registered on the property.

JOHN NOWICKI: I think also, too, as these people are speaking at the public hearing, recording their feelings, this is not the only particular property in the town that experiences this type of situation. There are other properties in the town that have cars parked in their front yards all of the time during the school year. And they have cars, for example, with boom boxes that are very difficult to enforce. We have a noise ordinance, but again, if you have talked to the Sheriff's Department, it is very difficult to enforce these things. They have more important things to do. But these people are correct. There are problems associated with these properties.

There are major apartment owners in this town who control these situations through leases and through security personnel and other personnel to deal with. If we don't have that -- we don't have a mechanism here on these individual properties, I think -- we get ourselves into trouble. I think we need some research and time to think about how we're going to strengthen our position as a Town to protect other property owners in the neighborhoods where these properties exist because it is not fair to them. It will impact their values on their homes. And I don't want to see that happen to the people of Chili, to be honest with you.

I would hope our Building Department and our legal staff could give us some better advice on how to handle these situations as far as enforcement goes. I would like to see that done before I even vote on this thing. I'm not going for this again. I'm not going to let this happen. I just don't agree with it.

DENNIS SCHULMERICH: One of the things I would be interested in, it has been commented to me there are several other properties in the area that are multiple-family dwellings. I would be interested in knowing what percentage of the multiple-family dwellings are owner-occupied as opposed to complete lease. I'm not an advocate of turning R-1 zoned homes into multiple-family dwellings so they can make money. If they're living there, that is one thing. If they're not living there, they don't have to put up with the noise issues. I have no compassion for it.

JOHN HELLABY: I have to totally disagree with what they're -- I'm hearing. The problem being is, this lady was in here a year ago. We gave her an approval for a two-family dwelling.

She invested her money and time to bring it up to the standards. The Building Department has inspected it, says it meets those standards. That is the duty of the Sheriff's Department. You're going to get that kind of -- in any housing development, anywhere in this town. Single-family development. You have got kids raising ruckuses all weekends. If they have a complaint, it is the Sheriff's Department. I understand they have a complaint. All right. Don't grant it permanently. Give the young lady another year, take a look at it, let it move forward and let the Sheriff's Department do their job.

JOHN NOWICKI: I wish I felt comfortable knowing that would happen.

Have her tighten up her lease agreements. I don't know what else to say.

MS. LEVAN: I'm very willing to do that. I invite you to ask the Sheriff's Department about complaints to this day. The tenants I know about that had a party, we had -- she is no longer there. And we had serious conversations about that.

And I -- I feel that our tenants have been respectful, and the whole -- Rettick Acres (phonetic) is filled with double houses. It is a college community, and I just invite -- I invite you to ask the Sheriff's Department and I think you will be pleased.

DENNIS SCHULMERICH: So I would like an answer to my question in terms of what percentage of the homes are multiple-family dwellings in the area that are owner-occupied as opposed to completely leased.

KAREN COX: Probably not very many over there.

DARIO MARCHIONI: We have that information from the last -- when she came before us.

KAREN COX: Dan (Kress) researched that.

DARIO MARCHIONI: That information came before us and it was a map pointing out the two families in the area.

DENNIS SCHULMERICH: The question is how many are owner-occupied versus how many are completely leased. If the owner is on the premises, I believe you have a different situation than when the building is completely occupied by tenants and the owner is not present. My personal opinion.

RAY BLEIER: Where do you intend to go with that? If eight out of ten houses are owner-occupied, what is it going to tell you? Maybe the other two are much better neighbors and tenants. Just a pure statistic will not tell you all that much.

DARIO MARCHIONI: I would like a clarification exactly what she is here before us for. Maybe through our Town Attorney.

RICHARD STOWE: According to the application?

DARIO MARCHIONI: Yes. She is here for a renewal of a condition.

RICHARD STOWE: That's correct.

DARIO MARCHIONI: According to the Building Department, she has met that condition.

DANIEL KRESS: That's correct.

DARIO MARCHIONI: So what are we hashing out?

KAREN COX: We, given the -- I agree with Al (Hellaby) in that we granted this approval. We granted the approval a year ago. Was it a good idea -- that is not why we're here tonight. But the applicant has indicated she is willing to draw up a lease agreement that would give them some more teeth if there are complaints, and perhaps maybe it would be worthwhile if the neighbors had some way of contact -- contacting you through either the Town, or somehow to tell you about incidents like that. Because if it was a --

MS. LEVAN: I would invite that.

MR. SMITH: I don't even know who owns the house.

MS. LEVAN: I do.

MR. SMITH: I assume that.

KAREN COX: But if you had a way of reaching the owner, if you had an issue like this in the future, would that -- I mean there is at least something to go on there. Calling the sheriffs is another option to get something like that on record. I know if that was happening in my neighborhood, I might let it go once, but if I found beer bottles again in my yard, I would be calling.

MR. SMITH: Well, the beer bottles, they're there, or whatever, when I get up in the morning. I don't know who put them there, but I have some strong assumptions.

KAREN COX: Sure. You know you live in that neighborhood --

MR. SMITH: By the following morning I can't call the Sheriff's office and say the people across the street threw beer bottles in my yard or smashed a wine bottle on my driveway. I don't know how many times I have had to sweep up glass out of my driveway because they would smash the bottle right in the driveway.

I'm calling the Sheriff's office when anything occurs from now on. You can bet your life on it. I'm not calling Ogden Police because they don't have any enforcement over in your town.

KAREN COX: Right.

MR. SMITH: But I will call the County Sheriff.

JAMES MARTIN: Given the fact we have a lot of these types of residences surrounding the Roberts campus in North Chili, given the fact she was granted use with only one condition, that the property be brought up to a two-family dwelling condition, which has been met according to the Building Department, it would seem that to deny the renewal at this point would be unfair to the applicant given the fact that I think there are some reasonable things that she could do to address some of the issues that have been raised in the public hearing tonight. Certainly having a lease agreement in place with teeth that you can enforce, you know, that's just kind of incredulous that you didn't have that to begin with. But certainly the neighbors have a right to register complaints. I think they should have your phone number posted next to their phone.

MS. LEVAN: Yes. I'm very willing. Very willing.

JAMES MARTIN: But, you know, I just think since we already know that there are several of these types of dwellings that exist around that campus over there, and that they are very viable living places for the students who sometimes don't have the budget money to afford, you know, rentals, it just seems we're maybe unfairly treating this applicant to move in the direction of denying renewal of the conditional use, but I don't think given everything we have heard we should move towards a permanent situation. That is my feeling on it.

KAREN COX: I would be willing -- given the neighbors' issues, I would be willing to say let's put a time limit. You know, see what happens in another year.

JOHN HELLABY: If you gave it another year or two, at least if she sold the property it gives us a shot at the new owners. Again, the vandalism issues we're not here to take care of. That is a Sheriff's issue.

MR. SMITH: But you don't rent the property. You rent it for 30 days, 60 days, 90 days, however long you want it. You don't get a lease for six months or a year.

JOHN HELLABY: They can do anything.

MS. LEVAN: I don't rent it for 30 days.

MR. SMITH: You have had tenants that moved in and out in 30 days. I know that for a fact.

MS. LEVAN: No.

JAMES MARTIN: Let's not get into a back and forth situation.

The issue is are there remedial things that can be done to alleviate some of the concerns by the neighbors, and I think that is well within your control to do those things.

MS. LEVAN: Yes.

JAMES MARTIN: So I guess from that standpoint, I just think we would be unfairly treating this applicant if we were to at least deny a year's extension of the conditional use which the Planning Board granted a year ago.

JOHN NOWICKI: It needs to be subject to. We have opened up a box here. Not only on your property, but in other properties in the town that are, in my opinion, degrading neighborhoods.

DENNIS SCHULMERICH: I agree.

JOHN NOWICKI: Until this Town recognizes that fact and does something about the devaluation of the property, we're making a big mistake. So, yes, I concur at this particular moment in time. I won't go more than a year, but I want to see a copy of the lease before the approval was given. I would want to see the lease and have our legal counsel look to see what kind of teeth are in the lease so we have something to go on in the future.

A lot of these properties are absentee ownerships and you can't find these people to make a complaint. If you did find them, they would probably tell you to go someplace you don't really want to go to. So we have to start here and go forward in controlling the situations in town. They are getting out of hand. It is not right.

JAMES MARTIN: Mr. Stowe, what authority would the Town have over a control of leases, agreements, clauses, et cetera, et cetera?

RICHARD STOWE: The contents of the lease, no. The existence of the lease, yes.

MS. LEVAN: I'm happy to make the lease however you would like it to be. I'm happy to give my phone number. I'm not an absentee landlord. I drive by all of the time. We're very interested in being good neighbors.

JOHN NOWICKI: That is the key. We need that assurance somehow, through that lease agreement, or some mechanism. Then the Town will have to continue researching that.

JAMES MARTIN: There is some deterioration, but we can't hang everything on this particular application.

JOHN NOWICKI: The door is open. You have to look at it. I would go another year myself. I would be comfortable with that, and that is about it. But I would want to see the lease arrangement before I put a final vote on it.

KAREN COX: Counsel said we can't see the lease. We can only be assured there is a lease agreement. But the contents aren't something that we can --

JOHN NOWICKI: I want to see a lease.

JAMES MARTIN: We'll stipulate --

JOHN HELLABY: To get a copy of it.

JAMES MARTIN: We can stipulate as a condition that a copy of the lease be submitted.

RICHARD STOWE: Copy of the executed lease reviewed and approved by the Planning Board so Mr. O'Toole has opportunity to advise the Board there is an enforceable written lease in place prior to this condition being met.

JOHN NOWICKI: That is right.

JAMES MARTIN: We'll impose that as a condition.

JOHN NOWICKI: Before the Board approves it. That is what you said, right?

RICHARD STOWE: No. Make it a condition of your approval, before it takes effect, that Mr. O'Toole reviews a copy of the executed lease and advises the Building Department that it is in existence before the final approval is granted.

JAMES MARTIN: So we can give the applicant like 30 days to submit the lease for approval by Keith (O'Toole), and if he said it is okay, then the one conditional approval will kick in at that point?

RICHARD STOWE: That's correct.

MS. LEVAN: Who is Mr. O'Toole and how do I find him?

JOHN NOWICKI: Mr. O'Toole is our --

RICHARD STOWE: I'm substituting for Keith O'Toole tonight, whose job it is to review this.

MS. LEVAN: Okay.

JOHN HELLABY: Drop it off to the Building Department. He will get it.

STEVE GINOVSKY

MR. GINOVSKY: I have lived in North Chili all my life. Part of this property that she purchased was a single-family and that was approved back in the '70s as an in-law apartment and in-law only. That is part of the condition of the Glidden tract, which this property happened to be part of. I would like to see the Town get some teeth here and start doing this properly, instead of just absentee landlords and making single families into doubles. I think the Town needs to consider that strongly. Thank you.

MS. WELCH: I just want to make one final comment. Since I do live next door and had that house since 1965, I do know there have not been multiple families and I would agree perhaps with the possibility of an in-law apartment and -- having an in-law there, that wouldn't bother me. But I feel this has probably taken the value of my property down a few thousand dollars because who wants to move next door to multiple family housing? I have been there since '65.

MS. LEVAN: I have to say the money that we have put into it, the assessment on the house has increased. We have really built a better house.

JOHN NOWICKI: One thing you might consider is going back to an in-law. Advertising it as an in-law. You might do that. It might work better in the marketplace.

DARIO MARCHIONI: I would just like to make one comment, that sometimes a two-family home will have less occupants in a two-family than you have in a single-family because you cannot control the -- what designates a family. People that are not related, as long as they share a kitchen, that is designated as a family in the State of New York. So they could have all kinds of people living in a house. You could have ten students in one house and it is still a single-family.

JOHN NOWICKI: We have that now in Chili. We have that situation in Chili.

KAREN COX: We're getting off subject.

MS. NEDER: I just want to bring up one additional comment. If this continues in the college area, you might end up facing problems such as they have in Brockport where student housing is highly controversial and they're thinking of passing stricter laws out there. So before too many are approved for two families, it is something that the Planning Board and the Zoning Board might want to consider.

JOHN NOWICKI: And don't forget the Town Board.

MR. SMITH: I have a comment. Right now you're having trouble renting over there because you only have one tenant. The best tenant you ever had there. You will never have

another one like it. During college season you will only rent to college students. No, don't look at me and say they will rent to somebody else. The only renters they will get are college students. You have to face that fact. You live in a college town, you're going to get college students to rent rental property. You will not get families to rent rental property. You have a college student living over there, the best one you ever had. You will never have another one like it.

KAREN COX: You can't be sure of that.

MS. LEVAN: May I say in defense of Roberts --

MR. SMITH: College students are college students. They have a good time on the weekends.

MS. LEVAN: The one person we had a problem with is no longer there. She is not a Roberts student.

KAREN COX: We're beating a dead horse.

Jim Martin made a motion to close the public hearing portion of this application, and Dennis Schulmerich seconded the motion. The Board unanimously approved the motion.

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

Jim 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.

Ray Bleier indicated he would not vote as he was not present to hear the entire application this evening.

JOHN NOWICKI: I hope the record shows certain members of this Planning Board have a deep concern over this issue in the Town and I would hope that the Director of Planning and the Town Board officials would take this under their consideration in the future of what we can do to watch this situation very carefully.

