

A meeting of the Chili Planning Board was held on September 16, 2004 at the Chili Town Hall, 3333 Chili Avenue, Rochester, New York 14624 at 7:00 p.m. The meeting was called to order by Chairperson Jim Martin.

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

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

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 James Martin, owner; 710 Morgan Road, Scottsville, New York 14546 for renewal of conditional use permit to allow a landscaping business at property located at 710 Morgan Road in A.C. zone.

JIM MARTIN: For everybody's information, there is no relationship between this James Martin and this James Martin.

Is the applicant present?

JAMES MARTIN: I am. James Martin, 710 Morgan Road, Scottsville, New York.

JIM MARTIN: Basically you're coming back before the Board for a renewal of a conditional use permit that was originally granted to you back in May of '01, I believe.

JAMES MARTIN: That's correct.

JIM MARTIN: At that time, there were several conditions that were included. Most of these have been met or all of them have been met, as far as I'm concerned.

Any changes in the aspect of your business that would cause us to have any concern about renewing this conditional use permit?

JAMES MARTIN: No.

JOHN HELLABY: Only question I have is that berm that was added sort of halfway back on the lot, that is to have the 4 to 6, 8 foot --

JOHN HELLABY: This berm that was supposed to be added per the agreed upon landscape drawing?

JAMES MARTIN: There is a berm there.

JOHN HELLABY: I believe, but I do not believe the trees are there.

JAMES MARTIN: The weeds are taller than the trees. It needs to be mowed.

JOHN HELLABY: It says 6 to 8 foot.

JAMES MARTIN: When they were planted, they were less than that height, to be honest.

JOHN HELLABY: But they are in there?

JAMES MARTIN: Yes.

JOHN HELLABY: What are we doing about cleaning that up?

JAMES MARTIN: It needs to be mowed.

JOHN HELLABY: And when is it on the agenda to be mowed?

JAMES MARTIN: Probably in May it was supposed to be mowed. As soon as possible.

JOHN HELLABY: I will let the Conservation Board address that problem.

JOHN NOWICKI: I would like to continue on that subject for a minute. One of the conditions was submit landscaping plans, signed and sealed by a licensed landscape architect to Conservation Board for review and approval. Charlie Robinson, was that completed? Did you ever receive landscaping plans for this project, signed and sealed?

CHARLES ROBINSON: I'm just checking that now. Please give me a second.

JOHN NOWICKI: While he is looking into that, are you still adhering to Condition Number 4, no outside storage of business-related equipment or materials?

JAMES MARTIN: No. I have a piece of equipment sitting outside right now, actually behind the barn that is behind the house. So I guess I'm not adhering to that rule.

JOHN NOWICKI: We're going to still want that rule --

JAMES MARTIN: I have a small problem with that. The barn that I built, the doors don't accommodate that piece of equipment. It is higher than the doors and I purchased the piece of equipment since I built the barn, so I guess I'm up to recommendations what I should do about that.

JOHN NOWICKI: Well, I feel more comfortable if -- when Mr. Hellaby asked you the question where those trees were, how come they didn't get planted according to the plan?

JAMES MARTIN: There was a stipulation, and it was so long ago I don't recall who I talked to about, that I didn't have to have plans stamped by a landscape architect, and they're plans drawn up by myself.

JOHN NOWICKI: But here is the approval.

JIM MARTIN: That was one of the previous conditions.

JOHN NOWICKI: If that condition was not met, then -- you know, I'm just a little concerned of what direction you are going. Overall, it looks pretty good, but if we don't get it cleaned up, and get the landscaping done -- you're in the business; is that true?

JAMES MARTIN: I am, but I'm not an architect.

JOHN NOWICKI: I would think you would want to advertise your business in the best way possible. No better way than doing it on your own property. Do you live there?

JAMES MARTIN: No, I don't.

JOHN NOWICKI: You don't live there. Without you living there, you have to pay more attention to it.

JAMES MARTIN: Okay.

JOHN NOWICKI: Have you found anything out, Charlie (Robinson)?

CHARLES ROBINSON: Yes. He is all set. He has been approved.

JOHN NOWICKI: Did he have to plant those trees at a certain height?

CHARLES ROBINSON: That I cannot answer. I would have to check.

JOHN NOWICKI: I would like it checked so we get what we wanted back in those days.

CHARLES ROBINSON: You're requesting the Conservation Board do a formal check and follow up?

JOHN NOWICKI: Absolutely. I want to make sure that they did what they were supposed to do on those plants. Thank you.

DARIO MARCHIONI: Jim (Martin), you do have a nice-looking building back there. I see that big huge machine, that is actually hidden between the building. In fact, I didn't see it until I was driving back out of there. It is a huge monster.

JAMES MARTIN: It is large. I don't know how I should follow that rule, if I have to build a building to cover it.

DARIO MARCHIONI: Do you have plates on that machine?

JAMES MARTIN: No. It is towed from my place to a parking lot and it is not intended to drive down the road.

DARIO MARCHIONI: It keeps moving? It will not --

JAMES MARTIN: It sits there probably during the summer months and springs -- the fall, winter, spring it sits at a parking lot in the city.

DARIO MARCHIONI: For snowplowing?

JAMES MARTIN: Actually, if the Town had a problem with the machine sitting there, I would

understand it and I could actually keep it at the city year round. That is one of the options.

JOHN NOWICKI: I don't think we have any complaints on it from your neighbors or anybody. Has anybody complained about it?

DARIO MARCHIONI: It does look like in the back you have a good building. You keep it pretty clean except a few little piles of stones.

JAMES MARTIN: We try to. We have had a really busy year.

JOHN NOWICKI: That's good.

JAMES MARTIN: A ridiculously busy year.

JOHN NOWICKI: Going down to Florida?

JAMES MARTIN: No, thank you.

DARIO MARCHIONI: The building, what do you keep in that building?

JAMES MARTIN: There are the trucks that we use for work and then various equipment that consists of a Bobcat and other landscaping tools, lawn mowers, hand tools, string trimmers, blowers.

DARIO MARCHIONI: Any fertilizers or anything toxic?

JAMES MARTIN: No. We're in that business. I have a friend that runs a golf course and we store everything at his golf course.

KEITH O'TOOLE: In light of the conversation, perhaps a condition on the permit making it subject to a code compliance check to verify conformance with the approved plan dated July 6, 2001 for the landscaping. Nothing further.

DANIEL KRESS: Only thing I would add to Mr. O'Toole's comment is you might want to think about attaching a specific date for completion of anything that would need to be done for that, because, frankly, as soon as possible is not an enforceable deadline. I don't know what that means. I don't know if that means a week or a year, so I would suggest a date.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS - 31 Stuart Road

MS. BORGUS: The original conditional use permit, if I understood correctly, was in May of 2001?

JIM MARTIN: That's when the letter was dated, yes.

MS. BORGUS: It was for how long?

JIM MARTIN: Three years.

MS. BORGUS: Well, this is September. I'm wondering how we go from May when a conditional use permit runs out to, you know -- strings it out then to September? How does this happen? I thought we had a computerized system in the Building Department and when these came up, people were notified and this wasn't the situation that existed as it has in the past.

DANIEL KRESS: Mr. Chairman, would you like me to respond to that?

We do have a computerized system and do send out notifications and if people don't respond instantaneously, there is not a lot I can do about it unless I continually chase them and take them to court.

MS. BORGUS: Maybe the Planning Board should bear that in mind, Mr. Martin did not run in here when his time was up.

JIM MARTIN: Were there circumstances why you were late?

JAMES MARTIN: I was pretty timely. I missed the meeting for August by one day, and I think the renewal was sent to me -- I don't remember when.

JOHN NOWICKI: Probably June or July.

JAMES MARTIN: I don't recall stalling or actually putting up time to get in and go for any renewal.

MS. BORGUS: My suggestion would be the Building Department does these in a timely fashion. If these run out in May, they should be notified in April so we stay on time.

The other question I have, is there an office space or any office work done in this -- on this property?

JAMES MARTIN: No.

MS. BORGUS: Thank you.

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

The Board discussed the proposed conditions.

JOHN NOWICKI: Can you comply with those requests on the landscaping drawings within 60 days?

JAMES MARTIN: Absolutely.

JIM MARTIN: That will be 60 days from when you receive the letter.

JAMES MARTIN: Not a problem at all.

JOHN NOWICKI: We need a notice of compliance back.

JIM MARTIN: From the Building Department?

JOHN NOWICKI: Yes. Conservation Board or Building Department.

DARIO MARCHIONI: Five years next?

The Board discussed the proposed conditions.

DENNIS SCHULMERICH: I have a question regarding compliance and outside storage. Are we suggesting by complying to code, Item 4 will be adhered to and he won't have outside storage equipment?

JIM MARTIN: I think that is what we're saying. So one way or another that has to be rectified. That was condition of the original use permit.

JAMES MARTIN: If I ever wanted to change that, do I have to come back in front of the Board and go for that condition to be changed?

JIM MARTIN: You would have to request a waiver or change, you know, to that original condition.

KEITH O'TOOLE: Which, frankly, he could do right now. That is why we're here.

JIM MARTIN: The issue would be we would revoke on rescinding Condition Number 4 that was put in the original letter dated 10 May, '01. We can do that now.

KEITH O'TOOLE: Yes.

JOHN HELLABY: I don't know if I would open the door and do that. I would say just that one piece of equipment that is out there.

JOHN NOWICKI: What does that piece of equipment do?

JAMES MARTIN: It is a wheel loader, just meant to move a lot of snow. Actually, you can use it for other things, but that is my only use for it.

JOHN NOWICKI: Front loader?

JAMES MARTIN: You can call it that if you want.

DARIO MARCHIONI: It is huge.

JOHN NOWICKI: I would imagine that is not too easy to stick in the building.

JAMES MARTIN: I would rather stick it in the building.

JOHN NOWICKI: You don't drive it on the road?

JAMES MARTIN: A friend of mine has -- Bob Miller, he has an excavation business, he has a lowboy and moves it for me.

JOHN NOWICKI: I would agree if you do it, you identify that particular piece of equipment only, but keep that condition as is -- subject to just that one piece of equipment.

DARIO MARCHIONI: There is a concern, too. Is that house rented to any kids there? Kids kind of like to play with those machines. Isn't it better maybe to put it in the back of the other building, the green building there?

JAMES MARTIN: As long as it is actually tucked away somewhere and not very visible for people to see from the road, I'm happy with that. I can tuck it back behind the pole barn.

DARIO MARCHIONI: It is close to the house.

JAMES MARTIN: There is a kid out there. There is a mother, a father and a son that lives there.

DARIO MARCHIONI: I'm concerned about the safety, you know what I mean? If it is something that they like to --

JAMES MARTIN: Absolutely.

JIM MARTIN: So what I am hearing is that Condition Number 4 on the original application and approval would stay in force with the exception of whatever you're describing as the front-end loader, which is too large to fit into your existing structures?

JAMES MARTIN: Correct.

JIM MARTIN: Would that be our finding, Keith (O'Toole), in order to rescind this original condition?

KEITH O'TOOLE: Yes.

DENNIS SCHULMERICH: Is there undue hardship with storing it in the City of Rochester as opposed to Chili?

JAMES MARTIN: There is tendency to have broken windows on occasion. It hasn't happened to me, but vandalism, slashed tires. I have been pretty lucky. I have had windows broken before, but other than that, no.

KAREN COX: That happens on construction sites all of the times. If there is equipment laying around and nobody watching it, it is a target.

JIM MARTIN: I will read as I go along here on this finding that we would be rescinding Condition Number 4 imposed in the original approval letter dated 10 -- I'm sorry, May 1st, 1901 -- 2001 for a large piece of equipment that currently does not fit into existing structures or building. Any other equipment or items would have to be, you know, the original condition that was imposed back in '01. Does that sound reasonable to the Board?

JOHN NOWICKI: I wouldn't mind if you had any kind of information on that, the make and model number of that piece of equipment be supplied to the Town Building Department for the file.

JAMES MARTIN: I can give it to you now.

JOHN NOWICKI: Just give it to the Building Department. That would be fine. We would have it on record what that piece is, how it is identified.

JAMES MARTIN: Sure.

JOHN NOWICKI: Good news to hear business is good.

JAMES MARTIN: How could it not be good. This year has been ridiculous. It doesn't stop raining.

KAREN COX: I need a baler for my grass.

JAMES MARTIN: I need a vacation.

DENNIS SCHULMERICH: Go to Florida.

(Laughter.)

DECISION ON APPLICATION #1: Unanimously approved by a vote of 6 yes with the following conditions:

1. This conditional use permit is granted for a period of five years.
2. A code compliance check for conditions imposed in a Planning Board approval letter dated May 10, 2001 is to be completed within 60 days from receipt of this approval letter.

JIM MARTIN: Request of the applicant to remove Condition Number 4 imposed May 10th, 2001 for one piece of equipment that is too large to be stored in existing structures, and that for all other equipment Condition 4 imposed on May 10th, 2001 would stay in force.

The Board all voted in favor of that motion.

Applicant requested relief from Condition #4 of approval letter dated May 10, 2001 for one piece of machinery that is too large to be stored in existing structure. The following findings were cited on this request:

1. Only one piece of equipment is involved.
2. Parking the equipment behind the existing structures keeps it out of view.
3. Optional off site parking of the equipment has resulted in damage to the equipment.
4. No complaints have been filed regarding the outside storage of this piece of equipment.

By a unanimous vote of six, the Planning Board granted relief with the stipulation that it pertains to only one piece of large equipment. All other equipment must be stored in compliance with Condition #4 of the May 10, 2001 approval letter.

2. Application of Brenda DeBona, 3258 Union Street, North Chili, New York 14514; property owner: N. Glamack; for preliminary site plan approval for a change of use to convert existing dwelling to a floral/gift shop at property located at 4365 Buffalo Road in G.B. zone.

Ed Martin was present to represent the application.

MR. ED MARTIN: Good evening. My name is Ed Martin. I'm a licensed engineer with Land Tech Surveying and Planning with offices at 130 East Main Street in downtown Rochester. Here tonight on behalf of Brenda DeBona, Westside Gardens and the application before you.

The site is 3/10 of an acre located between Gregorio's and Jitters. The site is zoned General Business and contains an existing 1100 square foot single-family house, and it is serviced by typical utilities, including public water, sanitary sewer, gas and electric. Existing gravel driveway is located at the northeast corner of the site and provides vehicular access to Buffalo Road. Site topography is sloped to the south and directs storm water runoff in that direction to a swale along the south boundary. The proposal includes fixing up the house to operate a full-service florist shop, known as Westside Gardens which is currently located next to the Glue Factory on Union Street. You're probably familiar with that location.

The shop will be open six days a week, Monday through Friday, 8 a.m. to 6 p.m., and 9 a.m. to 3 p.m. on Saturdays. Typical staffing will be two full-time employees with additional hours and employees required during major holiday seasons. Deliveries to the shop will occur approximately once a day during business hours and will be done with panel vans. Customer deliveries will be done as needed by use of a minivan.

Nursery operations are not part of this proposal. None of the plants will be grown on site. Site improvements include site grading, 4800 square feet of asphalt parking for a parking lot and enclosed dumpster pad and a ramp for handicapped access to the shop. All existing utilities are to remain and serve the shop. Proposed grading maintains the existing drainage patterns and does not pose an adverse effect to adjoining properties. The parking lot will contain seven spaces with one adjacent to the handicapped ramp being reserved for handicapped. Four additional spaces are proposed for land banking and will be constructed at some point in the future in response to growth and demand. Commercial driveway to be shared with Jitters is proposed near the northeast corner of the site.

While it seems somewhat unusual for this area, it is actually the preferred method of installing access points by the State D.O.T. We did meet with the State D.O.T. in July to discuss this proposal, and made application to them August 26th. The only major issue outstanding to resolve and obtain our approval from the State D.O.T. is obtaining an easement from Jitters, and we have met several times with Gary, I forget his name, Macawain (phonetic). I believe it is Gary Macawain (phonetic). We're

very close to obtaining that in written form and we did ask him to speak with Mr. Kress to concur with that.

At this time I would like to hand out renderings of what the house is going to look like, and I have got some pictures of what the site looks like now. I have received comments from Monroe County DRC and I have spoken with Mr. Nissen from Lu Engineering and I would be happy to speak about either of those agencies or answer any questions you may have at this time.

JOHN NOWICKI: Why don't you tell us about those two issues?

MR. ED MARTIN: Sure. County DRC, the comments were garden variety, as they say. The only issue outstanding has to do with that cross-access easement that I mentioned. There is a comment about filing with the Clerk, which is standard. The Monroe County Health Department and the Environmental Council did not have comments. They reviewed it, but had no comments. And the State D.O.T. conceptually concurred with the plan and mentioned that a highway permit would be required. As I mentioned, we have already made application for that. The New York State DEC did not provide comments because it did not meet their level of review. I spoke briefly with Mr. Nissen yesterday, I think it was, on the phone, and again, the only issue outstanding is the cross-access easement. I would leave it to him to speak if I misrepresented anything else.

JIM MARTIN: Question regarding the intersection improvement work which is going on currently on Buffalo Road and Union Street. Has there been any conversations with D.O.T. and potential impact of that activity? Will there be any taking of the front of that property or anything of that nature that may impact the plans that you have presented to us?

MR. ED MARTIN: There that been a small taking of that property, to answer the first part of the question.

The second part is there is no impact either from our proposal to them or vice versa. In fact, they're thrilled, the timing couldn't be better because they want to do this at the same time that the improvements along Buffalo Road are done.

JIM MARTIN: You mentioned that you know -- you were still in conversation with Jitters about cross-access easement to that particular driveway. Having looked at the site very thoroughly, I'm not sure exactly what impact that would have on Jitters because they have kind of a dilapidated -- I don't know if it is flower or shrubbery bed out front with nothing growing in it except a bunch of dirt. It seems like that cross-access proposed road cut will come in just about where the location of that is -- I'm just wondering where you're at in your conversation with Jitters and have they raised any really strong objections that might impact your ability to get this cross-access easement?

MR. ED MARTIN: Sure. I understand. The only issue that Gary had didn't have to do with the actual work to occur, which will be done at no cost to Jitters. Um, he did have a concern over some sort of protection against Brenda selling the place to a Starbucks or something like that. He certainly wouldn't want a coffee shop going in next-door and giving them right to access to that. These are some of the issues that his attorney is adding verbiage to the easement description that is going to be filed with the County.

DARIO MARCHIONI: Can you tell us a little bit more, how will you do the parking lot? There is a huge tree in the back. That will be removed?

MR. ED MARTIN: Yes, sir.

DARIO MARCHIONI: Way in the back there is a swale. There is a ditch. I think it is fed by that spring. Is there a spring --

MR. ED MARTIN: I have heard mention there is a spring somewhere near the -- the southeast corner of the intersection of Buffalo Road and Union. And -- it is typically -- it has water in it pretty much every day of the year. Um, we will not be impacting that in any way, shape or form. We're going to be coming very close to existing grades in that area, with sloping to the south, and there's -- I believe it is like 3 feet between our pavement and the swale, elevation difference.

DARIO MARCHIONI: Is there also a small little wetland there? I notice there are cattails there, you know -- I don't know, would you check with the Army Corps of Engineers?

MR. ED MARTIN: I have reviewed that and the soils are not potentially hydric which is one of the three parameters for an Army Corps wetland. It is too small for a State wetland. Even if it were, we're not disturbing that at all, that area down there.

DARIO MARCHIONI: The other question is, you have a walk-out basement there. Is that going to be strictly for business or for storage?

MR. ED MARTIN: It will remain for storage only with no customer access permitted.

DARIO MARCHIONI: So the entrance to that will be from the upstairs or actually from the back?

MR. ED MARTIN: Accessing it, I believe it will continue as it is now. There are one or two steps from existing grade in the back, down into the basement. That will remain as it is now, just for storage for employee use. Access to the shop itself will be either through the front door, which has a high sidewalk, or I believe a ramp on the east side of the building.

DARIO MARCHIONI: I like the looks of the building that you're proposing. Are you going to put any additional shrubs, or just what you're basically showing over here for landscaping? Especially along the front of the building.

MR. ED MARTIN: It is Brenda's intention to do flower beds similar to what she is doing now over at her present location on Union. I found it pretty impressive. It is good or better than any landscaping I have seen for any new development.

DARIO MARCHIONI: But you will knock out all of the trees?

MR. ED MARTIN: The State took most of them, just within the last month and a half or so. We're taking the large tree down in the back and there are two smaller maples that have to come down just to get cars back there.

DARIO MARCHIONI: You said the State took some land. Is it from the plans we already have?

MR. ED MARTIN: The boundary on that is what it actually is now, so that will not change.

DARIO MARCHIONI: You have a dumpster location here, by any chance?

MR. ED MARTIN: Yes. At the west end of the parking lot, in the rear.

DARIO MARCHIONI: So you're saying you're going to put 4,800 -- almost 5,000 square feet of blacktop, right?

MR. ED MARTIN: Yes.

DARIO MARCHIONI: You will blacktop the entrance with an island down the middle?

MR. ED MARTIN: That is required by the State as part of their permit. I believe I hatched it -- it is lightly hatched, all of the new pavement. It may be hard to read, but there is light hatching on there to show the limits of that new pavement.

DARIO MARCHIONI: You will pave it all of the way to the back of Jitters'.

MR. ED MARTIN: If you would like me to, I could point it out on your map.

DARIO MARCHIONI: They actually have another entrance and exit on the other side of the building?

MR. ED MARTIN: Right.

DENNIS SCHULMERICH: What options exist for you if the easement with Jitters is not approved?

MR. ED MARTIN: I believe we could get a single access in just for Westside Gardens. What that would do is eliminate any parking on the east side of the building, which makes handicapped accessibility rather difficult, but still possible.

DENNIS SCHULMERICH: Would that then mean the proposed parking in the back would be used right away?

MR. ED MARTIN: Yes. We would use those four spaces.