JAMES MARTIN: So noted.

DECISION: Approved by a vote of 5 to 1 (Dennis Schulmerich) with one member not voting (Ray Bleier) with the following conditions:

1. This conditional use permit is approved for a period of one year.
2. Applicant to provide a copy of the lease agreement for future tenants to the Planning Board Attorney for his approval within 30 days. This will allow the renewal to be valid for the granted period one year.
2. Application of Buckingham Properties, LLC, 1 S. Washington Street, Suite 200, Rochester, New York 14614, property owner: COMIDA; for preliminary subdivision of two lots to be known as 100 Beaver Road LLC Subdivision at properties located at 100 & 102 Beaver Road in L.I. & R.B. zone.

DANIEL KRESS: I was contacted this afternoon by Don Lasher, Buckingham Properties, who requested I convey to the Planning Board his regrets he could not be present this evening and asked that the application be tabled until next month.

DECISION: Unanimously tabled until the July 12, 2005 meeting at the applicant's request.

3. Application of Forest Creek Equity Corp., owner; 3240 Chili Avenue, Rochester, New York 14624 for final subdivision approval of 52 lots under incentive zoning, to be known as Park Place Sections 7 & 8 at property located at 3800 Union Street in PRD zone.

JAMES MARTIN: I excuse myself from hearing this application and turn the meeting over to Ray Bleier, the Vice Chair of the meeting, for this application.

DARIO MARCHIONI: I will excuse myself from hearing this application also.

Bernard Iacovangelo, Bill Areno and Walt Baker were present to represent the application.

MR. BAKER: My name is Walt Baker. I'm with DSB Engineers & Architects. With me tonight are Bernard Iacovangelo and Bill Arenò, Forest Creek Equity, the developer for the property, known as Park Place Subdivision, located at 3800 Union Street across from Black Creek Park.

We're here tonight for final approval for what we're calling Phases 7 and 8 of the development. As the Board may recall, we have already constructed Phases 1 through 5. I should say 4 or 5 are still under construction as far as the houses. The infrastructure on the project is in, and we're finalizing the approvals with Phase 6 at this time.

We're completing the grading on the remainder of the site, Phases 6 through 10. At this time we would like to obtain final approval for Phases 7 and 8 so -- the housing market has been moving along pretty well. Mr. Iacovangelo would like to be in the position that we have approval -- going through it, as we understand, the approval when it is granted from the Planning Board and the process afterwards as far as obtaining the approvals and signatures from the agencies, it does take some time, so we would like to get through the approval process with the Board if we could to get ready for next phases coming in fall.

RAY BLEIER: I just had a question. It seems to me that I recall that there is something in our Town Code that only so many phases can be under construction at the same time. That you can't -- is there like two phases? Dan Kress, can you help me with that?

MR. BERNARD IACOVANGELO: I can address that. But -- there is a provision for that, but it can be overcome by the Planning Board. We have done that with the installation of Sections 3, 4 and 5 at one time, while we were still doing discussions on 1 and 2. So the precedent is before the Planning Board that there is a section that provides for that in the code. However, at the Planning Board's discretion, that can be waived.

RAY BLEIER: I believe I read that your Phases 4 and 5 are completed. I don't know if it was indicated right on the maps here. And that 6 was under construction.

MR. BERNARD IACOVANGELO: Correct.

RAY BLEIER: Now I'm hearing that Phases 4 and 5 are also under construction and not completed.

MR. BERNARD IACOVANGELO: The houses are under construction. The infrastructure is all in and done.

DENNIS SCHULMERICH: How many outstanding properties are to be sold in 4 and 5?

MR. BERNARD IACOVANGELO: 4 is all sold out. There are like three lots in 5.

MR. ARENO: There are three sites left in Section 5. We have a hold on one.

JOHN NOWICKI: Phases 6 and 9?

MR. BERNARD IACOVANGELO: Phase 6 is 50 percent sold out.

JOHN NOWICKI: That hasn't been started yet?

MR. BERNARD IACOVANGELO: We're waiting for the final signatures for filing of the map. We just got Health Department, and they will go over to Mr. Nissen's office next. Then we have just got to get Dan Kress' and Tracy Logels'.

JOHN NOWICKI: The last sections are 9 and 10?

MR. BERNARD IACOVANGELO: 9 and 10. In 7 and 8 -- as a result of the process of going through signatures and everything else, what we'll probably do is go with the infrastructure right after we get the signatures, which we found has been taking four to six weeks, the whole process with the County. We're going through notes with the Town Engineer and everything else. So it is four to six weeks after your approvals here. And then we put it out to bid. What we're experiencing now is a 20 percent increase over just last Sections 4 and 5 for Section 6. 20 to 25 percent increase because of fuel cost. Petroleum products, concrete, everything is going through the roof. So we're experiencing improvement costs higher for the same development, 20 to 25 percent.

KAREN COX: Is that some of your impetus for wanting to get this work done this summer with the fear that the price will keep going up?

MR. BERNARD IACOVANGELO: Yes. You know, with the -- with all of the economists indicating that fuel could go up to \$75 by the end of the year, that would just throw another 25 percent on. You know, so that affects once again, what we're trying to do. You know, we -- we're work force housing predominantly.

JOHN NOWICKI: Home energy fuel costs?

MR. BERNARD IACOVANGELO: No. Any petroleum product. Asphalt, everything. Concrete, because of what is going on in Chili. You know, the price increases are tremendous.

JOHN NOWICKI: That is true. Across the country. Not as bad up here, but --

MR. BERNARD IACOVANGELO: Plastic pipe in the ground. Stone costs. Everything has increased.

KAREN COX: I would agree with that. We have been seeing that in a lot of construction projects. So that -- that statement that things are -- prices are increasing because of petroleum is true.

MR. BERNARD IACOVANGELO: All of the trucks that the contractors use to haul stone. Everything.

JOHN NOWICKI: Steel.

KAREN COX: Let's not even go there.

RAY BLEIER: I would like to read a letter here from Larry Nissen that is dated June 9th. I presume you probably received a copy of this here. But anyway --

MR. BERNARD IACOVANGELO: Just so you know, we have not received a copy.

RAY BLEIER: You have not.

LARRY NISSEN: I faxed a copy to DSB's office.

MR. BAKER: I didn't see it.

RAY BLEIER: The main point here, that I feel, is number one. "On April 21st, we received" -- this is Lu Engineers, "a Revised Drainage Report for Phase 6 Southern Site Retention Facility and Wadsworth Road Drainage District from DSB in response to our request for an analysis of downstream improvements adjacent to Wadsworth and Bowen Roads. We reviewed the report and responded with comments contained in our letter dated April 28th. On April 29th, we met with a member of DSB Engineers to discuss the drainage report and our comments in an effort to expedite the review process. To date, we have received no response as to the status of our comments.

Because of the unresolved status of downstream improvements, we have not approved the plans for Section 6 at this date."

Here you're in for Phases 7 and 8 and you haven't even completed what was required for Section 6.

LARRY NISSEN: Ray (Bleier), we did receive a response to those comments yesterday. We received a response.

JOHN NOWICKI: Have you not had time to review them?

LARRY NISSEN: No. I did read through the letter, but have not had a chance to go through the detail.

DENNIS SCHULMERICH: Assuming you find it acceptable, is that the only outstanding issue to prevent you from signing off?

LARRY NISSEN: The outstanding issue is the present state of the drainage downstream in light of the Wadsworth area. I'm not sure where we stand. We need to find out.

JOHN NOWICKI: You did not get those comments.

MR. BERNARD IACOVANGELO: Let's bifurcate. This let's take it one issue at a time. It is important to do that.

JOHN NOWICKI: Number one.

MR. BERNARD IACOVANGELO: Number one, Walt (Baker), you have presented them with the information?

MR. BAKER: Correct.

MR. BERNARD IACOVANGELO: The response. So we're just --

MR. BAKER: Drainage study on Wadsworth. After we had a meeting, subsequent to the original -- or the Phase 6 approval we did a drainage study for the entire Wadsworth basin. We had comments back from Larry (Nissen) and I met with him at his office, like you stated. We went through those and have been revising reports to get back to him to address his comments as well as the other comments.

In the mean time, we're also addressing Monroe County Health Department, Water Authority, Monroe County Pure Waters and we have the signatures on the map. Larry (Nissen)'s signature as far as review agency, other than the Town Hall signatures, that is where we're at.

MR. BERNARD IACOVANGELO: In addition to that, as you will recall, when we came into this project, we said that we would work with the Town as, you know, good neighbors and, you know, to cooperate. We weren't -- the Planning Board didn't mandate us. If you mandate it, then under the Town law you have to pay us to do it, because it is beyond our responsibility.

Now, we have done that with Joe Carr. We have provided him with all of the information. We have been working on this since we started this project.

It would behoove Joe (Carr), and we have told him on many instances, that you have to initiate the information that he provides to a review process with your Town Engineer. He hasn't

done that. I can't --

JOHN NOWICKI: "He" being?

MR. BERNARD IACOVANGELO: Joe Carr.

And Joe Carr has indicated to us, to go ahead and put in the improvements which we have starting at Bowen Road. We put in the pipes as designed. This (indicating) was pictures taken during that 2 1/2-inch weekend flood storm we had at the end of April, beginning of May.

JOHN NOWICKI: Can I ask a question there? Is Joe Carr approving something when our Town Engineer has not --

KAREN COX: That --

JOHN NOWICKI: -- that you haven't approved? How can he do that?

LARRY NISSEN: We don't see --

JOHN NOWICKI: I want to stop it there.

LARRY NISSEN: It doesn't come to us.

KAREN COX: It is installed.

LARRY NISSEN: It is installed.

MR. BERNARD IACOVANGELO: And it works.

JOHN NOWICKI: I'm sorry. I want to hear why our Town Engineer has not been advised and made his approval on this. I don't care about Joe Carr. He is the Commissioner of Public Works. What right does he have to approve that?

MR. BERNARD IACOVANGELO: I am not his boss.

JOHN NOWICKI: What right does he have to approve that? Can anybody answer that? Isn't our Town Engineer approving these drawings?

MR. BERNARD IACOVANGELO: Now we have paid -- I have paid these guys. I have done it. I have done it in amicable fashion. I have paid for his engineering fees. I have paid for the installation of these pipes. You know, we have spent in excess of 35 to \$40,000 to date to cure, starting from the south side of Bowen Road all of the way up to Mr. Donaldson's property.

Now --

JOHN NOWICKI: Has the cure been approved by our Town Engineer?

MR. IACOVANGELO: No, because he hasn't been furnished the information.

JOHN NOWICKI: Why hasn't he been?

MR. BERNARD IACOVANGELO: Because Joe (Carr) asked us to give it to him.

JOHN NOWICKI: That is not the proper procedure.

MR. BERNARD IACOVANGELO: It is not a part of the project. We're helping the Town. You understand where I'm coming from?

JOHN NOWICKI: I'm sorry. There is a procedure here to follow. We have to abide by Town engineering standards. We would like to see those. Joe Carr is the Commissioner of Public Works who takes care of our roads. I want to know what authority he has to override our Town Engineer? Would somebody please explain that to me, anybody?

LARRY NISSEN: He hasn't overridden us. We just don't get to see the information before it gets installed.

JOHN NOWICKI: Why?

LARRY NISSEN: I can't answer that.

KAREN COX: Based on these pictures, it is looking like it is not working --

MR. BERNARD IACOVANGELO: It is working.

KAREN COX: That was an unusual incident, I agree, but what happened yesterday, the last two days?

MR. BERNARD IACOVANGELO: There is no problem. You have to remember one thing. If you understand this series here, this is the old swale (indicating) which is not clearly defined, and they're developing a new swale up through the woods. Right like this (indicating). One of the problems we had with Wadsworth residents is as we met with them and continue to meet with them, three in the middle of the whole plan have refused to sign easements.

KAREN COX: Yes. You mentioned that before.

MR. BERNARD IACOVANGELO: So what we have done and Joe (Carr), even after we decide -- Joe (Carr) has made revisions and told us to alter the -- here is the way the old channel went (phonetic). It is very undefined, because it has meandered. It is very shallow, flat in places. What happens when the water hits it, it goes out.

So what happened is we're going -- we did these two pipes across here (indicating). They worked. You can see them working. They take water in. It relieved all of the problem in through here (indicating). However, Joe (Carr) said, "I don't want it going this way (indicating). I want it going this way (indicating)." These homeowners (indicating) wanted that so they could fill this in

(indicating), the Alexanders. So they gave them an easement for this. Then he wanted us to bring this (indicating) down here and pipe it. We have done that, I don't have those pictures. We have piped this (indicating). Top soiled it, seeded it. So this is all piped because he didn't want that open ditch so close to the road.

We have done this (indicating), all of the way up to this lot here (indicating).

The only problem is Holden (phonetic), Carmelita (phonetic) and Pulaski (phonetic) won't let us have an easement here (indicating). Then we go back up into these (indicating).

Now these other people, Foxworth and Englert hasn't provided his, but Jim Martin has provided his, and this works. As you can see, it is sucking the water through here like you can't believe. These people had no problems like they used to have before. So it is working. And we're doing the work.

Now, Larry (Nissen) keeps bringing this up. You have to remember, a developer -- if you mandate me to do something like this, this magnitude off site, I have an ability to be reimbursed by the Town. I come along and do it, you know, as a favor.

Now, when I'm told just provide me with the information and it doesn't run up, you know, what else do you want me to do? Joe (Carr), in fact, changed a pipe going across Union Street from Black Creek Park. The pipe comes across here and outlets here (indicating). I don't know what size it is, but --

KAREN COX: He changed a pipe that crosses Union Street?

JOHN NOWICKI: Is that a County road?

KAREN COX: Owned by who, the pipe?

MR. BERNARD IACOVANGELO: I don't know. You know, I'm just telling you.

KAREN COX: That is a County highway.

MR. BERNARD IACOVANGELO: The pipe was changed. These neighbors (indicating) got upset because there was no study done as to the change of the pipe underneath their driveways.

KAREN COX: He made the pipe bigger crossing --

MR. BERNARD IACOVANGELO: And not here (indicating).

KAREN COX: They're downstream from the bigger pipe. He is engineering other people's systems?

MR. BERNARD IACOVANGELO: Now, I'm not here to decide what he should or shouldn't do. I'm not here to describe his job duties and responsibilities. I'm not here to say he should or shouldn't. I'm just here to say, as a good neighbor, I've done everything I said I would do and I have cured the problem to date. If you left it just the way it is, that water is going out faster than it ever did before, and the system works. If we can get these other people in between here, we're talking to them about pushing this back, proposed new swale, so that gives them more backyard room and we can define it. But Karen (Cox), just so you know, the fall from here to here, is --

MR. BAKER: About a foot.

MR. BERNARD IACOVANGELO: -- a foot. The Town, when they allowed these neighbors to be built, it was not part of a subdivision plan. So there was no drainage study. This was built by people just buying a lot back the way it was in the old days.

In fact, I don't think Wadsworth is even a road that is built to Town standards because of the way -- it was like a private drive. And so we come along. We're doing this project. And we -- we undertake this, and we have got well in excess of 35,000, maybe \$40,000 into this project already. We have cured it. Trust me. I can show you by the pictures. You can talk to the residents. They don't have the water damming up. Only because of the size of the pipes that allow the water to escape.

JOHN NOWICKI: All your onsite drainage ponds and detention ponds are in place?

MR. BERNARD IACOVANGELO: Yes. This one here (indicating) -- in fact, if you're going to talk about drainage, you got to remember we built a 3 acre pond here (indicating) because of a 100-year storm requirement, right, Larry (Nissen)?

LARRY NISSEN: Yes.

MR. BERNARD IACOVANGELO: You have to walk the site to understand the immense nature of this 3 acre pond, that is almost 9 foot deep. You know, for the calculations, engineering calculations for 100-year storm. Right adjacent to it we have a flood land.

MR. BAKER: Wetlands.

MR. BERNARD IACOVANGELO: Wetlands. In that wetlands, when we met with the Army Corps, they had no problem and gave us a letter to that effect. They wanted to make sure we don't drain this by stopping too much water. They want enough water to go into there to keep the wetlands natural because that wetlands hold a lot of water.

Now, what we're -- it is -- look it, I have built a lot of ponds, a lot of communities. These guys (indicating) can engineer and do numbers, but I can tell you about size of ponds. When you're talking about getting one storm in every 100 years of such a magnitude you need a pond this size, what do you do during the other 99 or 50 years when you don't get enough water to fill up a 3 acre pond, 9 foot deep. Plus we're discharging it at the other end very, very quickly. So as we go through this, there is going to have to be some balancing over time to ensure that we have satisfied all of the parties involved.

A, we have to satisfy the drainage criteria to the site.

B, we have to make sure we don't dry out the wetlands.

C, we have to make sure that we provide, you know, proper drainage through this area, which I don't think will be a problem.

But Mr. Englert is looking, you know -- because we talked about having large capacity here on this pond (indicating). So now we're have more capacity here. We're going to have capacity in the wetlands. And we're going to have capacity in this 3 acre, 9 foot deep pond, which is cavernous. Because we have to design to those standards.

Now, you know, I don't think that pond over the next 15 years or 20 years will ever fill up. We're going to have to address the outlet to insure that, you know, there is enough water through the system.

JOHN NOWICKI: Engineering wise, correct me if I am wrong, on your site, the subdivision, all of the engineering and all of the drainage calculations and all that have been done up to the point of leaving the property?

MR. BERNARD IACOVANGELO: Correct.

LARRY NISSEN: That's correct.

JOHN NOWICKI: From the point of leaving your property, to the improvements needed downstream from your project which would cause some of the effects of all of this, that has not been approved by the Engineering Department; is that correct?

MR. BAKER: During that Phase 6, approval process, Larry (Nissen) asked if we could do an engineering study on the existing creek channel. That is basically what that map is there, and Bernie (Iacovangelo) authorized me to go ahead and provide that engineering study to Larry (Nissen), which was rather extensive as far as analyzing the existing creek channel all of the way down through it.

RAY BLEIER: Was that condition of approval of Phase 6?

MR. BERNARD IACOVANGELO: No. Nor was it a condition of the original approval.

RAY BLEIER: So why haven't you signed off on Phase 6 then?

LARRY NISSEN: The reason he hasn't signed off is because of the improvements downstream have not been completed. I would say the developer, in my opinion, has done his part as far as mitigating runoff from the Park Place site. It has been my understanding that a part of this approval was to provide drainage improvements downstream to the Wadsworth Road area so that they would not be impacted negatively. That is what we have been trying to do.

DENNIS SCHULMERICH: Who has ownership for that improvement? The Town of Chili or the developer?

LARRY NISSEN: Well, I can't say for sure.

KAREN COX: What was the question?

MR. BERNARD IACOVANGELO: Let me address it.

DENNIS SCHULMERICH: Who has responsibility for the downstream improvements and why would the developer be penalized for continuing with the project if, in fact, off his property he is not accountable downstream. He is being held accountable on the approvals. It makes no sense to me.

MR. BERNARD IACOVANGELO: This problem has existed in the Town of Chili for well over 25 years. And when we came into the project, the people showed us the pictures over time of the kind of flooding they received. It was never addressed until we came here and did this. Never. Now, in the -- this would have been built and done had these three people not held up the easement process. We have wanted to do the work and satisfy them. They have been -- you know, and -- Jim Martin is here. I don't know where Jim (Martin) is. You know, Jim (Martin), you can attest to the fact that we had this designed and approved, what, two years ago?

JAMES MARTIN: About two years ago.

MR. BERNARD IACOVANGELO: A little at a time we started doing some of the improvements because Joe (Carr) said go ahead. This was like -- you know, the pipe size that was here was what?

MR. BAKER: 18 inches, I believe.

MR. BERNARD IACOVANGELO: You made it what?

MR. BAKER: 36.

KAREN COX: That is a big increase.

MR. BERNARD IACOVANGELO: Huge. That was the same thing across Bowen Road. 18 inch. We made that the same. So you have to understand, we opened up, you know, the funnel. We made the bottom of the funnel almost the same size as the top so as the water comes down this way (indicating), it escapes. As you can see from the water, it is rushing through. It is going down the other side. Now where it is not moving as fast, when you get to the south side of Bowen Road, I think Joe (Carr) could have done a little bit better job of defining the swale from Bowen Road, south of Bowen Road, that pipe to Mill Creek, and I think he will go back and do that. There is one picture that shows the south side fanning out. That is on the south side. We're pushing it all to the south side of Bowen Road. These people here are all happy. You don't see them here.

Is there someone from the Wadsworth drainage other than Jim Martin? They have got no complaints. They're happy. These people in the middle are saying -- our houses are up here (indicating). We don't go back there.

JOHN NOWICKI: Are all of the easements signed?

MR. BERNARD IACOVANGELO: All except Mr. Englert's and these three. Mr. Englert will sign his. He is away right now. We just have to work out more detail in this here (indicating).

But we, as we have done it -- I'm just telling you, this is going to -- we have spent the money as being good neighbors. We said we would do that -- as preliminary. We can pull out all of the preliminary conditions. If you mandate it, there are articles of the Town Law that says when you go beyond my development and mandate me, then you have to reimburse me. I don't think the Town Planning Board wanted to get into that.

DENNIS SCHULMERICH: Where I need some help -- I understand what is happening downstream. I understand the commitment you have made to try to help the Town. It is not obvious to me since it wasn't mandated prior to now that what we're talking about here should have any bearing on the approval of 7.

MR. BERNARD IACOVANGELO: That is my point. That is correct. I still will not shrug my commitment.

DENNIS SCHULMERICH: It is good to know it is being dealt with. We understand what is holding it up, the three easements from the neighbors in the Wadsworth area. Apparently you have information you need to review before you sign off on 6, but aside from that, what I am hearing here is not really directly pertinent to the approval of 7 and 8. Is that a correct interpretation?

LARRY NISSEN: The crux of the issue for me is prior to the downstream improvements being finished, I can't guarantee there won't be increased problems for the folks downstream. If you want me to do that, I will do that. If you did not think I should do that, I won't do that. But I have been trying to -- it has been my intent to try to improve the situation downstream, as it is Mr. Iacovangelo's, I'm sure.

At this point, we're reviewing sections now of -- for final approval that will all drain to the south. We don't -- we don't have a timetable, I guess -- because of the reluctance of some folks to give easements, we don't have a timetable for the completion of those -- not completion of those improvements downstream. And without those improvements being completed, I can't tell you what is going to happen down there. The study that was done assumed all of the improvements would be completed. The downstream study that was requested and was done assumed all those improvements would be completed and they have not been. That is the crux of the issue.

JOHN NOWICKI: You have the downstream study?

LARRY NISSEN: Yes. I'm confident things will improve. They may not improve to the extent that we would like to see them improve. It's a flat area, difficult to work with. But I'm sure they will improve.

DENNIS SCHULMERICH: What I am trying to distinguish, I appreciate the fact we want to improve the downstream. I won't suggest we don't improve it. What I'm trying to understand from your perspective, while that is going on, in parallel, should that discussion have a bearing on what we're talking about tonight with 7 and 8?

LARRY NISSEN: I think you have to look at that area before approving sections that will drain to that area.

KAREN COX: What if you had a chance to look at the information, Larry (Nissen), with the idea what if these three people never grant an easement, what effect that will have?

LARRY NISSEN: I requested that be done and that was not done. The response I think --

as I recall, it was conservative to -- you know, they looked at all of the development of Sections 6 through 10, all of the remaining sections, and their assumption was that -- of course they would all be developed, and that all of the improvements would be completed downstream. The crux of the issue for me is they haven't been completed downstream. So we don't have that situation.

What I had asked them to do, in conjunction with Section 6, was to look at the increased discharges from Section 6 downstream with respect to the present condition. That is for the areas where they're not proposed.

MR. BERNARD IACOVANGELO: With that size pond, there will not be extreme discharges for 6.

RAY BLEIER: I have a question of Rich Stowe.

MR. BERNARD IACOVANGELO: Before you ask him that --

RAY BLEIER: How can we go ahead with approvals on Sections 7 and 8 when the engineer has not signed off on Section 6 yet? Aren't we treading on some dangerous ground here? Because if we're going ahead with 7 and 8, it almost sounds like forget what the engineer is doing or recommending.

MR. BERNARD IACOVANGELO: Doesn't the engineer always have to sign the plan last?

RAY BLEIER: He has not signed off on Section 6, and that bothers me.

MR. BERNARD IACOVANGELO: This is the pond. The big pond for all -- 6 through 10 is built already.

RAY BLEIER: Your on-site drainage has been completed.

MR. BERNARD IACOVANGELO: You have to remember, you can't hold me responsible -- I don't have condemnation power.

LARRY NISSEN: I have no problems with what they're proposing for Section 6. We have minor comments they're taking care of, my understanding now.

For the most part, the hold-up of our approval has been with regard to downstream drainage improvement. It has been my understanding that the Town would like us to review those. To review the downstream improvements.

DENNIS SCHULMERICH: Who has ownership for that? The Town or the developer? If the Town is responsible for the downstream issues, the developer should not be held accountable for what is going on downstream. If, in fact, we're mandating that the developer is responsible for the downstream improvements, he deserves to be reimbursed for the expenses. We can't have it both ways here.

LARRY NISSEN: That is between the Town and the developer.

JOHN NOWICKI: There has to be a trade-off here. He has developed a very large subdivision that is sending all this water into these systems, and if he is containing his water on site, he is not putting more water downstream, that is something else. But do we know that or don't we know that?

LARRY NISSEN: The thing is that the requirements are that -- the flow rates offsite be attenuated. That is if we have 50 cubic feet per second running off that area presently prior to development, we have to hold it to that level after development.

The thing is -- and they have done that and been successful in doing that. The thing is that water had run for a lot longer period of time. We're sending more water downstream. We're just sending it down over a prolonged period of time.

MR. BERNARD IACOVANGELO: At the same rate it was undeveloped, as it is developed.

So we're sending it off at the same rate. That is the criteria we have to go by. But when you're saying -- can you hold up the developer? These people had no relief. This Town didn't address this problem for years. They went without any relief. The developer comes along, develops a site and finally gives these people relief. Not even at the Town's expense. And I got to get held up for it? You show me how that is fair.

JOHN NOWICKI: We have to make sure -- we have an engineer sitting over here that gave us his letter.

MR. BERNARD IACOVANGELO: He could give you the letter. I don't say it is correct. But you got to remember, you know, as the letter is written, it doesn't mean it is always correct.