DENNIS SCHULMERICH: As far as the proposed four parking lots in the back, if we're approving that now, will there be any further approvals down the road for that, or would this be essentially final approval for that?

JIM MARTIN: If we -- we could waive final tonight.

DENNIS SCHULMERICH: There would be no additional requirements for him to come back in if they chose to add those four parking spots later on. This, in fact, would be the review and approval for that? The reason I'm asking is -- I'm questioning myself, the wetlands aspect and the fact there are cattails there, and the degree to which there would be an assessment that that is a valid location for the proposed four parking spots, and if, in fact, there is a question about that and we're giving preliminary

and final approval with this type of plans and there is no follow-up, I'm just wondering.

MR. ED MARTIN: If it helps at all, the federal parameters for permitting is a tenth of an acre disturbance, which is about the size of the entire pavement we're putting in. We're putting in just over a tenth of an acre. So if you look -- that tenth of an acre excludes those four spaces, so you kind of get an idea we're really nowhere close.

The second parameter is the soils, which are not hydric and then plants, the cattails is typically shown in wetlands, but only one of three parameters shows up.

DENNIS SCHULMERICH: Commonality of pavement between Jitters and the proposed buildings, is there total commonality of pavement?

MR. ED MARTIN: Elevation or condition?

DENNIS SCHULMERICH: In terms of direct access. I'm talking about joint parking between the two facilities, is it agreed to when Jitters gets in overflow mode and now have you issue with parking --

MR. ED MARTIN: As of now the plan stands all Westside Gardens customers will stay on their side and vice versa. It is our hope that both businesses feed each other so somebody picking up flowers wants a cup off coffee and rather than move their car, they might go out and walk over. There is no intention for shared parking. We have a sign directing Westside Gardens to the west.

DENNIS SCHULMERICH: It seems when you have common ingress/egress, what you do is really promote the sharing. I would think the infringing would be from Jitters onto the florist as opposed to vice versa.

JOHN NOWICKI: Have you looked at the drawings by the State of New York for the intersection improvement? Are you familiar with them?

MR. ED MARTIN: I'm intimately familiar with the work in front of the building. The actual intersection I'm not too familiar.

JOHN NOWICKI: Sidewalks in front of this building?

MR. ED MARTIN: There are. The sidewalk will be -- I won't quote, but I believe it is south of the utility pole.

JOHN NOWICKI: You're showing on this drawing, I think it is an island in the apron area.

MR. ED MARTIN: Correct.

JOHN NOWICKI: Will that also have signage?

MR. ED MARTIN: Um, if it goes in -- and the reason I say if, that is within the right-of-way, that is part of the permit application -- Brenda may put up a sandwich sign similar to the one shown in the pictures used by Jitters right now, so it would be temporary signage only.

JOHN NOWICKI: We have an "if" there.

MR. ED MARTIN: That would also be a condition of the permit by the State.

JOHN NOWICKI: Have you not heard from the State yet finally?

MR. ED MARTIN: No. We did meet in July and then we applied August 26th and I got word from the west office, which is up in Spencerport, that they have actually forwarded the application onto Jefferson, which is incredible. That is the fastest they have ever reviewed anything.

JOHN NOWICKI: You don't have State approval yet. You don't have the cross-access easement worked out with Jitters.

MR. ED MARTIN: Final wording to protect usage and things like that.

JOHN NOWICKI: Let's go back to this apron a little bit here. You show it in a crosshatched way, and then you show proposed easement on the property line, half on one side and half on the other. Is it your intention to pave both properties with asphalt?

MR. ED MARTIN: Yes, in the area that is hatched.

JOHN NOWICKI: Just the hatched area?

MR. ED MARTIN: That's the -- that's the commercial entrance that is within the right-of-way that will be installed immediately with pavement. There is a lighter hatched area showing the new parking lot outside of the State right-of-way.

JOHN NOWICKI: Doesn't show up on my drawing here.

MR. ED MARTIN: Do you mind if I point it out?

Mr. Ed Martin explained the layout of the parking to John Nowicki.

JOHN NOWICKI: That is to be paved according to the cross-section on your drawing and then striped; is that correct?

MR. ED MARTIN: We show striping. I would ask the Board if that is a requirement.

JOHN NOWICKI: Would you have to show the handicapped?

MR. ED MARTIN: That striping for sure. But striping of the other spaces, I didn't know if that would be required or not.

JOHN NOWICKI: Well --

MR. ED MARTIN: I don't recall seeing it at Jitters.

JOHN NOWICKI: Well, we're not looking at Jitters right now.

KAREN COX: It does help people park neatly. You might -- if you don't stripe it, you might run into people who would park farther away than if it were striped and you could potentially be losing a parking spot from poor parking.

MR. ED MARTIN: We propose parking bumpers to help in alignment.

JOHN NOWICKI: Bumpers to?

MR. ED MARTIN: To prevent a car from --

JOHN NOWICKI: I want to question you about -- and Mr. Kress, there are no setbacks indicated on this drawing here. Setback requirements, Mr. Kress?

DANIEL KRESS: Well, I would suggest that setback requirements don't apply here because this is an existing building.

JOHN NOWICKI: It's an existing building.

DANIEL KRESS: Now, if they were to propose to add on to the building, that is a different story.

JOHN NOWICKI: What has that got to do with it? He is here for site plan approval. I don't see anything in my zoning code that says because it is an existing building he doesn't have

to comply with the codes.

JOHN HELLABY: It is preexisting --

DANIEL KRESS: Are we referring to the parking or the building?

JOHN NOWICKI: I'm looking for the setback, the front setback. Is there a front setback required according to our code?

DANIEL KRESS: Parking is not permitted in the front yard.

JOHN NOWICKI: I'm talking about setback.

DANIEL KRESS: Yes. We have setbacks for the General Business District. We're not going to apply it to a preexisting building.

JOHN NOWICKI: Is that stated here in our code?

DANIEL KRESS: I would defer to Mr. O'Toole on that one.

JOHN NOWICKI: I don't see it in the code.

KEITH O'TOOLE: There is a provision, not within the context of the GB District regulations, but a provision that applies to existing structures and zoning districts.

JOHN NOWICKI: Why do you --

KEITH O'TOOLE: If the building is there, it is there. If we issued the C of O at one point, then it gets to remain.

JOHN NOWICKI: Did we issue the C of O as a residential building or commercial building?

KEITH O'TOOLE: Change of use doesn't change that issue. If they add on to the front of the building, certainly if they move it forward -- then that wouldn't be grandfathered in.

JOHN NOWICKI: Our code says here, 75 feet is a major road which is identified and another section of our code you're supposed to defer to that section and go back and say, okay, they need 75 feet. If that is true, they should have a variance for the setback.

KEITH O'TOOLE: If this were a new structure at that location, you would be correct.

JOHN NOWICKI: Well, I guess I can't go up against an attorney's interpretation, right?

KEITH O'TOOLE: Particularly an Irish attorney.

JOHN NOWICKI: Being a Polish Planning Board member.

There was a discussion off the record.

JOHN HELLABY: Preexisting, nonconforming, but in John (Nowicki)'s defense, does that mean that the construction of the ramp would have to be held back to the existing face of that structure? Because right now it looks like it will be out in front.

KEITH O'TOOLE: Possibly the front stoop area would seem to set the front setback if that whole construction is preexisting. I don't know how scaled out this is, but yes, part of the ramp would seem to exceed the setback by a touch. So they may need a variance for that portion of it.

JOHN NOWICKI: Just for the record, I cite this particular debate over the issue that the zoning code is 20 years old and should be upgraded and updated. Thank you.

Let me continue on. I want to touch a little bit more on the tree removal that Mr. Dario Marchioni mentioned. In looking at this site, you have a big maple sitting out in front. In fact, looking at this picture here, it shows the driveway on the other side of the utility pole, in the second picture here. Middle picture there.

MR. ED MARTIN: Correct.

JOHN NOWICKI: Is that driveway going to be utilized? Is that part of the hatched area?

MR. ED MARTIN: It is included. I will point it out on your map here. It is labeled "existing gravel drive." Driveway right there (indicating). So that is the boundary.

JOHN NOWICKI: Trees here? That tree is going out.

MR. ED MARTIN: That tree as of now can stay, if needed. The rest of the trees have been taken down since those photos were taken.

JOHN NOWICKI: There is one -- don't go away. There is another tree down here (indicating), down farther.

MR. ED MARTIN: It is shown right there.

Mr. Ed Martin explained the plan to Mr. Nowicki regarding the trees.

JOHN NOWICKI: I think we'll have to have landscaping plans to tell us what you're doing, what you're taking out, what you're leaving. The big willow in the back I assume is coming out?

MR. ED MARTIN: That's correct.

JOHN NOWICKI: That's a huge willow.

What about the vegetable garden in the back?

MR. ED MARTIN: Is that on your property, the garden?

MS. DeBONA: That is the tenant's.

MR. ED MARTIN: That will not continue. It will be turned into lawn.

JOHN NOWICKI: Is that vegetable garden going to be in the parking area or the land that is being banked for future parking spaces?

MR. ED MARTIN: Is it tucked into the corner where the weeds are?

JOHN NOWICKI: You can see it right from the front. You can see the tomato plants growing there. So it is a pretty good sized vegetable garden.

MR. ED MARTIN: It looks like that is located in the easternmost, partly in the easternmost parking lot to be land banked.

JOHN NOWICKI: We should show on the drawings that is to be removed and dealt with. As far as future parking spaces go.

The other thing I just want to touch on, is the building itself, it is in a pretty bad state of disrepair. Could you describe to us and explain to us the types of materials that are going to be put on this building? Is it going to be aluminum siding, vinyl siding? Are you replacing the roof? Are you painting it? What are you going to be doing with this building to bring it up to first class standards?

MR. ED MARTIN: The roof is going to remain. The siding is largely going to remain with the exception of painting. And then it is mostly trim work, like the -- the -- the rendering shows the flower box in the window. Um, the railings for the handicapped ramp. So largely there is no addition in terms

of materials other than paint to the exterior.

JOHN NOWICKI: Entire building or just window trim or entire building?

MR. ED MARTIN: Right.

JOHN NOWICKI: Porches included.

MR. ED MARTIN: The porch will be modified slightly to accommodate the handicapped ramp, just at the landing portion.

JOHN NOWICKI: I think I'm going to hold off for now. I think I have covered a lot of ground here.

JOHN HELLABY: I think John (Nowicki) has pretty well covered it. My question more pertains to what happened to the existing building that you're in now? Is that -- is that presently occupied by this --

MR. ED MARTIN: Brenda leases that right now and the lease does terminate in the near future, which is why she is pursuing this option.

JOHN HELLABY: How near into the future --

MR. ED MARTIN: Sometime near the end of the year.

KAREN COX: Well, I had a bunch of questions, but you guys stole them all.

Since you're going to be -- you said the operating hours for the weekdays were going to be 8 to 6. Are there plans to put some kind of lighting for the back parking lot area in the wintertime? It is getting dark at 5 o'clock.

MR. ED MARTIN: Right. We didn't show any lighting on the plan, but I did talk with Brenda about the option of perhaps putting a light attached to the building much like you would for your garage or anything like that, for that.