JOHN NOWICKI: That is what we're debating.

MR. BERNARD IACOVANGELO: That is right.

JOHN NOWICKI: That is what we have to debate so we know what we're doing here.

DENNIS SCHULMERICH: What I continue to be confused by, and maybe I'm just being slow-brained, I'm sorry. Number 2, because of the unresolved status to downstream improvements, we have not approved the plans for Section 6 to this date which implies to me that

the downstream improvements are there for the responsibility of the developer. I did not understand from the earlier hearing that it was a requirement of the prior approvals that the downstream issues be dealt with by the developer, that they would be dealt with by the Town.

MR. BERNARD IACOVANGELO: If you look at minutes from preliminary, I will work with the Town to help with this issue.

KAREN COX: It was more of an offer by the developer.

MR. BERNARD IACOVANGELO: To assist the Town.

KAREN COX: And the Planning Board appreciated that courtesy.

DENNIS SCHULMERICH: That does not, therefore, become a de facto ownership of the development to resolve if he agrees to help. The Town still owns the downstream issues. Whether you pay for them, or to fix them, with or without the help of the developer. He's done what he needs to do to contain the water, control the flow, to the edge of his property. What I am sensing, he is now being accountable for issues because he tried to help the Town. I'm not buying that.

RAY BLEIER: All those issues have not been fully addressed. That is why Larry (Nissen) is holding back on his approval.

MR. BERNARD IACOVANGELO: Ray (Bleier), if the Town wanted to cure it quicker, they should have condemned the easement. They have the condemnation process. They could have condemned them two years ago. I can't condemn. So when you tell me, I have not addressed it, I have not fixed it, how do I condemn the property?

DENNIS SCHULMERICH: I'm manacled. You have put me in a position where there is no exit. That is not appropriate. Under the law you can't do that.

MR. BAKER: Under Bernie (Iacovangelo)'s direction, we have met with the property owners a number of times. We were trying to get the report fine-tuned to the point where these issues were addressed. As he stated, all the improvements are not done. We can't clean the channel on the property without getting an easement from those people.

MR. BERNARD IACOVANGELO: We have discussed --

MR. BAKER: It is getting closer.

MR. BERNARD IACOVANGELO: We discussed it with the Town Board. If these people don't give us an easement, you have to condemn it. You have to condemn it.

MR. BAKER: Obviously where the green line -- that is the low point, the original channel. The homeowners asked us if we could analyze -- walk the site, we sent the survey out, where we could try to push it closer to the rear property. They did not want to impact their property with an easement.

JOHN NOWICKI: Would this issue be solved quicker and faster if there was better communication between our Commissioner of Public Works, Joe Carr, and our Town Engineer, Larry Nissen?

MR. BERNARD IACOVANGELO: No.

KAREN COX: They can't convince the property owners.

MR. BERNARD IACOVANGELO: Even if Larry (Nissen) looks at calculations and we went through this from the beginning, and Larry (Nissen) stamped them, the question ultimately is: Is somebody has to condemn -- and Larry (Nissen) says this is fine, you still have to condemn this stuff.

JOHN NOWICKI: Then it goes to the Town Board for condemnation.

MR. BAKER: It could.

JOHN NOWICKI: Okay. That's where we have to go then. What are we waiting for?

DENNIS SCHULMERICH: Shouldn't be asking the developer.

JOHN NOWICKI: I just want it in the record we have a solution to the problem.

MR. BAKER: 51 percent of the people that would be in say the Wadsworth drainage district.

MR. BERNARD IACOVANGELO: We got that. We got 51 percent to sign the petition for the drainage district. Mr. Carr felt it was better to get 100 percent. He didn't follow the petition. Then he didn't want -- he got us working as we got easements signed. Now, we could have had the district formed two years ago. You have to have 51 percent of the owners and 51 percent of the assessed value. We have both of those tests met. The district wasn't formed. Once you formed the district, it would have been easier because now they're paying taxes for that.

But, listen, I'm a developer. I'm not his supervisor. And so I can't tell him, you know, how to proceed. I can't tell him to go to his Town Engineer and have him review it. We are doing this. We have been presenting it to him.

JOHN NOWICKI: We will get the minutes from the meeting so we know where the

problems are and where the solutions will have to come from.

DENNIS SCHULMERICH: I think we're having a suggestion.

KAREN COX: The developer cannot condemn property. They have gone as far as they can. Whether protocol was followed, that is a different story.

MR. BERNARD IACOVANGELO: And Ray (Bleier), if you don't believe in me, you can ask Mr. Martin because he has been part and parcel of this process. The numerous meetings we have had, the attempts we have made. He knows. We have been diligent about our efforts to make this problem get cured.

KAREN COX: It may never happen unless it is condemned.

JOHN NOWICKI: We know the solution. It is on the record. We know what to do to go get it done. I don't know what we're messing around here for. We have it all in the record right now.

RAY BLEIER: Obviously the drainage issue was the big issue here. Of course. Seems like we have gone round and round with this here. And the bottom line is that Larry (Nissen)'s comment, by the time Planning Board approval is granted, we request it be contingent on Town Engineer's approval. I'm just wondering if we okay this here, are we going to end up just like we did in Section 6 without the engineer signing off on it.

JOHN NOWICKI: Well, we can approve it and make a condition --

LARRY NISSEN: I would like some additional guidance from the Board and the Town as to how far they would like us to take our end of it. Because, frankly, what has gone on down there -- we have not had a chance to review it. Apparently the culverts put in under Bowen Road --

MR. BERNARD IACOVANGELO: Bowen and Wadsworth.

LARRY NISSEN: -- are bigger than the old ones were. But we have a pond here that will attenuate a 100-year storm at Park Place. The new culverts will only pass a 25-year storm. So I'm not staying there are still going to be problems out there on occasion.

KAREN COX: But highway culverts are typically designed for the 25 -- I mean that --

LARRY NISSEN: The County requires 50 and 100.

DENNIS SCHULMERICH: The culverts you're talking about were installed by who?

LARRY NISSEN: By Mr. Iacovangelo.

MR. BERNARD IACOVANGELO: At Joe (Carr)'s direction, under Joe's supervision and direction.

RICHARD STOWE: By the Town of Chili in cooperation with Mr. Iacovangelo.

JOHN NOWICKI: I don't agree with that.

RICHARD STOWE: I'm sorry?

DENNIS SCHULMERICH: I'm trying to understand it.

JOHN NOWICKI: I don't agree with that.

RICHARD STOWE: Mr. Iacovangelo can't dig up a road.

JOHN NOWICKI: In conjunction with the Town --

RICHARD STOWE: Mr. Iacovangelo paid for them and the Town installed them. Pretty simple.

JOHN NOWICKI: Town Engineer didn't have --

RICHARD STOWE: Public Commissioner had responsibility for the road, did it and it is done.

JOHN NOWICKI: County road?

RICHARD STOWE: It is a Town road.

LARRY NISSEN: It is a Town road. John (Nowicki), you will not convince me of that. I think the solution is there.

KAREN COX: It is not different if Mr. Carr decided he would replace a culvert, but only that the developer bought the culvert. But ultimately the size of the pipe was approved by the Town Highway Superintendent, who has that responsibility.

JOHN NOWICKI: Where is the engineering to back it?

KAREN COX: That is the question. Where is the engineering to back a decision he made to, you know --

JOHN NOWICKI: That is what my question is.

MR. BERNARD IACOVANGELO: He did have design criteria and engineering analysis done by DSB. It just wasn't reviewed. I'm --

JOHN NOWICKI: I know. But why not? Why not? Why is our Town Engineer not getting the information?

KAREN COX: The point is does Larry (Nissen) approve -- if Mr. Carr wants to go out, you

know, on Cassandra Circle and replace the culvert under the road, would Larry (Nissen) approve it, no. The change would be made. This pipe is too small. We'll take a look at charts that are available and say we're going up to a 24-inch. There is usually no engineering done in that kind of a decision.

DENNIS SCHULMERICH: I have no problem with that, but in this particular case, what I am having difficulty with is because decisions have been made within the Town, and the approvals have not been given by the engineer, we're not holding the developer accountable for something.

KAREN COX: I don't disagree with that.

LARRY NISSEN: There are other solutions. There is a provision in the Town code that allows us to -- imposing stricter design criteria where a downstream situation is difficult to work with.

For example, you know, if we had determined six months or a year ago that, you know, we weren't going to be able to make these improvements downstream or only partial improvements downstream, we would have done an analysis, what have we done, what kind of condition is it in, how much can we pass down through there safely. Anything over and above that amount we would have had a large retention pond. I'm not saying we need a larger retention pond, but it is a possible solution.

The thing is, we're passed that now I think.

DENNIS SCHULMERICH: Essentially what I hear you saying is the calculations have been done for onsite of the developer. Based on what we understand, they're within the guidelines we would expect. What you're questioning is based on the particular storm issue, we're not sure what might happen downstream as a consequence of the size of the pipes and the flow?

LARRY NISSEN: Yes. And the approval of the sections.

MR. BAKER: However, that report that we submitted to Larry (Nissen) at his request, and Bernie (Iacovangelo) authorized me to go ahead and do the study and submit that to Larry (Nissen).

DENNIS SCHULMERICH: With the exception of the study, assuming you don't have the three properties giving the easements --

MR. BAKER: We have been held up with the property owners.

MR. BERNARD IACOVANGELO: You have to complete it now. Because have you people over here that have signed the easements saying we're ready to go. So there is no stopping. There is no assumption it won't happen. What you have got --

DENNIS SCHULMERICH: It is not an alternative.

MR. BERNARD IACOVANGELO: Not an alternative.

KAREN COX: It may not be an amicable manner.

MR. BERNARD IACOVANGELO: Yes. You don't like do the condemnation process. We have been out there over ten times with these people.

MR. BAKER: Including this morning.

MR. BERNARD IACOVANGELO: We show them -- some -- we have even offered to work with them and -- and Joe (Carr) has offered to clean up some of the stuff in the back to define the swale. Know something --

KAREN COX: What are the reasons? What are the reasons given?

MR. BAKER: Mr. Donovan feels he doesn't want to impact his property with an easement through the center it. That is why we met again and generated this map showing him -- he has not seen the map because we generated it after the morning meeting to push it --

MR. BERNARD IACOVANGELO: This is where it flows (indicating). It is undefined. It has moved around. Because you now have trees in the middle of it.

MR. BAKER: There are six 8-inch diameter trees in the center.

MR. BERNARD IACOVANGELO: If we didn't open it up, it kept bouncing back here. It did give relief. But when we move it this way (indicating), we'll clear all this out and define it. There is not a lot of fall on this.

MR. BAKER: We're making it wider.

MR. BERNARD IACOVANGELO: Wider, but it is not like it will be 12 inches, whatever.

MR. BAKER: On the radius. If we move it to the back, it will be deeper, but some areas it will be shallow because of the nature of the terrain.

KAREN COX: For the Town to maintain it, they need the easements.

MR. BAKER: Yes. It benefits them if they have the easements because they call up and the Town comes out to clean it.

MR. BERNARD IACOVANGELO: It is a complete fix.

We have had eight meetings at my office in the last -- since we did the preliminary. We have been working diligently.

MR. BAKER: Some times more headway than another.

MR. BERNARD IACOVANGELO: In fact, Larry (Nissen) was invited to the last one and was not able to make it. He had another meeting to attend. So he could be a part of it.

MR. BAKER: Subsequent to that, he asked if we could do a study to analyze it.

“Bernie (Iacovangelo), tell me if we should or shouldn't.”

“Okay. Go ahead.”

MR. BERNARD IACOVANGELO: To go one step further, even when we get this all built and Larry (Nissen) agrees, I still believe that even when we get to 10, we're still going to have to look at it once we're completely built out to ensure it is all working to everyone's mutual satisfaction, including Army Corps. Wouldn't you agree to that, Larry (Nissen)?

LARRY NISSEN: The most stringent criteria is 100-year storm. Statistically only one every 100 years, that is a long wait.

MR. BERNARD IACOVANGELO: This pond is huge. You have to see it.

JOHN NOWICKI: Engineer's approval?

LARRY NISSEN: They have shown us with the proposed improvements we'll improve the situation. I knew we couldn't have capacity increased through the Wadsworth area to -- for 100-year storm. It is too flat, impossible. What I asked them to do was compare the pre and post condition to determine what the water levels were for various points down along through there. And pretty much every -- every location that they checked the water levels will be lower after the improvements. I think at least we have not made the situation worse. We have a developed site here. Downstream we have not made the situation worse. We have improved it somewhat. That is about all we can do.

The crux of the issue is, we start approving Sections 6, 7 and 8 before the improvements are installed, we don't know where we stand.

MR. BAKER: Our analysis included the full build-out of the project. Whether 6 goes in or 10, we analyzed the --

LARRY NISSEN: But it assumes all of the improvements are installed and they're not.

MR. BERNARD IACOVANGELO: If the Town Board goes in and starts the process next week -- we have been ready. If we would have gotten everybody's easements a year and a half ago, two years ago, we would have been done.

KAREN COX: Is that going to happen in reality?

MR. BERNARD IACOVANGELO: We have strongly recommended it to the Town Board.

KAREN COX: Is the Town willing to condemn?

JOHN NOWICKI: They should. They need the easement to do the maintenance work on this thing.

KAREN COX: They should, but will it happen?

MR. BERNARD IACOVANGELO: You have to make a recommendation.

JOHN NOWICKI: We'll approve this, making a recommendation that the Town Board take action.

RAY BLEIER: We're halfway there.

MR. BERNARD IACOVANGELO: You only have three people that you would have to do. Pulaski (phonetic) --

RAY BLEIER: That is all that is legally required.

MR. BERNARD IACOVANGELO: Donovan and Holden (phonetic).

DENNIS SCHULMERICH: This is not where everything is fine up through 5 and 6, and then we have a problem. It is going on now. It is in everybody's best interest in Chili to get it resolved.

MR. BERNARD IACOVANGELO: I would like to get it done this summer.

MR. BAKER: That was the plan. Do it when it was dry.

KAREN COX: Go time now to do it.

MR. BERNARD IACOVANGELO: Mr. Englert has cleared his whole area out so we can do the widening of the pond. Has cleared it. He is ready. We can't really get to that piece until we come up that way.

KAREN COX: We can't force a developer to rectify the problem because they don't have condemnation powers.

JOHN NOWICKI: The Town knows how to solve the problem before them.

DENNIS SCHULMERICH: When you made a comment that all of the downstream improvements be in place, these three easements are a significant part. What else has to be done other than that?

LARRY NISSEN: These gentlemen could probably give you a better answer than I can.

MR. BAKER: Those three easements would allow us to improve the channel as we designed it, and it in the study report. Where the thin green line is -- what we did, in working with Joe (Carr), we started at the southern end at Bowen. What held us up, initially he went to the adjacent owner to clean up to Mill Creek, Bowen, and simultaneously up Wadsworth and worked up the channel. At this point we need to complete that channel all of the way up through those three properties, to Mr. Englert's to the existing pond.

DENNIS SCHULMERICH: The only thing --

MR. BAKER: Channel cleaning needs to be done. The pipes are installed.

JAMES MARTIN: In Larry Nissen -- all of the installation of the drainage facilities and culverts, Larry Nissen has that?

MR. BAKER: Yes.

DENNIS SCHULMERICH: What is the intention for how that channel will be dealt with? Will the developer be doing that work or the Town of Chili?

MR. BERNARD IACOVANGELO: I have committed to assisting the Town. I will complete it.

MR. BAKER: That is how this started.

MR. BERNARD IACOVANGELO: We started doing it. We're doing it. Joe Carr approves it, inspects it, authorizing it.

DENNIS SCHULMERICH: Brought it back full circle.

MR. BERNARD IACOVANGELO: We're not walking away from our commitment to assist the Town.

MR. BAKER: Larry (Nissen) mentioned in the report the installation about the 36-inch along Wadsworth. So that was added in the report that went back to him, because the report didn't reflect that, and it was already in the ground. Because it took some time between that point and it got stalled. So the report had to be upgraded.

JOHN NOWICKI: Another question on a different area. Something other than drainage. On Union Street, when would the concrete sidewalk be installed along Union Street?

MR. BERNARD IACOVANGELO: Um, there are two parts. Two parts. Phase 1 had a part that had to be installed. That will be installed probably within a couple of weeks, is what we designed originally. Joe (Carr) has indicated he doesn't want this piece in here, and he doesn't want this piece here (indicating).

This is on the north side of our -- the southern entryway which is Fullem Place (phonetic), and the south portion beyond Everton Run. The reason why, why does it go? It doesn't go anywhere. Just do it from in here.

JAMES MARTIN: In between.

JOHN NOWICKI: In between the two roads.

MR. BERNARD IACOVANGELO: In between the two roads. We vanish, we have to resolve along the road here that there is a drainage pattern that comes like this (indicating). So we have to move the ditch over. We have to put a pipe underneath it.

KAREN COX: Back to drainage.

JOHN NOWICKI: That will take place how long?

MR. BERNARD IACOVANGELO: Next couple weeks. We were out there. We staked it. Retoped it. He has to give some design detail to the contractor. Then this -- the balance of it will be put in when we put in Section 6 improvements. It will be all done this summer.

DENNIS SCHULMERICH: A sidewalk with grass between the road and the sidewalk?

MR. BERNARD IACOVANGELO: Yes.

DENNIS SCHULMERICH: Not a curbside type of walk?

JOHN NOWICKI: One other comment here that we should ask. Something about the Assessor asked the southern section of Bolton Trail needs to be renamed because of the problems with the lots in the area.

MR. BERNARD IACOVANGELO: We're renaming this from the intersection here (indicating), with this cul-de-sac from here (indicating), all of the way up to here (indicating), has to be renamed because of -- there is not enough numbers in the sequence they established earlier for Bolton. We'll rename that. He has to give a couple new names to pass by 911.

MR. BAKER: Right. I'm not doing it.

#### COMMENTS OR QUESTIONS FROM THE AUDIENCE:

BEVERLY NEDER - 82 Attridge Road

MS. NEDER: My first comment is I resent the way that Mr. Iacovangelo tried to run the

meeting. When a question was asked of Dan Kress, Mr. Iacovangelo said "I'll answer that," and it was regarding our code. I think Mr. Kress should have been allowed to answer that, not Mr. Iacovangelo.

And secondly, to answer John Nowicki's question about why Mr. Carr is allowed to do all these things, it is because he could. The developers in this Town know if they want something done, they go to see Mr. Carr. An example is Union Square and Union Station. And now we have no engineer's approval because the engineer has not received the necessary documents from Mr. Carr's office. Mr. Carr is not an engineer, to my knowledge. And it should have been sent to the engineer to be approved. And until Mr. Carr is reined in or required to attend these Planning Board meetings, since so many questions can't be answered because it's "Mr. Carr this, and Mr. Carr that," but there is no Mr. Carr here.

And my second questions are, are there still lots available in Section 2 with for sale signs on them?

MR. BERNARD IACOVANGELO: I believe there is one.

MS. NEDER: Section 3?

MR. BERNARD IACOVANGELO: Section 3, I think there's five.

MS. NEDER: Section 4?

MR. BERNARD IACOVANGELO: All sold out.

MS. NEDER: Section 5?

MR. BERNARD IACOVANGELO: Three.

MS. NEDER: They're --

MR. BERNARD IACOVANGELO: They're sold. They just have to be dug.

MS. NEDER: All sold?

MR. BERNARD IACOVANGELO: Yes. Just to answer your question, Beverly (Neder), we have gone slower in these areas because this is where we had Homearama. We have put in requirements for larger homes to be sold in there. We told the Town that before.

MS. NEDER: That gets back to the question that Mr. Bleier asked and which I have not heard addressed, except for you to say it is okay, that you can't work on more than two sections at a time. I would hate to see happen to the people over there what has happened down in Union Square. Houses, lots were not sold. They're still sitting full of weeds and trash, and the original builder turned them over to the developer. The developer turned them over to another builder. And then another builder turned it over and they're still sitting empty. I think that sections should be finished before you go on to new sections.

And I have not heard or read in the notice of public hearing where there has been any request to disallow this section of the code. Thank you.

HEATH MILLER - 69 Bell Mawr Drive

MR. MILLER: Is there anything in writing such as a contract between the developer and the Town of Chili that says who will pay for the drainage improvements to the properties located on Wadsworth?

MR. BERNARD IACOVANGELO: Verbal commitment.

RAY BLEIER: Just discussion.

MR. BERNARD IACOVANGELO: Verbal commitment to the Town.

MS. NEDER: As a lawyer, you know, verbal is as good as what it is written on.

GARY JOHNSON - 65 West Forest Drive

MR. JOHNSON: A question on the three property owners that have not signed the easement at this point. What recourse do they have as far as this condemnation process? You know, as property owners, people that may have been in the Town for a number of years?

KAREN COX: Not his process.

MR. JOHNSON: I'm addressing the Town Planning Board.

RICHARD STOWE: I will speak to that. If, in fact, the Town were to go forward and initiate a condemnation proceeding to acquire easements, it would follow a similar procedure to the procedure followed when we did a highway project on Union Street and had to condemn easements from neighboring properties owners that weren't willing to grant them voluntarily. I think we had 50, 60 percent of the property owners there. There is a procedure under the Eminent Domain Procedure Law under the State of New York where property owners get a notice, they get a formal offer. They can accept or reject the offer. If they reject the offer, the Town goes forward, publishes a map, starts a proceeding, demonstrates the public need. The property owners are entitled to just compensation and to due process if the award that the Town offers in their opinion

does not constitute just compensation. Ultimately, it is decided by a judge.

Ray Bleier made a motion to close the public hearing portion of this application, and John Nowicki seconded the motion. The voting members of the Board unanimously approved the motion.

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

RAY BLEIER: Obviously we have to have the engineer's approval. In a crystal ball, when do you think you might be coming back for Phases 9 and 10?

MR. BERNARD IACOVANGELO: Hopefully next year.

RAY BLEIER: That is good enough.

MR. BERNARD IACOVANGELO: If the rates stay down as they have been, it is just -- you know, I mean even our neighbors in Union Station have been going great guns.

RAY BLEIER: If I'm on the Planning Board a year from now when you come back for Phases 9 and 10, I certainly hope that issue with the Wadsworth/Bowen – downstream Bowen people is completely resolved and we don't have to go through this hassle again.

MR. BERNARD IACOVANGELO: I share those feelings, too, Ray (Bleier).

JOHN NOWICKI: That has to be done. Hopefully it can be done this summer.

MR. BERNARD IACOVANGELO: I would like to close it off.

JOHN NOWICKI: One more comment. I just want to let Mr. Iacovangelo know, his engineer, that the project overall, since it has began, has been a fun project. There have been some problems and things like that, but it is amazing to see the number of people enjoying homeownership and the impact it has on our community. So far I can see it has been a positive impact. If we can get these problems resolved, the quicker the better, I think we'll all be very happy about it and enjoy it that much more. It has been a fascinating one to watch.

MR. BERNARD IACOVANGELO: Thank you.

DENNIS SCHULMERICH: It has been raised a couple times tonight around the number of sections that were under construction, and under -- under section 92.7, we do have the authority based upon circumstances to depart from the two phases under construction. Is it appropriate for us to make a statement as a condition that we are, in fact, authorizing more than two to be constructed at the same time, or is that just consequence of our decision?

RAY BLEIER: We can put that in as a comment, not a condition.

LARRY NISSEN: I would like to get something cleared up right here now. If this gets approved, I intend to request the developer, in the absence of completion of downstream improvements -- because what we're doing here, we're approving 7 and 8. We have already approved 6. Theoretically 6, 7, 8 could be built out in absence of the completion of the downstream improvements. I say possibility. So it will be my intention to ask the developer and his engineer to verify that full build-out of Sections 6, 7 and 8 in the absence of completion of improvements won't have adverse effect on the downstream. Is that acceptable?

DENNIS SCHULMERICH: Should that be a condition or comment in the findings?

RICHARD STOWE: His engineer's approval can handle that. Mr. Nissen is intending not to get another impossible job without any guidance.

RAY BLEIER: It is part of the record.

MR. BERNARD IACOVANGELO: It is acceptable. You can put it as a condition if you want. That is better.

LARRY NISSEN: That is the direction I intend to take with it. That is what I would like to know up front.

JOHN NOWICKI: Make it a condition.

MR. BERNARD IACOVANGELO: I would like to have it in writing.

LARRY NISSEN: Thank you.

Ray Bleier 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.

The Board discussed the proposed conditions.

DECISION: Approved by a vote of 5 yes with 2 abstentions (James Martin, Dario Marchioni) with the following conditions:

1. Pending approval of the Town Engineer.
2. Applicant will comply with the Town Assessor to rename a portion of Bolton Trail.
3. The Planning Board makes the recommendation that the Town proceed with action to “condemn” properties of owners who have not granted easements to date, in order to perform the work necessary to improve all downstream drainage from the Park Place Subdivision.
4. Based on Section 96-7 of the Town Code, the Planning Board has permitted the applicant to have more than two sections or phases under construction at one time, based on the following findings:
  - a. Inventory of unsold lots in previously approved phases is minimal.
  - b. Development of previous phases is substantially complete.

RICHARD STOWE: Is it the Board's intention to approve this, to make a finding with regard to varying the two subdivision limit -- the two phases of the subdivision limit and incorporate that into your decision?

DENNIS SCHULMERICH: Yes. I asked that be done earlier and Ray (Bleier) indicated he would put it in as a comment.

RICHARD STOWE: I'm sorry.

DENNIS SCHULMERICH: Is that correct, Ray (Bleier)?

KAREN COX: It would be put in as a comment.

RICHARD STOWE: Probably more appropriate as a finding of this Board.

JOHN NOWICKI: There you go.

RAY BLEIER: Okay.

There was a recess in the meeting.

4. Application of Rochesters Cornerstone Group, owner; 100 Corporate Woods, Suite 210, Rochester, New York 14623 for preliminary site plan approval for Phase 3B of the Union Square Development (Union Square Boulevard) extension to Union Street) at property located at 3313 Union Street in PRD zone.

Gary Smith was present to represent the application.