KAREN COX: I think it would be really necessary for the back parking spaces, at least because the house is going to be covering up most of the light that they might be getting from the road.

JOHN NOWICKI: You're talking about the light --

KAREN COX: The back parking lot lighting.

JOHN NOWICKI: What are we talking about, just the back part?

KAREN COX: I don't know how much light would be -- how much ambient light is going to be hitting those side parking spaces. There are streetlights along there now, but it probably wouldn't be wise to put some kind of lighting on the side, too.

JOHN NOWICKI: Have you thought about lighting? Have you considered light on the site?

MR. ED MARTIN: We have. As I said, we talked over with Brenda about the option of having the ability to just simply attach a light to the exterior of the building much like you would for your outdoor garage or anything like that. There is lighting towards the front door. She could add one near the side and then one in the back that would provide lighting.

KAREN COX: You don't need freestanding lights.

MR. ED MARTIN: Right. Exactly.

JOHN NOWICKI: Would you describe for us and the audience the types of signage that you're proposing for this project?

MR. ED MARTIN: Sure. As the rendering shows on the front, there is a sign attached to the -- the shop itself would be titled "Westside Gardens." Brenda has talked about using a sandwich type of sign to advertise specials, things of that nature, similar to what Jitters has, and it shows up in one of the pictures. That would be taken down at the end of the day.

DARIO MARCHIONI: The interior of the building now, did you mention anything about that? How will we deal with that?

MR. ED MARTIN: To put it bluntly, it will be gutted with all load-bearing walls to remain, and then the rooms oriented to allow her to operate her shop similar to how it is being run right now over at Union. So there is going to be, you know, a lot of work on the inside, cleaning it up, fresh paint, a lot of fresh paint, things of that nature.

DARIO MARCHIONI: I'm just a little concerned on the architectural aspect on this. On the bottom part there were old blocks. Will you do anything with the old blocks? In other words, I would like to see an upgrade on this building rather than just painting the outside.

MR. ED MARTIN: Um --

DARIO MARCHIONI: What are you trying to achieve here? An antique home?

MR. ED MARTIN: A cottage look.

DARIO MARCHIONI: Jitters has a stuccoed finish. Across the street you have a cedar pizzeria. The other side is a brick building on the corner, and if you go further down to the landscaping place, they have vinyl siding. It's all mixed up, that whole General Business District there on an architectural type look. Right next to it you have what used to be a gas station, a brick building there.

MR. ED MARTIN: Brenda has used the term "cottage" several times with me and that is the look she is going for. As far as physical improvements, as you can imagine, owning one flower shop, the -- the finances won't allow major improvements to change the architectural style, so to speak. And I think based on what I am seeing in the pictures and rendering, I think it is a drastic improvement, just, you know, with cleaning it up, and if you have ever been to her shop, you know that she runs a class act operation.

KAREN COX: There is paint for that type of masonry block, isn't there? I mean if you -- if you painted the block to match the brown of the siding, then it wouldn't stand out so much. I mean it -- the block has some kind of texture on it. It is not just flat -- the Florida stuff that they use now.

DARIO MARCHIONI: What I am trying to get at, it is an old building right now, an old house. I just don't want to see another -- not a house, but a commercial property -- you know, I would like to see some real architectural treatment of this. It is in a good spot, a beautiful spot in the intersection. I would like to see a little bit more than just paint, like -- as you stated.

MR. ED MARTIN: Well, I agree, but I also do have a concern again with the finances associated with this, putting in a State commercial access is not cheap. That -- that willow tree alone will not be cheap to take down, and, again, I think just looking at this rendering, if they come anywhere close to this, I think it is a drastic improvement over what is there today and, again, Brenda is not looking to run a shoddy operation of any kind. I think she would exceed expectations of the Planning Board, I really do believe that. I would rather not commit her to additional financial requirements associated with this such as special paint for the masonry and things like that, if we can help it.

JOHN NOWICKI: What do you think it would cost to paint the masonry walls? It is a small house. 100 bucks?

MR. ED MARTIN: One more thing on top of a large project.

JOHN NOWICKI: You have a project here, you come before the Board and we're telling you what we're hoping to achieve. We're expecting if this goes that we have some very attractive situation for the owner and the community, as well.

MR. ED MARTIN: I understand.

JIM MARTIN: It is our role to protect the quality of the architecture in this town and what we're telling you is, some extra paint to do the masonry is probably appropriate.

MR. ED MARTIN: Understood.

KEITH O'TOOLE: Question for you, Ed (Martin)? Who did the water color? It is very nice.

MR. ED MARTIN: JGL Design.

KEITH O'TOOLE: With regard to the easement, I don't want to review the language so much as I want to make sure it exists. So if you could try to provide us with a time-stamped copy of the filed easement, that would be fine.

MR. ED MARTIN: Certainly.

KEITH O'TOOLE: I did receive a call from an attorney somehow caught up in the transaction. I don't recall all of the whys and wherefores, but the question came up as to whether his client could pull a building permit prior to getting curb cut approval from the State. I have discussed this with Mr. Kress. I have no concern about that, so long as the curb cut permit is issued prior to the C of O, and you won't pull C of O until the curb cut is issued. You will already have an existing curb cut. I don't see how the State could turn you down. Where -- the construction, however, under such a building permit will be done at your client's risk if D.O.T., for whatever risk, decides to move things, you may have to come back here and get things amended. Unless the Board has a concern beyond what I have stated. That would be my advice.

With regard to these land banked parking spaces, particularly since we're talking about potential

wetland and such, I think now is the time to find out whether they exist or not, and, in fact, if you're going to have somebody in there doing work, wouldn't it just behoove you to box out those areas. Not to pave them, but to certainly engineer them such they exist, and the drop-off runs from 579 to 578. It would seem not to be a rather minor expense just to get that done all at the same time. And it would also save you from having to come back here to get it reengineered just to add four parking spaces.

MR. ED MARTIN: If that were to result in a delay tonight, in other words, if we have to hire a consultant to do a wetland delineation, I would propose we remove those. In all honesty, those spaces were my idea at the eleventh hour. I said to Brenda, if your business really takes off, you may need more in the future. There is always a balance between meeting code and meeting particular needs for parking. I said if we could do land-banked spaces, that would prevent you from having to come back before the Board. If that were required, I would respectfully ask those four spaces just be considered off the plan.

KEITH O'TOOLE: I have consulted with Mr. Kress. He indicates to me that they're not required. So I will leave that to the Board's discretion.

JOHN NOWICKI: What is not required?

KEITH O'TOOLE: Those four extra spaces. In the past we have done banked parking spaces when the developer had wanted to do fewer spaces than required by the code. You reserve the power to do this, but since this is above and beyond the minimum, there is no requirement to do that unless you see the need. Thank you.

DANIEL KRESS: Keith (O'Toole) covered the issue of the parking spaces. To confirm, I did get a call from the owner of Jitters a couple days back that they are at least in conceptual agreement that some sort of easement can be arranged and apparently the attorneys are sorting out the details.

One other minor point, with regard to signs, the sign on the front of the building within certain size parameters is clearly permitted by code. The additional sandwich board out by the road is not. If the applicant is interested in pursuing that, they would need to apply for a variance.

DENNIS SCHULMERICH: Does that suggest that Jitters may not also be in compliance?

DANIEL KRESS: To be perfectly honest with you, I don't know what approvals were issued for Jitters since that predates my employment with the Town. I would suggest that either they obtain a variance, or the other possibility is that sign is not actually there legally. In which case, if I got a complaint, I would ask them to remove it.

JOHN NOWICKI: I think the Board should -- the Planning Board would like to find out if that is an illegal or legal sign. If it is illegal, they have to come before the Board to get a variance. That's what we're here for.

LARRY NISSEN: I spoke with Mr. Martin on the phone yesterday. He is correct on the scope of our discussion. My concerns were coordination with the New York State D.O.T. regarding the new curb cut, and the status of the easements. Other than that, I would also suggest that if the Board has a concern with possible presence of federal wetlands in the area of land-banked spots, for purposes of expedience, I think it would be best for all parties to just remove them from the plan.

JIM MARTIN: Town Engineer's approval?

LARRY NISSEN: If final approval is given, yes.

CHARLES ROBINSON: The landscaping plans need to be done by a licensed landscape architect. In addition, we notice that there is a dumpster on this property; is there not?

MR. ED MARTIN: No. That is on Jitters' property.

CHARLES ROBINSON: This is Jitters' property?

MR. ED MARTIN: If you're referring to the one to the south.

CHARLES ROBINSON: Yes.

MR. ED MARTIN: That is on Jitters' property. As shown on the plan, there is a dumpster enclosure labeled as such.

CHARLES ROBINSON: Is that dumpster enclosure existing, because we had concern there was no actual enclosure on the dumpster?

MR. ED MARTIN: It might be two or three sides, but that was surveyed, so it was existing of -- as of five or six weeks ago.

CHARLES ROBINSON: This particular applicant and property does not contain a dumpster?

MR. ED MARTIN: Not today. We do propose one at the west side.

CHARLES ROBINSON: So if you have a dumpster, then the Conservation Board would like to see that it is enclosed.

MR. ED MARTIN: We have a detail on the plan, 6 foot tall board-on-board fence?

CHARLES ROBINSON: Is it cedar -- we prefer cedar, but at minimum make it pressure-treated.

MR. ED MARTIN: Sure.

CHARLES ROBINSON: That also should be depicted on the plans.

MR. ED MARTIN: It is.

JOHN NOWICKI: It shows three sides, open on the front?

CHARLES ROBINSON: Personally, I was having a problem seeing its actual location.

MR. ED MARTIN: I can point it out.

CHARLES ROBINSON: I see it now. I got it. Just was not labeled as such. Thank you.

FRED TROTT: The Traffic Safety Committee is in favor of them using the commercial access that they propose. One question -- you're having a one in and one exit? One way in and one way out?

MR. ED MARTIN: That's correct.

FRED TROTT: Which side --

MR. ED MARTIN: The in would be on Westside Gardens and the out on Jitters.

FRED TROTT: That is all.

JOHN NOWICKI: Based on what you have heard tonight from the Board -- we have not gone to the audience yet -- kind of time frame are you looking for if this was approved? What is your schedule here to get this all done? Because you're here approaching the end of September.

MR. ED MARTIN: Right.

JOHN NOWICKI: And you got a tough schedule here if you're going to try to get this done before the end of the year.

MR. ED MARTIN: It is aggressive. That is sure.

JOHN NOWICKI: I'm concerned about that, because if you didn't get final approval tonight, that is going to stall you another month.

MR. ED MARTIN: I understand.

JOHN NOWICKI: All right.

MR. ED MARTIN: So our time frame, to answer your question, is immediately.

JOHN NOWICKI: I would like to see a schedule of events to complete this from front to back to get everything done, if it gets that far.

Anything else on this building that you're proposing to attach to it, like exhaust fans or other mechanical devices that are not shown on these drawings?

MR. ED MARTIN: No. Just to be clear, there will be an internal backflow prevention device required by the Water Authority, but that is located inside the building.

DENNIS SCHULMERICH: What do we need to do to clarify the potential need for the variance on the front setback for the ramp? Clearly on the drawing it is further than the existing porch.

DANIEL KRESS: As Town official in charge of making such interpretations, I can tell you that no setback variance is required for the ramp.

DENNIS SCHULMERICH: Okay.

DANIEL KRESS: There is language in the zoning that exempts things such as steps, and I would regard a ramp as being in the same category.

JIM MARTIN: But if they modified the front porch with a stoop and move that forward.

DANIEL KRESS: That is potentially a different category.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

MARY STEEDMAN - Buffalo Road

MS. STEEDMAN: I live on Buffalo Road in North Chili. I currently drive past the building that exists right now. It is a complete eyesore. What we have presented here before you and the Board and

also our Town will be an upgrade that is much needed within our community there in North Chili. I don't see why we cannot allow a paint job to be one instance of upgrading the present building right now, and possibly pursue siding at a later date once her business has grown because I have also visited her current business, which is very clean. She has a great business existing, and I can see further growth. So I would like to approach the Board and ask them to allow this to go on.

DOROTHY BORGUS - 31 Stuart Road

MS. BORGUS: I just had a couple of questions. The drainage on the rear of this property, on the south side, where does that water ultimately flow?

MR. ED MARTIN: I can tell you that it flows east from here. Um, where it goes from there, I'm not really sure. I do know that the State has been -- has talked with Gary about making improvements along his east property line with the pipes and things of that nature, and as part of the State improvements, there will be catch basins and storm system installed along Buffalo Road.

MS. BORGUS: I was more concerned with the drainage at the rear.

MR. ED MARTIN: As it gets to the rear, it flows east. There is a swale that runs east right now, this way (indicating). Where it goes from here, I will be honest, I don't know.

MS. BORGUS: Is the land to the south of this the park?

MR. ED MARTIN: Hubbard Park.

MS. BORGUS: If those parking spaces are not put in the rear of the business, how many parking spaces would remain on the side?

MR. ED MARTIN: If these don't come back here? There would be four back here. There are four immediately south of the house, and we have got three spaces on the east side with the striped-out space.

MS. BORGUS: Okay. And deliveries would be made where?

MR. ED MARTIN: Either in the back to the door going in the basement, or on the side, done with a panel type of van. And Brenda has told me that the deliveries only take about five minutes. They're very quick. They're about once a day.

MS. BORGUS: I was -- the subject of the sandwich board was brought up. There are a lot of business people in Chili that think those are legal, and the reason they think they're legal is because there are so many that exist that are not ticketed, if you will, or they seem to be just sanctioned because they're allowed, and it's totally reasonable to me that business people in this town think that sandwich boards and banners are allowable because the Building Department does not enforce our law. Thank you.

CHARLES RETTIG - Coldwater Road

MR. RETTIG: Just a couple of questions. What are the total parking spaces available per this permit request?

MR. ED MARTIN: Available by how many spaces can the site hold, or how many are we proposing?

MR. RETTIG: How many you're specifically proposing.

MR. ED MARTIN: Seven total with one being handicapped.

MR. RETTIG: What is the parking requirement total?

MR. ED MARTIN: I believe it is one space per 200 square feet of building area.

KEITH O'TOOLE: Six.

MR. RETTIG: Does this total comply with what is required?

JIM MARTIN: It exceeds the requirement.

MR. RETTIG: Thank you.

The other comments would be on the conditions. I gather the Board was looking at the State access approvals for curb cut permits as a condition.

Is cross access with Jitters a potential condition in this permit? Or is that an extra? In other words, is that required if you do not get the cross access?

MR. ED MARTIN: The cross-access easement is not required. We could put an access entirely on our side, if necessary.

MR. RETTIG: Thank you.

My other comment would be to make striping a condition, and I think Mr. Robinson also mentioned the landscaping plan as a condition. Thank you.

MS. STEEDMAN: I was going to state if we're requiring upgrading of this building, what about the existing businesses in the North Chili four corners area, why not request them to upgrade their buildings, as well? Because there are a couple that look like they are falling apart, so if you're going to require the new business -- shouldn't we have a code within that area of all businesses? You're making the point -- you're making the point saying that this business on this road has vinyl siding, aluminum siding, this one has this. But if you would like to continue, there are a couple buildings of businesses that do not have --

JOHN NOWICKI: That question, in my opinion, should be presented to the Supervisor of this Town or a Council member of the Board. That's a Town Board action.

JIM MARTIN: We're working very hard in Chili Center on architectural appearance. That is basically the focus at this point.

MS. STEEDMAN: I didn't mean to step on any toes, but since it was brought up in your conversation in regard to this business.

JOHN NOWICKI: I think the Town is seeing on the Planning Board's action over the last 10 to 15 years improvements.

MS. STEEDMAN: You're right.

JOHN NOWICKI: We're not all of the way there yet. There is a lot of work to be done, but I would strongly suggest a conversation with an elected official.

DENNIS SCHULMERICH: You thought the building was currently an eyesore. What we're trying to do is address it from the perspective there is a degree of improvement within the realm of being able to do business. It's a balance.

MS. STEEDMAN: I think you pay attention -- if we pay attention to the proper paint job, if it is done along the sides, the trim and edge, it will look much better than what is existing right now.

JIM MARTIN: I don't disagree with you.

DENNIS SCHULMERICH: I do have one question. It seems that we might be on the verge of what could be a situation for the potential owner of the business, and that would be if we take the four banked parking spaces off the plan now and they don't get the easement, then their fall-back position would require that they have those four banked spaces, or they would be under the number required for parking.

MR. ED MARTIN: Right. In which case I would automatically have a delineation done of wetland and revise parking and resubmit to the Board.

DENNIS SCHULMERICH: So you would prefer to have it taken off at this point?

MR. ED MARTIN: Yes.

JIM MARTIN: We're taking them off, but if that were to happen, you would need a revised site plan.

DENNIS SCHULMERICH: Just didn't want to see yourself in a catch-22 position.

MR. ED MARTIN: I have one question. I was wondering if we could discuss briefly the need for landscaping plans by a sealed or by a licensed landscaping architect. I was wondering if it would be acceptable, since it is not technically in the code, if Brenda could do a plan, providing names, planting numbers, heights, things of that nature. I can show pictures what her place looks like now. I would be hard pressed to come up with anybody more qualified to do this kind of work than her, but I don't believe she is a landscape architect.

KEITH O'TOOLE: If I may address that. I believe technically it is a licensed professional, including an engineer. If you want to throw her stuff on your print --

MR. ED MARTIN: I misunderstood his comment. I thought it --

KEITH O'TOOLE: Often it is done separately, and in that instance, a landscape architect is preferred.

MR. ED MARTIN: We'll show it on the plans then.

CHARLES ROBINSON: I would request that you have the applicant come to the Conservation Board and let the Board actually look at what you're proposing and let the Conservation Board actually

rule on what you want to do in lieu of actually providing our request.

KEITH O'TOOLE: That is right. What you can do to address that concern, I believe, is to update your plan, and your client can go to the next Conservation Board and get their approval.

MR. ED MARTIN: We would be happy to do that.

CHARLES ROBINSON: In addition, should the Conservation Board waive that, we would still request that it be professionally drawn.

MR. ED MARTIN: Certainly.

KEITH O'TOOLE: You're a professional, right, Ed (Martin)?

MR. ED MARTIN: I am. They told me I am.

(Laughter.)

JIM MARTIN: There seems to be several issues that are influencing my opinions on that. To waive final may not be appropriate at this time given the fact that there are issues on easements, still issues on curb cut. There are several conditions that need to be met.

KEITH O'TOOLE: Mr. Chairman, if I may interject, I -- obviously you guys make a decision on this. With regard to the easement, either they get it or they don't. I would have no objection to making that a condition of final. It is a straightforward kind of issue. The same thing with the State curb cut. Either they get it or they don't. So if they want to go forward, they go forward at their own risk. In light of the fact that we're getting towards the end of the building season, and the asphalt plants will be closing and all that, I hate to hold them back for that reason. However, obviously if he sees something other than I'm describing, then by all means, withhold it.

JIM MARTIN: Well, I have not included those as conditions of approval. There are several other issues. I'm just saying there is some uncertainty at this point. I will ask the rest of the Board how they feel about it.

JOHN NOWICKI: Will you assure us that if we did that, that our building permit issue -- would not be issued until it is complied with?

KEITH O'TOOLE: For which issues?

JOHN NOWICKI: For this project. If we waive final, subject to them getting this information -- okay, I just want to have a statement made for the record or a condition that no building permit will be issued until everything is complied with.

KEITH O'TOOLE: It depends on the condition you're referring to. I have no problem with them pulling a building permit at such point --

JOHN NOWICKI: I don't want to see the building permit issued until everything that we talked about tonight is complied with. That is the problem. If we waive final, then I want a condition on here that says no building permit is issued until the easements are -- we should list what we're talking about. We should list the conditions.

KEITH O'TOOLE: Why don't we list the conditions?

JOHN NOWICKI: Then we'll discuss that point. I'm very concerned with that in this Town.

JIM MARTIN: I have been jotting down conditions as we have been going along here. I will read them and please correct or add any I may have missed.

The Board discussed the proposed conditions.

DARIO MARCHIONI: What about the Drainage District?

JOHN NOWICKI: Are they in the district or out of the district?

DARIO MARCHIONI: They're not in the Drainage District.

MR. ED MARTIN: We're out, but we did apply.

KAREN COX: It has been submitted.

JIM MARTIN: It has been submitted for the Drainage District.

DARIO MARCHIONI: We should still make it a condition anyway.

JOHN NOWICKI: We're making a condition of the New York State access permit -- is a condition?

The Board further discussed the proposed conditions of approval.

JOHN NOWICKI: We should have a schedule of colors and materials that are going to be applied to the outside of this building, the color scheme, paint. Submit a schedule of colors to use on the building and where they're to be used.

JOHN NOWICKI: Do you think it is necessary that we have to talk about the vegetable garden or is it coming out?

MR. ED MARTIN: Oh, it's coming out.

KEITH O'TOOLE: I have no problem with any of the conditions as a condition preceding the issuance of the building permit, except for the curb cut permit. The concern is that since D.O.T. isn't always particularly prompt with these things, and since we're pretty darn sure exactly where that curb cut is going to fall, because they have a curb cut already, it is a residential, it will just expand out to a commercial, and either we slide it part way on the Jitters' property or we slide it all of the way back in front of their property. It is just a question of when you call in the paving contractor and have the striping done. The other work, there is -- the house isn't going anywhere. The parking area in the rear is not going anywhere. It is just the exact location of the curb cut, and since D.O.T. can take a number of months, you basically force the property owner to carry the cost of this property, and time is money. It always is when you have a mortgage. They're going to have to carry this property until next year and not be able to occupy it all because D.O.T. has better things to do. And to my mind, that seems unfair to the property owner for what is essentially a detail issue. That's my thinking.

JOHN NOWICKI: So are you saying that you would issue a building permit for everything, let it -- if they comply with all of the conditions, except the curb cut?