MR. GARY SMITH: I'm here representing Rochester's Cornerstone Group with regard to the roadway extension of Union Square Boulevard from the DePaul Westwood Commons area out to Union Street. This project has been before the Board. It has been on as part of the Union Square project since 1997, I believe. This is the last section going out to Union Street. As you probably know, the Buffalo Road, New York State D.O.T. project is ongoing, and as an appendage on to it, the improvements will be made by the Town onto Union Street at this entrance, and which facilitated us to extend this and complete the Union Square Boulevard project.

JAMES MARTIN: There has been an issue raised about posting of the public hearing signs. I have talked to Mr. Brandt about that. He has agreed he will provide us a sworn affidavit that signs were properly posted on the appropriate date, so, therefore, we'll go ahead and hear this particular application tonight based on that commitment from Mr. Brandt.

Couple of comments. There was a comment from the Conservation Board. I'm not sure whether you saw that or not, regarding street trees as shown on the map. You know, they're -- we would like to know what tree varieties will be planted. So I think you need to get that taken care of. Get some specifics and get that to the Conservation Board for their approval.

MR. GARY SMITH: No problem.

JAMES MARTIN: Have you seen the comments from the Town Engineer?

MR. GARY SMITH: Yes, I have.

JAMES MARTIN: We're on -- on the SPDES permit requirements.

MR. GARY SMITH: We'll be supplying a storm water pollution prevention plan for this and the Union Street project, combined going to the DEC.

JAMES MARTIN: This will be contingent upon Town Engineer's approval.

DARIO MARCHIONI: Can we have an outline what you will be doing here?

ROGER BRANDT: Conceptually -- we have been waiting a long time for the Union Street project. We have had some money allocated for that for quite some time. The project, we're still getting comments from the State. We have been to them over 20 times. In fact, nine times in the last year. We give them something, come back. Come back. That is coming. We're eventually -- we have to get that approval before this project can -- this particular road can be built out. To answer your question, we have planned residential development district zoning on this section of the land.

The plan was originally, that up to 30,000 square feet of perhaps office or commercial space could go up by Union Street. Will that happen? Only time will tell. As you move south down toward DePaul, which is the project that looks like three fingers, that would be more residential, either townhouse, single-family or apartment-type residential development. A lot depends on the market. A lot has happened since we proposed the project. We think certainly building this street out onto Union Street with the Union Street improvements will allow this project to finally be built out in full, and we can complete the project. But we have been hamstrung because of the D.O.T. situation for the last decade.

DARIO MARCHIONI: Basically what will you market this section as? As you specified?

MR. BRANDT: Yes. Different housing options. Perhaps maybe an office building or two up near the Union Street.

MR. GARY SMITH: There is limited development up on this side of the road only because there is federal wetlands. There are only small areas that can be developed, small little pockets. So whatever -- most, if any, kind of larger development will be on this side of the road. So on the south side of Union Square Boulevard.

MR. BRANDT: We don't anticipate any large buildings. Small, residential in character.

DARIO MARCHIONI: I notice just before the last building that you built up, there is a "for sale" sign around the lots. Is that -- that is available?

MR. BRANDT: That is residential.

DARIO MARCHIONI: What do you anticipate -- when do you anticipate you will be finished? I know it is a tough question.

MR. BRANDT: Once the road goes in, we would like to be out of there in three years, but realistically, five more years. I would like it to be sooner, but a lot depends on the market.

DARIO MARCHIONI: The improvements on Union Street with the plaza, with Roberts Wesleyan there and all that area, that should be a plus.

MR. BRANDT: Absolutely.

DARIO MARCHIONI: That should be --

MR. BRANDT: There are sidewalks going from this, on both sides of the street, planned to go all of the way to Buffalo Road. On Union Street, once you exit this project and you go north, it will be on both sides of the street.

DARIO MARCHIONI: I know you worked very hard. The last time we saw you, you gave us a book this thick (indicating) pertaining to all of the back and forth with the State.

MR. BRANDT: Unfortunately, we could double that now.

DARIO MARCHIONI: I still have that book. It was pretty heavy, intense negotiating. I'm glad finally something is moving forward.

MR. BRANDT: Thank you.

DENNIS SCHULMERICH: I noticed on the application, both preliminary and final are checked. Is that an error or are you asking for both approvals?

MR. BRANDT: We would like final to be waived on this so we can get this project done this building season.

DENNIS SCHULMERICH: It sounds like the specificity in terms of what is going to be built is not all that clear at this point. Are you anticipating any commercial, or is it basically offices and town homes and homes, or what kind of mix are you looking at?

MR. BRANDT: Again, as you go past -- let's see, Gary (Smith). That is all residential, down in here (indicating). The planned residential development district gives you the flexibility so you could do patios, town home or commercial. Near Union Street it may lend itself to some 5,000 square foot office for maybe a doctor or an accountant or some professional use.

DENNIS SCHULMERICH: Retail at any point?

MR. BRANDT: Could happen. We're not planning on building anything right now. We're basically -- we need to finish the infrastructure. Once that's completed, then we can see what is out there. We're going with whatever is allowed in the zoning, but we don't plan on putting any large retail or commercial space at this time. Something very residential in character.

DENNIS SCHULMERICH: I wasn't here when initial plans came through. I would be interested in knowing what is the anticipated impact on traffic flow on Union Street with the adjacent apartment complex, the church there? Traffic study been conducted?

MR. BRANDT: Yes. We have had, I think, four traffic studies done over the last ten years, and what this is, depending upon if warrants are met, there could be a controlled intersection right here (indicating).

DENNIS SCHULMERICH: I was wondering about that.

MR. BRANDT: It depends on how it evolves.

MR. GARY SMITH: It is being designed for the infrastructure for future traffic signal?

JOHN NOWICKI: Is this something for this year?

MR. BRANDT: We want this done this year, yes. As you know, it has been way too long waiting for the infrastructure and D.O.T. Now there is a window. We can get it done if we move ahead fairly quickly.

JOHN HELLABY: Topsoil issue all gone? Shouldn't be another issue? All resolved behind us, I hope?

MR. BRANDT: For this particular road that we're talking about right now, yes. D.O.T. -- Mr. Smith and his firm have been to D.O.T. with revised plans nine times in the last year and they still have comments. You put them in, they give you four comments. Correct. Put in, four more. We have had difficulty with D.O.T. We're not sure what the issue is. Except -- and we are continuing to -- consultants are continuing to try to resolve the plans to get to the final permit.

MR. GARY SMITH: We're very close.

JOHN HELLABY: To back up just a minute, your screening operation, that seemed to be quite a dilemma there last year. That is now gone, behind.

MR. BRANDT: Yes. There were complaints about an unsightly pile of topsoil, so we came to the Town, can we get rid of it, the excess. It was sold and the site was restored.

JOHN HELLABY: Curiosity question that doesn't pertain to this, but I'm interested, intersection improvements, Paul Road and Jetview Drive. I thought that was done like a year ago and I never saw anything done about that. Do you know anything about the status on that?

MR. BRANDT: Sure. That particular project -- actually a permit was issued. Funds were allocated. There were industrial access monies allocated and along came the multi-modal project proposed by Mr. Charles. And there have been some positive developments with the State over the past year. State D.O.T. said hold on. Don't do your improvements yet. Here is why, because if you spend the \$950,000 to improve the intersection and Mr. Charles' project goes forward, within six months we'll tear them all out and start all over again. So we said thank you, we'll wait on that. So where we are is we're waiting for the State to get either -- either to a yay or nay. We have been told that -- by certain high level officials in Albany that the project is going ahead. Now, I haven't seen anything in writing, thank you, but we're still waiting --

JOHN HELLABY: You're in a catch-22. You have a real dangerous situation down there. This could drag on another ten years. Who knows.

MR. BRANDT: There was \$4 million allocated for that project, the intersection of Paul, Beahan, and Senator Kuhl got some money. There is D.O.T. money from Albany coming in. There are a lot of the pieces are there. But I don't -- we're not at 100 percent. So it is one of those, I would like to finish it and just get it done. We have a \$900,000 letter of credit sitting with D.O.T. right now and it costs money every year to renew that. I think we'll find one way or another very soon, although Terry Slaybaugh is the County liaison and Mr. Minarik is working in Albany on the project.

KAREN COX: Seems like the first meeting I was at on Planning Board we went over this project. That was a while ago.

You said that the intersection was being built with the idea of the future traffic signal and that. Do you mean the loops are being put in by the State project?

MR. GARY SMITH: No. We're installing -- we're doing the intersection here. We would be installing all of the conduit and the rest of the stuff, so wiring and that stuff can be installed. When the warrants are met, a signal will be necessary. In other words, so they won't have to necessarily rip up the road again to put all of the infrastructure in.

KAREN COX: Do you see that, the issues with the State being resolved any time soon?

MR. BRANDT: Gary (Smith) has been working over with D.O.T.

MR. GARY SMITH: Their stuff is minor stuff. Inasmuch as the Town has gotten grant money to put a sidewalk down this side of Union Street. So right now the issues all have to -- all deal with that, rather than the intersections or the geometry or whatnot. So it is basically I'm dealing with sidewalk issues and railings and easements and stuff. But I think it is all minor stuff that is going to be turned around real quick.

MR. BRANDT: D.O.T. is motivated to get those improvements done because they're going to finish most of their project this fall, and if our project isn't underway, they will have to spend some more money to kind of finish that -- the end of their project. If we're not there to pick it up, they have to finish it, and then when we come back in the spring, we rip it out and finish it. So you would think there is some motivation there to try to finish it.

KAREN COX: One would think so. Sometimes it doesn't happen. That is all I had.

RAY BLEIER: How many lanes is Union Street at that particular intersection?

MR. GARY SMITH: It is going to be -- on this side (indicating) of the intersection it will be three. On this side (indicating) of the intersection three also. It will be a left-turn lane in. This is two lanes (indicating). Left-turn lane, right-turn lane, and straight through. And I think there is a straight through and a right-turn lane.

RAY BLEIER: Finally, we're getting there. I'm not writing this off yet.

JAMES MARTIN: Obviously, we're essentially working on the site plan for the road tonight. As you move forward with any other development plans, it will require resubmission of new site plans, okay, to the Board for whatever future activities you may have over there.

JAMES MARTIN: Pending Town Engineer approval, right, Larry (Nissen)?

LARRY NISSEN: Right.

#### COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS - 31 Stuart Road

MS. BORGUS: The only thing I would have to say is it is about time. This road was supposed to have been put in five, six years ago at Mr. Brandt's expense. So now it is at our expense, the taxpayers mostly. But it is high time it got done.

KAREN COX: What road is at taxpayers' expense?

MS. BORGUS: The intersection. There is a grant.

Jim Martin made a motion to close the public hearing portion of this application, and John Nowicki seconded the motion. The Board unanimously approved the motion.

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

Jim 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.

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

1. Pending approval of the Town Engineer.

Note: Though not a condition of approval, the Planning Board requested the applicant provide an affidavit that the public notice signs pertaining to this application were properly posted. The applicant should also note that it is their responsibility to insure that the public notice signs are properly maintained.

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

5. Application of Jay Rund, 127 Railroad Street, Rochester, New York 14609, property owner: N. Ball and D. Graczyk; for preliminary subdivision approval to combine three lots into two lots to be known as Union Station Industrial Park Subdivision at properties located at 3457, 3497 and 3501 Union Street in G.I. zone.

FOR DISCUSSION:

1. Jay Rund - proposed industrial park at 3457, 3497 and 3501 Union Street in G.I. zone.

JAMES MARTIN: We're dealing with the subdivision on the property. Any entitlement of the Board that can go on during the application for the subdivision, as to what may be happening, I think we would like to hear that and then if there is discussion left at the end tonight, we'll carry on at that point in time.

Rob Fitzgerald and Jay Rund were present to represent the application.

MR. FITZGERALD: Certainly the two projects are linked. Here our main purpose is we would like to proceed with subdivision approval, but it is completely tied to what we're also proposing for under discussion, which is to purchase these -- my client has purchase offers on these two parcels (indicating) -- actually three parcels, and he is looking to subdivide out roughly a 7 acre parcel. The reason for that land would be to construct storage units on that. I'm not sure how far you want me to go tonight.

JAMES MARTIN: That was indicated in your letter of intent. We also have site plan showing approximate location of storage buildings and all that.

In your letter of intent, it is stated it wasn't an allowed or permitted use in a permitted zone. I have studied the zoning code quite diligently, and several other people have, too. Having a little trouble in how we make an assessment of that as a permitted use in a General Industrial zone because I cannot find where it is a permitted use in a General Industrial zone to have mini storage in that type of zone. So I mean I know there are, you know -- the Board can debate whether it is similar to, you know, other -- you know, permitted or conditionally permitted uses, but at this time, I find nothing in there that says it is a permitted use. So I just wanted to clarify that, you know, from that position standpoint. Maybe we can get into that further when we get into the discussion issues, but I wanted to get that right up front.

MR. FITZGERALD: Obviously I don't have the code book in front of me to show how we're determining it was a similar use.

Jay (Rund), did you have a comment on that?

MR. RUND: The only comment I had, from my understanding, it was permitted in a Light Industrial zone and any Light Industrial zone, it is also permitted in General zone.

JAMES MARTIN: I read the Light Industrial zone because anything permitted in that is permitted in General, but I cannot find it in Light Industrial either. So I think there is an issue that is before the Planning Board as to whether or not something of that nature would go forward with the zoning conditions that exist in that particular area. I don't know what impact that has, you know, on your plans, you know, your options that you may have in place to purchase the property. And I guess what we would like to do is hear, I think, in more detail what you might have planned for further down the road, as far as an industrial park goes so that the Planning Board has a better understanding of where we may be ten years down the road as opposed to a year down the road or something like that.