KEITH O'TOOLE: Yes. But I wouldn't let them pull a C of O until they have their curb cut in place.

JOHN NOWICKI: Certificate of occupancy?

KEITH O'TOOLE: That's correct.

KAREN COX: It seems like the State was moving fairly quickly on that permit if it is already over --

MR. ED MARTIN: They are. Fast for the State. It is somewhat relative. An example, if I may -- an example of a project that was built with the building permit long before the C of O was Aldi's in Brockport. I realize we're not Brockport. They had shopping carts delivered to the site and they still had not put in the curb cut. It is still very common practice.

KAREN COX: I heard the State was, you know, moving faster on these highway work permits anyway. They kind of took a look at their practices.

JOHN NOWICKI: Jefferson Road or Union Street?

(Laughter.)

KAREN COX: I think Keith (O'Toole)'s point is a good one. How can we hold a business owner hostage because another agency might be dragging their feet?

JOHN NOWICKI: It is not bad the way it is worded because we have to protect this Town. I don't know about you, but we have been stumped in the past. I want to be very, very careful.

JOHN NOWICKI: I would be comfortable the way it is worded right now, as long as that -- we get everything except that curb cut.

MR. ED MARTIN: Would a letter from the State, not actual issuance of the permit, but a letter of the State saying that we approve this, make final application, suffice? The reason I say that, the application process, whether they speed it up or not, is very lengthy. We make a submission. It goes to Union Street. From Union Street, it goes to Jefferson. Because this is being worked on right now, it also goes to the design engineers. It goes back to Jefferson. Then it goes back to Union Street. Then if it is approved, then we have to make final submission and we go through that whole thing again.

JOHN NOWICKI: You're talking next year.

MR. ED MARTIN: So would a letter from the State saying we approve of this, make final application. In other words, their final step of it --

JOHN NOWICKI: It would be better than nothing.

KAREN COX: Because the final application process is more a formality than anything.

MR. ED MARTIN: Exactly.

KAREN COX: Once it walks its way through the preliminary and they have made comments, if there are any, then you're just submitting it for their records?

MR. ED MARTIN: Right, and doing engineer's estimates and things like that.

JOHN NOWICKI: Would you be objectionable to a statement in the letter of final approval if we did waive final that all of the other conditions must be met prior to the issuance of the building permit?

KEITH O'TOOLE: I have no objection.

JOHN NOWICKI: Thank you. Let's do it that way.

KAREN COX: Building permit?

JOHN NOWICKI: Permit. In other words, all of the ones except for the curb cut. He will give us a letter.

DARIO MARCHIONI: Conservation Board doesn't meet until next month anyway.

JOHN NOWICKI: He said Monday.

CHARLES ROBINSON: We meet the last Monday of this month. As long as he can get whatever he has to present to the Board, our meeting is that Monday.

DARIO MARCHIONI: Will we get a copy of what you approve?

CHARLES ROBINSON: If it is approved, Dick will stamp it that night and then, of course, we would request -- generally we ask for three copies of it. So you guys wouldn't necessarily receive it, but you would get a written statement or notification from Dick that they have met Conservation Board's approval. Or I should say that the Conservation Board is satisfied.

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

Jim Martin read the list of proposed conditions.

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, 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 6 yes with the following conditions:

1. Landscape plans be submitted to the Conservation Board for review and approval.
2. Time stamped copy of cross easement agreement with Jitter's to be provided to the Assistant Town Counsel.
3. Land banked parking spaces shown on site plan will be eliminated.
4. A construction schedule shall be provided to the Planning Board and Building Department.
5. A paint scheme shall be provided to the Planning Board and Building Department.
6. Pending approval of the Town Engineer.
7. Conditions 1 through 6 above must be met prior to the issuance of a Building Permit.
8. Parking lot lighting shall be provided and parking lot shall be striped.
9. A certificate of occupancy shall not be issued prior to receipt of NYSDOT approval of a curb cut to Buffalo Road.

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

3. Application of Mary Wing, 72 West Forest Drive, Rochester, New York 14624; property owner: Chili Plaza Associates; for preliminary site plan approval for a change of use in portion of building (space B-10) to allow a fitness center (formerly offices) at property located at 3240 Chili Avenue in G.B. zone.

Mary Wing was present to represent the application.

MS. WING: Good evening. My name is Mary Wing and I reside at 72 West Forest Drive. I'm a franchise owner of Chili Jazzercise. I'm here this evening to apply for a change of use permit for the space labeled B10 in Chili Paul Plaza. This area was formerly used as an office space and I would like to run my Jazzercise business out of it. Architectural drawings were submitted with my application.

Jazzercise, founded in 1969, is the world leading dance fitness program. Participants get a safe, effective workout designed to enhance cardiovascular endurance, strength and flexibility. Jazzercise instructors participate in intensive training programs and are CPR certified. They continuing education to insure quality instruction and professionalism and to keep them abreast of the latest development in fitness.

There is a variety of classes for complete fitness for everyone, men, women and children. It is one of the few places around you can find such a mix of ages, shapes, sizes and fitness levels. All are welcome. Fresh new routines are given every ten weeks, everything from hip hop to jazz dance, weight training, pilates and yoga.

Jazzercise has been in the Chili area for more than 13 years. We have been located in the Rochester Fitness Center and the First Baptist Church in Chili, both of which are less than a half mile from the proposed new space in Chili Paul Plaza. I have a loyal customer base from the Chili community and have grown to the point of requiring additional space. The proposed location will offer my customers aerobic flooring, air-conditioning and shower facilities, all of which they do not currently benefit from.

I believe that fitness is an important aspect of well-being and enhances the overall quality of people's lives. Jazzercise is committed to helping people both young and old understand and value the importance of health and fitness. We do it with a personal touch. My fellow instructors and I take genuine interest in getting to know our customers. We make a difference in the lives of the people in the Chili community and surrounding areas whom we touch on a daily basis. It is not just about fitness. We provide motivation and support, bring laughter and fun. We encourage each other in a nation where being overweight is an epidemic.

The most commonly asked question I receive is will Jazzercise help me lose weight. My response is yes, combined with a healthy diet, but I guarantee you will gain energy, self-confidence and many friendships.

I hope you will approve the change of use permit that I requested this evening.

KAREN COX: Nice to be growing that you need a bigger space.

MS. WING: Yes. Thank you.

KAREN COX: I did not have questions about the application. The architectural drawings are nice, real detailed, so we can see what is going on. I did have questions about -- I was hoping somebody from Kravetz is here.

KAREN COX: What is the status of the nice improvements that we saw a few months ago? It seems like things got stalled.

MS. KEYES: The exterior they started what they call flying in panels.

JIM MARTIN: Your name?

MS. KEYES: Gina Keyes. They started flying in panels and they have been welded in place. I believe they have two or three panels in place today starting on what we call Building 2 which begins with the New Leaf and Bean Coffee Shop.

MS. WING: I'm in Building 2.

KAREN COX: That is going to continue steadily?

MS. KEYES: Probably fairly close up to the first snowfall. They have a lot of work to do.

JOHN NOWICKI: Are you familiar with -- they submitted a timeline of events? Have you seen that?

MS. KEYES: Yes, I have seen it.

JOHN NOWICKI: Would you like to comment on it and explain maybe what kind of delays we can expect and what is causing this situation of the delays?

MS. KEYES: It is just different requests among the different professional agencies involved. There were drawing changes. Things that had to be reviewed by attorneys, back to the architect, back to the contractors, just the natural flow of communication caused some delays.

JOHN NOWICKI: Do you know if they still plan on paving the parking lots?

MS. KEYES: Paving work so far is patch work. Patch work has been performed by Rochester Driver's Incorporated. The only thing remaining at this time aside from any further -- due to geographic location, will be seal coating the area and striping it. We do have possible --

JOHN NOWICKI: Their statement here saying repave entire parking lot, front of plaza, by 10/4/04.

MS. KEYES: That is definitely not going to happen.

JOHN NOWICKI: We want a revised schedule of events that is more realistic than this.

MS. KEYES: Very well. I will let Mr. Cuskin know.

JOHN NOWICKI: Please. You can go through Mr. Dan Kress' department and we would like it as soon as possible so we can keep track what is going on here.

MS. KEYES: Absolutely.

JOHN HELLABY: I don't have overall layout. Where exactly in the plaza is the space?

MS. WING: Between China Garden and the New Sensational Tans.

JOHN HELLABY: Old real estate offices?

MS. WING: Former Faber offices.

JOHN HELLABY: As far as interior renovations, will you complete those yourself or with the --

MS. WING: With the owners.

JOHN HELLABY: Time frame on those renovations.

MS. WING: I hope to be up and running in October.

JOHN HELLABY: Just out of curiosity, hours of operation?

MS. WING: Classes at 6 a.m., 9:15 a.m., 12:15, 4:30, 6 o'clock, and 7:15 and on weekends Saturday, Sunday morning at 8 and 9:30.

JOHN HELLABY: You're at all of them?

MS. WING: No.

JOHN NOWICKI: Just a little confusion.

On the application there was -- it was indicated this property is not in a drainage district, but I assume it is, Mr. Kress?

DANIEL KRESS: Yes, it is.

JOHN NOWICKI: That is an error on the application.

Other question I have, on your floor plan layout, you mention this is for male, female. I don't see a men's locker room.

MS. WING: We don't have locker rooms -- there are showers for women. I currently only have one male attendant, and I did specifically talk with him, and he didn't mind that we didn't have a shower for him, and under code, it is not -- we don't -- we aren't required to have showers for both men and women. Sorry.

KAREN COX: Tends to be kind of a girl thing. Unless you want to join.

MS. WING: There is a men's restroom. You're more than welcome to come to any class. You just can't shower.

There was a discussion off the record.

JIM MARTIN: To follow up on that, if you suddenly had a significant upturn in your male

clients, do you have flexibility to add locker room and shower facilities for them?

MS. WING: Well, I don't have locker rooms for anyone. I do have -- if you notice in the plan, there is like an equipment locker. That is unisex. That is just for people to leave their weights and sneakers and mats. There is an area near the men's toilet that we could put in one shower if in the future we need to.

KAREN COX: I think maybe the confusion, why we're saying locker room, it is actually a shower room, but on the plan it says --

MS. WING: I'm sorry, it does say locker room. Right within, you can see there will only be a few lockers in there and that is more for safety for people showering, they can lock their purse in there. If we had a man's shower, we would also put a locker in there so he could put his wallet in there.

DENNIS SCHULMERICH: Question on signage. What is the intended signage for the business?

MS. WING: It will be a lighted sign out and we will get a permit for it.

DARIO MARCHIONI: I know you have those speakers that make that music, and -- how would it interfere with --

MS. WING: We have done a sound check. I brought over my system to the room and we turned it on even louder than what we use it for. I put my microphone on and yelled louder than I normally do and went into both facilities and you could hardly hear it. We have also spoken with both the owners of China Garden and Sensational Tans and they're fine with it.

DARIO MARCHIONI: What is the clientele now? I know we're going to grow now.

MS. WING: Average class is about 25 people.

KAREN COX: Nice size for 25.

MS. WING: Well, I say average, some classes are lower, some classes are higher.

JOHN NOWICKI: Just to go back to the timeline of events, also if you can get that to us quickly, could you also find out possibly the status -- it will probably come up on these timeline events here, too. The rooftop units, how soon -- you know, screening of those, dumpster enclosure and facade improvements -- that should show up on the new one you will present to us, when these things will happen, and hopefully it is a practical timeline.

MS. KEYES: They're expecting the work to be all completed by winter.

JOHN NOWICKI: Good. If they can get that to us, that would be appreciated.

MS. KEYES: Absolutely.

DANIEL KRESS: Nothing to add that the Board hasn't asked.

CHARLES ROBINSON: The Conservation Board was just interested in seeing landscape plans from the new owner. We actually did not review this applicant's request because we didn't think it was prudent to evaluate it at this time without those plans.

JIM MARTIN: I don't think you will have any landscaping?

MS. WING: I'm not responsible for landscaping.

CHARLES ROBINSON: Even if it did, it wouldn't fall on this applicant, but the owner. We fall back on the request that the owner provide landscaping plans.

JOHN NOWICKI: That is on the schedule, timeline of events. If they can update that, too.

MS. KEYES: They will update the entire thing.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS - 31 Stuart Road

MS. BORGUS: I'm glad to hear that there has been some action on getting that plaza put into some kind of shape, because it looks like bombed out Beirut. It has been a mess. That is a site to behold in the middle of our town, and when Kravetz Realty was in here to buy that plaza, we were given a lot of glowing promises and we were going to have wonderful things and we had nice drawings, but all we have now is a mess. An absolute mess.

I also would like to point out there was no drawing put up tonight for the audience and public here. I assume, we, too, are privy to this.

JOHN NOWICKI: There is a floor plan.

MS. WING: I have the full -- if they want to see.

MS. BORGUS: And the applicant is notified in the Building Department these are required.

MS. WING: I have a full plan if she would like to look at it.

MS. BORGUS: I'm also wondering, as far as landscaping plans go, it was my definite recollection that when the Subway store went in on the corner in that plaza, there was a big issue made, I believe, on the part of Mr. Nowicki about flowers and having pots of flowers put out front. These landscaping plans don't mean diddly, because they don't get adhered to. Do you -- have you seen any flowers down there? No. No. Obviously because they don't mean anything. Any more than these schedules that these people give you.

JOHN NOWICKI: It is enforceable.

MS. BORGUS: I know. That is why I want an issue of it and I want it on the record. I know it is not the Board. This is a lawless town. Can put all of the place -- all of the recommendations and the rules in place, but it's a lawless town because nothing gets followed through. And I would like to know on that schedule that you have there, Mr. Nowicki, who was supposed to check to see that that happened on schedule?

JOHN NOWICKI: Beats me.

MS. BORGUS: That's no way to run a town.

JOHN NOWICKI: I kept my schedule and kept looking at it.

MS. BORGUS: You look at it and it doesn't help the looks of our town. That is a mess. I have -- I have a horrible feeling that come winter, we're still going to be looking at part of it. And it seems --

JOHN NOWICKI: You know, Dorothy (Borgus), I asked for that schedule and you know that the Planning Board doesn't do the enforcement.

MS. BORGUS: Well, my -- I guess I'm going to have to talk to the Supervisor because we better start getting some enforcement in this town because you people are doing a wonderful job up here. Tonight is an exemplary meeting, the best one I have seen in a long time and I'm here for every one. I must say you work hard, but when all these laws and rules and regulations are not enforced, it is a joke. Thank you.

MS. STEEDMAN: Mary Steedman again. Also a jazzercise instructor. I have been one for five years. I feel as this would be a positive improvement to our town. It is great that we're trying to upgrade this plaza and I feel as though this would be a great business to put in there.

KAREN COX: Certainly will bring a lot more people in there on a regular basis.

DENNIS SCHULMERICH: A lot of smelly guys walking around the plaza.
(Laughter.)

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

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

DECISION: Unanimously approved by a vote of 6 yes with no conditions.

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

There was a recess in the meeting.

4. Application of Excel Development; P.O. Box 220, Spencerport, New York 14559; property owner: Gates Chili School District; for final subdivision approval of 25 lots to be known as Maple Hollow Subdivision at property located at 30 Dallas Drive in R-1-15 zone.

Rob Fitzgerald was present to represent the application along with Mike Pellano.

MR. FITZGERALD: I will try and speak loudly, if that is possible for me.

Rob Fitzgerald from Avery Engineering. With me tonight is Mike Pellano from Excel Development. Last month we were here and received preliminary subdivision site plan approval. We're trying to keep the ball rolling to hopefully get final approval here tonight. The three remaining issues from last month's meeting were we had a couple undersized lots. We have since adjusted those as minor adjustments around the cul-de-sac, so those are all either equal, the minimums or greater.

The other requirement was that I went in front of the Conservation Board with Charlie (Robinson) and his group to discuss the plans. I think that went pretty well. They liked the idea of maintaining some of the interior vegetation, especially behind the two flag lots, the buffer around the property and they want the trees, one per lot minimum and also they made a recommendation that for each street we put up the same type of trees just to give it a little more character, I guess.

We also went there, we're hoping to get a little feedback from them as far as the verbal we can put on for a conversation easement. We discussed it. They didn't necessarily give me anything. They asked me to come up with something and come back this month and propose it to them, so we'll be back in front of that Board this month again and try to work out those details for the conservation easement. The other issue was, we got our plans to Larry (Nissen) late in the month, the Town Engineer, so he didn't have a chance to review the plans fully. So I guess that is where we're at now.

JIM MARTIN: You do have a copy of Larry (Nissen)'s latest letter regarding the drainage issue?

MR. FITZGERALD: Yes, I do.

JIM MARTIN: Do you have any comments in regard to what Larry (Nissen) has stated in there? I can -- I would like you to address the first two.

MR. FITZGERALD: He indicates that we did submit the project with SWPP, a Storm Water Prevention Plan. He mentions that he wants the drainage report to include off-site drainage, and we have spoke about this a couple of times, myself, as well as Don Avery from the office. What we did on this plan is we took care of the SPEDIES permit, if you will, the water quality for our site, and we're piping off-site drainage through the property. And we did take care of, you know, the one-year storm up to the 100-year storm frequency for our site runoff as well as the runoff that is coming from the west. But the -- what is coming from the north we didn't -- we piped that through. And I think that is kind of where we're at now, and I think Larry (Nissen) -- well, from his conversation, he can probably speak more intelligently on this. He is looking for some additional measures downstream. We're not increasing the runoff downstream because we're holding back on our site the 1 through 100-year storm, but from our conversation, I think he wants more to make sure if there are existing problems, that we haven't helped those out. I would actually like Larry (Nissen) to comment on that. I don't want to put words in his mouth either.

LARRY NISSEN: Where we're at right now, and we discussed it further this afternoon. There have been ongoing discussions over the last week or so. But the main outflow here is an existing 24-inch diameter pipe, and one of our main concerns is that the capacity of that existing pipe is not exceeded by the flows generated within this development and the --

LARRY NISSEN: I will try to speak up.

JIM MARTIN: Larry (Nissen), suggestion, could you maybe go up to the site plan and sit -- that would be helpful.

LARRY NISSEN: There are two out-fall points for drainage around the perimeter of this proposed subdivision.

One is here (indicating). There is an existing 24-inch pipe, as I recall. And down here along Meeting House Drive there's an existing 15-inch pipe. We have a large amount of off-site runoff coming down Dallas Drive on this site. There is a swale through the site and it was directed to this pipe here (indicating). There is some additional amount of runoff coming off site from the west that runs -- makes it way through the site somehow, and apparently drains to this point here (indicating) along Meeting House.

Our main concern is that the capacity of these existing outfall pipes are not exceeded. I spoke with a couple other engineers today in our office about this situation. It's kind of a unique situation and coupled with SPDES, it even complicates it more.

The first proposal we received from the applicant's engineer attenuated all of the drainage from

the development as it should. But the drainage, the off-site drainage was proposed to be piped through. Our concern at this point is that the sum of the drainage being picked up from off site and routed to this pipe (indicating), with the drainage being picked up from the subdivision also routed to this pipe (indicating), does not exceed the capacity of the pipe and create a problem downstream or upstream in the subdivision. That is one of our first points of concern.

We're not quite as concerned with this side (indicating). It appears that the capacity here is a little bit better, but, of course, we'll look at that, as well.

So in looking at all that, we have had to come up with criteria that needs to be met here. We have had to decide what kind of criteria would we require of the designer. What we have decided -- Item Number 1 is that the capacity of these discharge pipes cannot be exceeded for all recurrence interval storms up to 100 years. And it is going to -- it will boil down to one of two things.

It may mean that they need to attenuate the off site drainage, as well. It is conceivable that the off-site drainage unto itself is greater than the capacity of this existing downstream pipe to pass, and that could be. And so we're going to find that out. We're going to, of course, add in the effects of the new subdivision, and when we get done, we're going to be assured that the flows from this site, from both off-site and from within the new subdivision, will not exceed the capacity of these existing facilities.

JOHN NOWICKI: Can I ask a question at that point? Are you saying that the off-site drainage coming from the north is a possibility that exists, that that is more flow than the existing pipes can take now without this development?

LARRY NISSEN: Yes. There could be a ponding situation created here now. Water could come down through here faster than this pipe can pass it, and as a result, water will back up in this area (indicating).

JOHN NOWICKI: So the solution to that then is what you're saying -- unless I'm wrong -- is that this project here would have to have larger holding ponds.

LARRY NISSEN: That's a possibility.

JOHN NOWICKI: To deal with any off-site drainage that would exceed the 1 to 100-year storm flows.

LARRY NISSEN: We have not determined that exactly yet, but that is a possibility, yes.

JOHN NOWICKI: Let me ask you -- I'm not trying to be a smart Alec. But we're at a meeting tonight for final approval. I guess my concern is why did it take us this long to get to this point? We have been through sketch, prelim, we're at final. Why are we discussing this now?

LARRY NISSEN: I do not dictate to the applicant's engineer how to put forth their scheme for drainage. We have our Town codes in place. We have New York State DEC requirements in place. And I don't bother to go through it with them, you know, on a conceptual level to explain to them how it should be done.

But I do review what I get, and what I got I did not think was sufficient at this point.

JOHN NOWICKI: Have you two worked out any solutions to this?

LARRY NISSEN: We have. I -- as -- well, I just got the plan within the last week or so. I think -- week and a half, something like that. We got a revised plan. I got a drainage report probably within the last week or ten days. So I didn't have that much time to review it as I normally would.

But in my opinion, the drainage portion -- this report that you have here and that I have reviewed, doesn't address off-site drainage to the degree that it should to ensure that we're not going to have a problem here. I can't guarantee to the Board that at this point, that the drainage improvements as proposed will suffice. Okay?

DENNIS SCHULMERICH: So is it fair to interpret that the engineers for the site we're considering, are considering the drainage for the site and not factoring in the off-site issues?