So anyhow, I just wanted to lay that out in front of you at this point in time.

I will go to the Board at this point for issues and questions.

RAY BLEIER: Are we just going to consider the subdivision?

JAMES MARTIN: Yes. It is difficult to disconnect the two, but at this point, the public hearing is on the subdivision.

RAY BLEIER: Well, are you planning in the future to resub? You're talking three lots now. I see a concept plan here, and all of a sudden I'm seeing 12 lots. And -- plus the two Nina Ball parcels.

MR. FITZGERALD: Right. The immediate plan was to sub out the seven acres and then in the future, yes, still talking over some issues with both the State, the owner of the railroad tracks to actually develop the remainder of the land for industrial park. So there has been the beginning of conversations. That is still being explored.

MR. RUND: The small subdivision map, maybe I can add to that. The subdivision map that you're looking at, that contemplates resubdividing the entire balance of the 78- or 75-acre plus parcel that is remaining after the self-storage site is developed. At this time, the back 40 acres of it is encumbered by a farm lease that is in place with the current owner of the property until December of 2006, which would, of course, preclude any development of that area. We have communicated with CSX and have secured tentative approval for -- in fact, their Engineering Department has provided us with several possible ways to obtain rail access in the back of the site. I will be happy to circulate this among the Board members so they can look at it.

We have not made any attempts at this point to market the balance of the property beyond the self-storage site to any party directly. For several different reasons. We're in communication with the State D.O.T. office out of Spencerport to find out, A, if -- what -- what steps would have to be taken to close off the guardrail that would -- apparently was given as a concession to the current property owner when they constructed the bridge over the railroad tracks there, and at that point took away basically all of his grade level frontage from Union Street. So it appears as some compensating factor, they opened up a third entrance to the property near the crest of the railroad overpass and created a steep incline to his property, which when you're considering the fact that we're adding grade level frontage again by purchasing all three of these properties, the need for that incline would go away, obviously. It would be our intention to find out how we could remove that incline so we could further develop the front of the property which we can sell or entertain possible buyers for well in advance of the December 2006 deadline of the back 40 acres.

We have not made attempts, as I have said, to do so at this point. There are tax ramifications and our intention right now is to focus on the development of the self-storage facility, which would -- if everything goes well, we anticipate being able to start on this year, and then focus on getting that finished and then we can begin marketing the balance of the property. But I have no specific buyers in mind. I'm certainly looking forward to working closely with the Town, with the railroad. There is an economic development department that has expressed an interest in helping us find viable tenants for the back, to a concept such as this, and we're certainly going to bring that out into the market when the time is appropriate.

But I'm a resident of Chili myself. I have been since 1993. I have a vested interest in seeing that -- and again, taking the Master Plan for 2010, which I did have a chance to review. It looks as this is potentially the cradle of industrial development in Chili, and that had anticipated the addition of the sewers that were just brought out there and extended in January of this year. So we're going to be taking all this in mind.

We're also working with Greater Rochester Enterprise to try and determine the proper ways to get some very substantial industrial development in that site over the long-term.

RAY BLEIER: What about the businesses that are being conducted right now in that front building there?

MR. RUND: That building, we intend to take that building down. Obviously we'll apply for a demolition permit from the Town. We take that building down. As far as I know, there are two businesses in there, automotive business and some kind of construction company that is operated by the owner's son. That building will be coming down. Let me just say our intention here is to develop a very high profile state-of-the-art self-storage facility fully automated to the degree that there would be security cameras and the proper lighting and the front buildings and the office building that would basically replace the existing automotive building would be very high quality.

RAY BLEIER: So that --

MR. RUND: Those businesses would go away.

RAY BLEIER: So it would act as screening for the storage unit.

MR. RUND: I don't understand the question.

RAY BLEIER: Are you building a new building in the future?

MR. RUND: We would take down that building and put up a new building which would house the office and which would have several adjoining units. We anticipate that they would be made out of a very high quality concrete, textured concrete.

RAY BLEIER: It looks like your storage buildings then are behind it.

MR. RUND: That entire complex is a mixture of offices and storage buildings.

MR. FITZGERALD: Similar in design (indicating).

MR. RUND: I should clarify, Ray (Bleier), that is all one building currently, the existing automotive building. It just has like seven bays I believe in it, seven working bays. The tenant that is in there now in the automotive company has a month-to-month lease. Part of the purchase offer is that they would be -- they would have 30 days' notice to vacate the property before title transfer, which I would anticipate being late July, late August, sometime in that time frame.

RAY BLEIER: What about Don Ball, the son there, the construction business? Is that still going to continue?

MR. RUND: No. There would be no multi-use of the property beyond self-storage and possibly some kind of truck rental agency, as well. That again we would have to -- in working with the architect that will be developing the site with us, we would have to present that to the Board.

RAY BLEIER: Is there a time frame when he might be asked to leave.

MR. RUND: He again would have to be notified 30 days prior to the transfer of title and he would have to vacate the property at that point. He has no long-term lease, and he is well aware of the sale that is in process here.

KAREN COX: I must say it is nice to see that somebody is coming up with new ideas for this piece of property that has given us headaches over the years. I appreciate the effort that you're putting in it. I'm not real thrilled with the self-storage idea only because to me even in -- even the ones in the catalogue are not real attractive. I know that area now, we could say there are a lot of buildings that are not attractive, but we want to try to bring something in that doesn't look ugly.

JOHN HELLABY: How big are some of these? If I recall right, somewhere in your literature I read you're going to store motor homes and large boats? Are we planning on storing that stuff outside?

MR. RUND: That would be possibly in the back of the property, but we haven't made that final determination yet. We have not done any of the architect -- we have not proceeded with many of the architecture designs yet simply because our environmental study of the property will commence next week, and we believe there is no adverse environmental conditions that exist there that couldn't be remediated, but if there are, there are certain triggers in the purchase offer that the seller has a determination to make whether or not they will remediate them or how the cost for remediation would be split. We don't know what we're facing with that yet.

If there is an adverse environmental problem like the tanks that were dug up in Mendon that we don't know about -- fairly recently -- we wouldn't want to get involved in great architectural expense until we found out the answer to those questions.

JOHN HELLABY: What kind of commitment do you have on the purchase of this property? How far are you into this?

MR. RUND: We have a fully executed purchase offer with up to 75 days of due diligence allowed which basically would be the processes of the environmental survey that we're going to be commencing with next week. Municipal approvals, and those two things, dovetailed together would allow us to get our mortgage commitment, which we would have several lenders ready to give us that once these issues are more fully explored.

JOHN HELLABY: That is enough to get through all your design proposals to the Board?

MR. RUND: The 75 days mostly encumbers the environmental. We have much more time to get the Town approvals.

JOHN HELLABY: I guess what I'm getting at is, after you get your environmental approvals, you make a commitment to buy this, and then you have to come back in with plans to the Planning Board, and what happens if you don't get those proposed plans that I don't know about yet through the Planning Board?

MR. RUND: Our offer is contingent upon getting all of the municipal approvals for the self-storage.

JOHN HELLABY: Is it more than 75 days?

MR. RUND: We have to be in before the Town within 75 days to start the process. We fulfilled our obligation by having all of the engineering done that is necessary to get into the Town to start the process, which is why we're here tonight. But there is no time limit in terms of actually requiring the final approval from the Town.

JAMES MARTIN: Getting back to my original question as far as the storage, I understand it is up in the air, but like I said, somewhere in your literature I read about storage of motor homes and boats and such. Is it your intent to have those stored in these buildings, or outside these buildings?

MR. RUND: It is our intent to store them there. Certainly some of the units would be large enough to store them. Whether we have outside storage available, again, will be a function of the final design. If we do some in and ask for some outside storage of these vehicles, it would certainly be in the back of the property.

JOHN HELLABY: Right now your concept is not one-size-fit-all similar to what Frederico did on Scottsville Road? If I recall, all those buildings are the same height. They might be bigger inside, but the whole thing is one level. You might have higher buildings?

MR. RUND: First of all, all of the buildings will be one level. No multi-story buildings, but there will be different size units. I would anticipate some could possibly be as small as 5 by 5 and some could possibly be as big as 10 by 30. Is that going to create height variations between the buildings, I'm not sure. It will be a product of architectural renderings and I'll get into this with our architect and coming again before the Board for your review.

JOHN HELLABY: Lastly, time frame. I mean should you get your approval here tonight on

the subdivision. As I said, I don't have a problem with that portion of it. You move forward with your design on your storage sheds and whatnot. Buildings. I shouldn't say sheds.

What is the time frame in removing that existing building that is there? Will you have this other thing all in place before you address that? Is that coming down first?

MR. RUND: The way I anticipate it will work is if we got the subdivision approval, and again, it is going to be also contingent upon how our discussions go tonight and I hope they're positive. I look forward to working with the Town on this. The next step would be to have this environmental work commenced next week. June 20th. The time frame on that, assuming no major situations, would be somewhere between 14 and 21 days before we would actually have a rough draft report. If it appears at that point there are no major adverse environmental conditions we would have to deal with, we would have our architect start working diligently on preparing to come into the August meeting for at least preliminary Planning Board approval. We don't anticipate any plans that would require any zoning variances except for what Mr. Martin mentions. If this becomes an issue with what is self-storage, I guess -- really it's a definition, because these zoning codes were really written before self-storage became the kind of industry it is now. And the demographic studies that we have done on this particular site here indicate based on national averages there is a tremendous need for self-storage. There is none within three miles of the site, and typically the basic rule of thumb is you take a -- you pinpoint your site, draw a 3 mile radius around that site. You count the number of population in there, which is approximately 21,000. Then you subtract the current square footage that serves that area, which is zero, and then multiply that by a factor of 4 and 6 feet, which indicates a need for a minimum of 80,000 square feet of storage in the area.

JOHN NOWICKI: I assume you have done a market study?

MR. RUND: I have done a market study based on my experience in the industry as well as all of the work I have done recently becoming involved with the national leadership of the self-storage industry, and attending meetings in Philadelphia.

JOHN NOWICKI: Is that study available?

MR. RUND: Not a formal study. It applies the demographics and applying the factors I mentioned, which are the industry standards, a base minimum of 4 square feet per person, and living in the Town and knowing there is certainly a demand for it.

Also being aware that there is at least four or five other people that may be contemplating developing storage down the line in Chili because there is none. The saturation point for storage in this area is extremely low as compared to what you have on the east side of Monroe County.

JOHN NOWICKI: The project itself is basically predicated on you going -- coming in here for self-storage. The rest of it, the land area, the concept there, you don't have any idea there?

MR. RUND: The concept there -- I should preface this by saying I have been a commercial realtor in Rochester for 20 years. I have been involved with the development of many different types of commercial buildings and whatnot. I have sold a lot of land here in Chili, as well.

I'm quite confident based on the reception I have gotten from -- for instance, the CSX Economic Development Department, by communicating with certain people in the Town of Chili. I had a meeting with Supervisor Logel already on this. Several Town Board members I have also spoken with who I know on a personal basis, they have all expressed quite a commitment to marketing this property in an intelligent way that will help the Town over a long-term.

I also mentioned Greater Rochester Enterprise. Extremely concerned about drawing new business to this area, and I'm certainly going to reach out to any other types of economic development incubators that would help us find the right people to operate on this property of an industrial nature.

JOHN NOWICKI: Right now the self-storage units I'm looking at here, from a planned view, look very typical from what you see in other parts of the county.

MR. RUND: I should say this, John (Nowicki), though, that we hope to build the nicest one in the County here in Chili.

KAREN COX: Good answer.

JOHN NOWICKI: There is a need from what I can see around the area, depending on what the Town does with the zoning codes again, for these parking -- parking these mobile homes in the front yards of residential areas, or trailers and things like that. Now, whether this Town moves forward on getting the codes changed quickly enough in the near future to control these things, then the opportunity presents itself for storage of mobile homes, boats, boat storage, or the large motor homes.

And again, I have seen places like that on the east side. And -- even outside this county, in

the eastern counties. Obviously those towns have zoning codes that restrict certain vehicles from being parked in your front yard. And if we move in the right direction, we might see a great need for that type of storage.

MR. RUND: If you were going to prohibit people from parking such vehicles in their driveway, you would have to offer them alternatives. We would certainly like to fill that role. Certainly.

JOHN NOWICKI: If it is done right -- the ones I have seen could have been done better as far as the layout and protecting the environment, aesthetics, so that you protect that. But the architectural treatment of these things, the best one we have ever seen, we want to look at that to see how it looks.

DENNIS SCHULMERICH: I will be interested to see how we proceed around zoning. I believe it is not approved for this application. If we do proceed with this -- if you have been involved with the self-storage industry, you may be familiar with Sure Guard. They -- you talk about architectural integrity. I would prefer to see diagrams and images that relate more to something that Sure Guard puts up. So if this proceeds, you can expect at least from me a lot of questions about architectural integrity. I won't be interested in steel buildings with a business shed up front.

I'm not a real advocate of these. I also understand the need for them in the Town. But we're going to have to have some demands for architectural integrity above beyond what you show us today.

MR. RUND: I appreciate everything you're saying about Sure Guard, which is a national corporation that operates mini storage at approximately 1800 sites around the country. And most of what Sure Guard has built over the years has been through acquisition, and they're buying in numbers. So many times they do buy substandard properties. They rarely build them.

I live right around the corner from this facility. I really feel the Town needs it. I will certainly be interested in making it the best it can possibly be, both from an operational standpoint and cost effective standpoint and offering valuable service to the Town.

One other comment, and you know, several people have mentioned the zoning already. We were not able to find anything that did allow self-storage, and again, because it is a relatively new and just becoming institutionalized industry, perhaps when the zoning codes were last updated, it still wasn't on the radar screen of being something that had to be specifically addressed in the Town code. The closest thing we could find in our study of it was storage and warehousing which I believe is allowed in the Light Industrial zone.

JAMES MARTIN: And in the Airport Overlay District. That is very specific. Actually that was rescinded in 2000. So you know -- by local law. So there are some issues that will have to be addressed. There is going to be some major discussions about use variances and all of that, if this actually goes forward. This is a code we have. I mean whether mini storage or self-storage was on the radar scope, I can't do anything about that. I mean this is a code we have.

MR. RUND: I understand. We have to figure out where it fits.

DENNIS SCHULMERICH: My final comment is more around outdoor storage and how we manage that. I think we have a significant issue with the number of recreational vehicles being stored in the Town. It is turning out to something people never anticipated. I do see a value for a storage facility for that, but again in a way that it maintains the integrity of the area the storage is in.

JAMES MARTIN: We would want to incense people to store them in there by changing the codes saying you can't park them on your driveway.

DENNIS SCHULMERICH: I am probably making more comments than questions, but for your edification, when you come back, at least for me, you're -- if this proceeds, you will hear a lot of questions around visual integrity, integrity of the business, impact on the area. Not minimizing the fact there may be a need for this, but-- we may hear there are other buildings in the area that are not attractive. The fact of the matter is if we approve new buildings based on the attractiveness of existing buildings, we do nothing to improve the quality, caliber of the Town and you have been a strong advocate, too. I appreciate your view. The proof will be in the dialogue and drawings we see.

MR. RUND: I look forward to presenting plans to the Town that the Town can be proud of.

DARIO MARCHIONI: In the full development of this mini storage or this area you will subdivide, what do you submit that the cost -- I mean how much money will you invest?

MR. RUND: Um, the cost per square foot to building these is approximately 30 to \$35 per square foot.

DARIO MARCHIONI: The whole project?

MR. RUND: The way we have it laid out, it's anticipated 70,000 square feet, so approximately a 2.1 to \$2.5 million construction project, exclusive of land costs.

We would also anticipate building it in stages. Industry standards have always pretty much dictated you build approximately a third of the project. As it approaches full lease up, you build another third and Phase 3 would be the final third of the project. So the total cost over those -- the phases are determined by how long it takes to lease them up. I can't give a time frame for it, but it will all be within a structure plan we have with the Town. But that is the best answer I can -- I have for you. Somewhere between 2.1 and \$2.5 million, I would guesstimate.

DENNIS SCHULMERICH: Your plans, you bring it in, would be proposed in phases?

MR. RUND: A plan for the entire project with the timing component associated with the different phases based on occupancy percentage and so forth.

JAMES MARTIN: Just about the self-storage portion of your plans?

MR. RUND: That's correct.

DARIO MARCHIONI: The front building is first to go up?

MR. RUND: Absolutely. The existing building comes down and front building has to go up right away, as well as probably 100 to 200 units, somewhere in that range right behind that.

JAMES MARTIN: I have a couple of comments. First of all, I have a concern -- I don't have a concern about the subdivision issue. Combining the lots. I do have a couple of concerns, though, regarding the fact that the Town has spent a lot of money bringing sewers into that area for the intention of providing sewer access so we could develop that from a Limited Industrial, General Industrial standpoint. Mini storage doesn't need any sewers. It seems like we would be expending a fair amount of land for something that doesn't require sewers. Is there a better potential use for the property, from a long-term planning standpoint? That is a concern I have.

I mean you could run a self-storage facility with a septic system. You don't need industrial sewers.

MR. RUND: I agree.

JAMES MARTIN: Granted, there certainly is a need for self-storage in Chili. I don't deny that one bit. I have a certain about the location. Union Street is one of the major portals into the Town. With the growth of Roberts Wesleyan College, we get a lot of out-of-town exposure up and down that road, and getting rid of the eyesore over there now certainly would be a benefit to the Town, there is no question about that.

But, you know, being in commercial real estate, you're familiar with Canal Ponds, I'm sure.

MR. RUND: Absolutely.

JAMES MARTIN: I mean I personally have a vision -- when I go up that hill, over the railroad, CSX and I look at that property that you're proposing to do something with there, it is a gorgeous piece of property with the trees and everything that exists on the site at this point in time. You know, I vision in my mind a mini Canal Ponds being put into that particular location which would bring in a mixture of maybe some service industries, some light industrial, some high tech.

MR. RUND: I share that vision as well, Jim (Martin).

JAMES MARTIN: Okay. And you know that will take, you know, a fair combination of things to come to together to make something like that happen.

And you know, having the mini -- a self-storage facility in the middle of that, is that really what we want to have? Long-term? And I know in some discussions I have had, sometimes the self-storage facilities are built up front to get cash flow going on a piece of property and eventually they are torn down because there is a better utilization for the land. I don't know if that is in your long-term thought process at all at this point in time.

But, you know, I just feel very strongly that, you know, that piece of property has such an enormous potential. I can envision ponds, fountains, nice roads. I don't want metal-sided or cement block buildings in there with machine shops, something like that called an industrial park, but it looks like some of the industrial parks we see in other areas around the County.

MR. RUND: I would rather think technology park would be a more appropriate name.

JAMES MARTIN: I would think something along that line would certainly be much more appropriate for the site, because it just --

MR. RUND: That is just nomenclature, the Union Station Industrial Park. We're considering several names for the plans of the development, and the one that is top on our list right now is Union Square Commerce Center.

JAMES MARTIN: It is -- certainly the resources to make something like that happen are not going to be trivial.

MR. RUND: Absolutely not.

JAMES MARTIN: From my perspective any ways. And, you know, as we move forward

with this, you know, if we went ahead and did the self-storage thing, but then the resources aren't there to do the rest of the development, all right -- in a way that really is an asset to the Town of Chili, okay -- I'm going to have a real problem, okay, with this whole situation from not only the short-term, but the long-term prospective on what is going on over there. I just wanted to share that with you, because obviously the -- they're personal thoughts, but from a public perspective and Town of Chili perspective, we have an opportunity. I don't want to blow it. I don't want anybody who gets associated with that particular piece of property to blow it because the potential is great. And, you know, so I just wanted to get that, because, you know, we're into the discussion part of it at this point.

MR. RUND: I certainly share your feeling. I don't have tunnel vision regarding the property. Again, being involved in commercial real estate, I know there is an extreme shortage of commercial land right now in Chili Center. I know there is a great feeling among residents, including myself, we need a good restaurant in Chili somewhere, for instance, instead of having to go to Gates or Henrietta to eat. And so we have contemplated possibly building -- coming to the Town and seeing how they would feel about, for instance, a plaza up there. Again, without opening a Pandora's box, requiring a plethora of zoning and whatnot. But we certainly look at the rail access, again, as another feature of the property. My goal there is to add value and consider that again the cradle of industrial development here in Chili. But not just industrial. I see it, you know, possibly becoming multi use development.

JAMES MARTIN: My allusion to the Canal Pond concept, that certainly -- that is absolutely gorgeous over there. That is -- you know, as a mixed development, commercial development area, certainly from the Town of Chili's perspective, I was -- I would love to see something, you know, of -- maybe not quite as elaborate, because it is not --

MR. RUND: Thousand of acres -- well, 82 acres all together.

JAMES MARTIN: You still could build something that has that concept. I mean that is where I would be looking for this thing to go long-term. And, you know, so I -- I think we would be really looking carefully at the resources behind it to make sure we don't end up with a railroad site and a couple of machine shops or something like that.

MR. RUND: Right.

I notice that you said having the self-storage facility in the middle of it. It is actually way off to the side of it. And it appears that, again, from a real estate perspective, um, this takes up less than 10 percent of the total development, and it is probably the highest and best use based on the capitalization rates that these type of facilities are enjoying at this point. I believe it is probably the highest and best use for that particular part of the property.

And let me just give you a little background how I got into this. Again, I own several storage facilities around in downtown Rochester. I have a passion for the business. It is really where I want to put my efforts over the long-term. In addition to real estate. You know, I have been in the restaurant business for many years. I certainly want to get out of actively being involved in that and focus on the development of storage and these type of uses.

I checked with other property along Union Street between 490 and Buffalo Road. I worked very carefully with people within the Town to find out, you know, what zoning would you want to have something like this, and we looked at the zoning book. It didn't specifically say self storage, because again it wasn't really an industry then, but the closest thing that came to it was storage and warehousing, and we realize that we didn't want to go into some residential area. We are even looking initially at areas around the ball park on Ballantyne Road. Flood zone.

We wound up coming to realize we would have to find a lighter industrial zoned property somewhere in this area that is not encumbered by a flood plain like that area is. I have spoke with every property owner down there and didn't intend to get into a situation where we had 70 acres for say of extra land to develop, but as I looked at this project and realized that the 78 acres of Industrial, which has been on the market for many, many years as you can tell by the age of the sign, didn't have any grade level access to Union Street, but combining the properties like this allows us to provide approximately 200 feet of grade level frontage to the 78 acres which is what really opens it up to potential development. Because the incline that the State intended to give it to the State for access is totally unusable.

FRED TROTT: Just on sight distance for the entryway, has that been looked into?

MR. RUND: I'm sorry?

FRED TROTT: The sight distance for the entry way where you propose to have this come out on Union Street?

MR. RUND: We would use the existing entrance to the Chili Automotive property. The other -- the northernmost entrance that currently is owned by the Chili -- by Nina Ball, which is

basically a capped off asphalt area, would be -- that -- that would be coming into the -- coming out of this current subdivision into the large parcel, and that would be a grade level access to the balance of the property, with approximately 75 acres. So the existing entrance that is there now, which is right across the street from the Union Street extension around the back would remain, and we feel that is the best place for it, because it is already there. It is already across from the other street. I couldn't create a staggered entrance situation over there, and it would be best for the storage facility as well to have a private entrance.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

Jim Martin made a motion to close the public hearing portion of this application, and Karen Cox seconded the motion. The Board unanimously approved the motion.

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

Jim 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.

DECISION: Unanimously approved by a vote of 7 yes with no conditions.

During the related discussion between the Board and the applicant as to potential uses of this property, there may be an issue with the proposed self storage facility outlined in the information packet the Board received. Approval of the subdivision does not imply approval of said proposal.

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

INFORMAL:

1. Application of Kevin Sands, owner; 4131 Union Street, North Chili, New York 14514 for final site plan approval to allow a glass repair business in detached garage at property located at 4298 Union Street in A.C. zone.

Brian Sorochty was present to represent the application.

MR. SOROCHTY: Brian Sorochty with DDS Engineers here on behalf of our client Kevin Sands. This project was last before the Board in April where we received a conditional preliminary approval. Since that time we have revised the plans and resubmitted them. We believe those revised plans satisfy all those conditions.

Additionally, we have also obtained Monroe County Water approval, Health Department and D.O.T. approval. The only outstanding issues as far as I can tell are from a fax I received from Mr. Nissen on Friday. And they regard the requirement of the filing NOI as well as compliance with New York State Phase 2 requirements as it relates to sediment erosion control. We have discussed this several times and we're both in agreement on what needs to be done.

JAMES MARTIN: So you're moving ahead with the NOI.

MR. SOROCHTY: Yes.

JAMES MARTIN: And the SWPPP?

MR. SOROCHTY: Yes. The storm water pollution prevention plan, when you have a residential use, it -- when it falls between 1 and 5 acres, it is sediment erosion control. But it is still considered a SWPPP. But that will be kept on site during construction.

JAMES MARTIN: Petition has been filed for the drainage district. We have addressed the SPDES issues. I know that the automobiles have been removed. Conservation Board has approved the landscaping plan.

Dark sky lighting applies with any outside lighting.

MR. SOROCHTY: Right.

JAMES MARTIN: You have satisfied all of the County Comments. I understand Joe Carr has no drainage easement requests.

MR. SOROCHTY: That is correct.

DARIO MARCHIONI: Joe Carr says he doesn't need one.

MR. SOROCHTY: He stated he has no desire to have an easement. He doesn't want an

easement.

DARIO MARCHIONI: Will he put that in writing?

MR. SOROCHTY: I can certainly call him and ask him to put it in -- I have a saved voice mail message. That is about all I have.

DARIO MARCHIONI: We need this in writing.

JAMES MARTIN: We need to be -- he informed me directly he did not require an easement.

DENNIS SCHULMERICH: Based on the comments we made at the last meeting and follow-up, everything has been delivered based on what I can see. No questions.

RAY BLEIER: My only comment was I was surprised he had to come back a second time.

JAMES MARTIN: There were issues that needed to be resolved.

Jim 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.

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

1. Pending approval of the Town Engineer.

James Martin reminded everyone present that there would be another Planning Board meeting next Tuesday.

The meeting ended at 10:20 p.m.