LARRY NISSEN: That's fair to say.

DENNIS SCHULMERICH: Fair assumption?

LARRY NISSEN: Uh-huh.

JOHN NOWICKI: I have a real problem because I'm concerned over Number 2 in your letter. Is it okay if I read it?

JIM MARTIN: Go ahead.

JOHN NOWICKI: "Conversation with Town officials have revealed an objection to the construction of two storm water management ponds because the Town will assume maintenance responsibility for these facilities. A single pond is preferred."

So I guess I'm back to my first observation. It looks like you may need one heck of a large pond here.

LARRY NISSEN: There is a good chance -- well, apparently Bob Avery and Joe Carr -- Joe Carr expressed the concern with the second pond. It is his responsibility to maintain ponds within the Town. He would rather maintain one pond than two. So I put forth the comment, knowing that this pond may be required (indicating). I mean because of the site characteristics, this pond (indicating) may be required. There may not be a practical way to work around, you know, the need for this pond (indicating).

So the second pond may stay. I think Bob (Avery) had gotten together with Joe (Carr) and discussed that with him.

Apparently Joe (Carr) is willing to accept maintenance responsibility for a second pond if it is shown that it is required.

He would prefer to have one, but he will accept two.

But, you know, we have still got a ways to go here, I think, in the sizing of this facility here, to insure that -- and perhaps this one as well -- to insure that the capacities of these outfall pipes are not exceeded.

JOHN NOWICKI: Will we get a rebuttal from you?

JIM MARTIN: I would concur with your statement. I did talk to Joe Carr and that is essentially what he told me.

LARRY NISSEN: My understanding.

JIM MARTIN: You know, I have a long-term concern. There is more and more development going on in the Town of Chili, and retention ponds are going to be part and parcel of these subdivisions and developments over time. We build one, we increase the maintenance liability of the Town, which costs us money. You know, so I think that was part of the discussion around, you know, could we go to a single pond rather than two ponds because if we can in the future eliminate 20, 30, 40 ponds, that will help as far as the budget process in the Town of Chili goes because Joe Carr would have less ponds to have to maintain, and it is a struggle now. We have a lot of ponds to maintain, and these are comments we hear constantly by people in front of the Planning Board, that they're not being maintained as well as they should be. If we just keep adding more and more ponds to the list, either we'll have to hire more people to do it and increase our taxes, or figure out a way to do less ponds and still control the drainage issues that exist on these site plans. So I think that was kind of the essence of where that comment came from, and I think Larry (Nissen) conveyed it very adequately right in his letter.

MR. FITZGERALD: Maybe to comment on a couple of things. As far as our drainage, we have a small site, relatively small site, 12 acres, so to control our drainage, you wouldn't think we would need a big pond, but because of the water shed to the north of us, I believe it is roughly 30 acres that is draining on our site or through our site that doesn't have any ponds, therefore, we need to take care of that. So in this case, for 12 acres, two ponds, it might be overkill, but we have drainage from the west into the north that is dumping onto us that wasn't detained. There are no structures I'm aware of, ponds to slow down that water. So that is why we do have two different areas. And with the SPEDIES requirements and water quality, we felt it is necessary to have the two ponds and the grading, of course, too.

As far as the drainage through our site -- for our site, we did the 1 year/100-year frequency storms and tabulated calculations of our site plus a 10-year storm from the north going through. We did not do the 100-year, because usually for closed drainage systems you do a 10-year storm. That is how you design those. So we did not supply the 100-year storm. That is apparently what we need to work on at this point. That is where we are.

As far the drainage study, the additional drainage studies we submitted -- well, it was the same as the conventional version of the last one I think that Larry (Nissen) said -- it is the same one that the Planning Board has, the one Larry (Nissen) received.

JOHN NOWICKI: At the last meeting of the Planning Board we asked or discussed

downstream facilities and capacities of those. Was that looked at at all, and is that brought into any of these calculations?

LARRY NISSEN: To my knowledge, the capacity of the discharge pipes has not been determined at this point.

JOHN NOWICKI: The downstream structures have not --

LARRY NISSEN: That's correct, Rob (Fitzgerald)?

MR. FITZGERALD: We did for the first pipe going out of our subdivision that -- the more critical one, if you will, this one here (indicating), based on slope we took the capacity of that, and we added in -- there is a 24-inch coming from the north, too, different slopes. We added in and said what is the capacity coming out of this pipe if it is flowing full. Then we added our 10-year storm with that, and we came up with 27 CFS, and we calculated that this pipe could handle 30 CFS. That is for a 10-year storm.

JOHN NOWICKI: Then you don't know anything at all, or our engineer doesn't know anything at all, either, any of these -- any of these storm water structures below that 24-inch pipe. Where does that 24-inch pipe go and what is the capacity of that?

MR. FITZGERALD: We have not examined that. There is a couple lengths, a couple catch basins grab some at the stream and empties into a ditch. It is not too far. If we had to investigate it, it is not like we're going all of the way to Black Creek. It goes into a flatter open ditch that is -- probably some of the neighbors don't care for it, but it is draining a large water shed. It is the most critical point to get it to the open ditch.

JOHN NOWICKI: During the last rainstorm that we had here, Frances, what was that ditch like? Did it fill with water?

UNIDENTIFIED SPEAKER: It was up quite a ways.

KAREN COX: Just for the audience's sake, that storm was an anomaly. You would -- that is not what you can compare normal drainage to.

JOHN NOWICKI: Would you have a guess on what size storm that would be? Once in 100 years?

KAREN COX: I heard about a 75-year storm, but there were places all over the County that were flooding. You had 5 inches of rain in 3 hours. There are normal storm water facilities that could never handle something like that.

MR. FITZGERALD: We heard 50, but for long duration. It wasn't for 50 minutes. It kept going and going and going.

KAREN COX: There will be no infiltration into the soils. It will just all run off.

JIM MARTIN: Any other rebuttal or comments where we're at with the Town Engineer?

MR. FITZGERALD: No. Obviously I'm not looking to say what we did is -- that's it, we're not doing more. We'll work with the Town and the Town Engineer to satisfy everyone. We'll work together.

KAREN COX: Can we vote on this? This seems like a large issue that has to be resolved before we can go further with it.

JOHN HELLABY: We're no further ahead than I think we were last month. That is the key to this whole thing. I said it before and I will say it again, until this thing is 100 percent, I'm going nowhere with this.

JOHN NOWICKI: It is a drainage problem.

DENNIS SCHULMERICH: Is there a clear understanding in terms of what needs to be done between you and the Town so that we're not here a month or two from now having the same questions? I mean is there a clear understanding in terms of what the expectation for the site is in terms of drainage and the -- are we aligned in our thinking so you know what you need to go off and do?

MR. FITZGERALD: At this point I think with our discussions with myself and Lu Engineering's office, we have had discussions, but we'll probably expand on that and sit down with a couple meetings to make sure we do iron it out and everyone is on the same page.

JOHN HELLABY: We need a definitive answer, does the system work or what remediation work has to be done to make it work, and is the applicant willing to tackle that?

JOHN NOWICKI: Again, you obviously came to this meeting tonight knowing what this letter

meant and what you were going to have to explain and talk about, and there would be a delay.

MR. FITZGERALD: In the same token, we submitted our stuff last month, it goes to the appropriate people to review it, and here we are with the appropriate feedback and we have to go from here.

DENNIS SCHULMERICH: In addition to managing the on-site drainage, there is a requirement to manage the off-site drainage.

MR. FITZGERALD: That has become apparent, yes.

JIM MARTIN: Table this again until we get it resolved? This is too big an issue. We don't need more drainage problems in the Town of Chili.

KAREN COX: I agree with that, along with we have no idea whether if the calculations also that will be done that Larry (Nissen) is asking for are going to change the site. Maybe they'll need a larger pond, in which case you might be losing a lot, or changing the layout a little bit.

LARRY NISSEN: That's a possibility.

JOHN NOWICKI: Right now it is engineering. Engineers have to get together and work it out and bang it out. We can't do anything about it.

JOHN HELLABY: I make a motion that we table this application until this drainage issue is resolved.

JOHN NOWICKI: I will second it.

JIM MARTIN: We have a motion to table the issue. It has been seconded.

The Board all voted yes on the motion to table.

JIM MARTIN: How long do you take to work this out with the Town?

MR. FITZGERALD: I would like to be on for next month's meeting. Three people for a week straight can get quite a bit done. I would prefer to come back next month.

JIM MARTIN: That would be October 12th.

I will open it up for some comments since this is scheduled to be a public hearing. I will open it up to some comments from the audience at this time if anybody has any.

SAM LOPRESSI - 84 Daunton Drive

MR. LOPRESSI: I'm south of that Knights Trail portion right there. From what I understand, very close to my home is where one of the pipes is on Daunton Drive; am I correct? I just want to make sure I understand what is happening here. I live south of this right here (indicating). And where is that -- where is this drainage pipe coming in here (indicating)?

MR. FITZGERALD: Here (indicating).

MR. LOPRESSI: Are we saying at this point what is existing now is more than enough to handle that, but not including the new development; am I correct in what they just said?

MR. FITZGERALD: No. Although that is something that hasn't been proven mathematically yet. It is up in the air. That is why we're going back to the drawing boards, because of that issue.

MR. LOPRESSI: I would hate to be flooded out and somebody says, "Oh, we made a mistake."

MR. FITZGERALD: Again, we're taking care of our water, but now we're looking to existing problems that we can help further.

MR. LOPRESSI: If we can eliminate what happened in Spencerport, we can do that.

According to this drawing, is this where one of the retention ponds will be going in?

MR. FITZGERALD: Yes.

MR. LOPRESSI: What are some of the advantages or disadvantages of this type of retention pond to these people along Daunton Drive and to these people along Battle Green? Are there any pros and cons? I mean I know all it will do is hold water. Are there any other environmental things that happen to us along this area right here (indicating)?

MR. FITZGERALD: It is kind of a weird format here. I can address his concerns, but -- whatever the Board would like.

JIM MARTIN: Obviously, you know, there are all kinds of requirements now which require

ponds, there is probably many, many favorable environmental impacts and there may be a few unfavorable environmental impacts. We're always trying to strike a balance. But the difficulty is by law these things have to be done. So you don't have a lot of options, so to speak.

KAREN COX: The DEC doesn't really give -- they say this needs to happen, and there are only certain ways that water quality and quantity can be addressed to their satisfaction.

MR. LOPRESSI: Okay.

JIM MARTIN: People always raise a concern are there more mosquitoes, geese in my front yard. These concerns come up, but there are not a lot of options in addressing these things because we're directed by law to have these things in place.

MR. LOPRESSI: But I was primarily concerned, too, as to are there environmental issues that we have to be concerned about here? I know the retention pond is going to be going there, but are there other environmental concerns along this area right here (indicating) with that pond right there (indicating)? And then are these homes still staying in this area right here (indicating)?

MR. FITZGERALD: Yes.

MR. LOPRESSI: This pond will be in their backyard?

MR. FITZGERALD: Yes.

MR. LOPRESSI: Oh, boy.

KAREN COX: But the pond will be there when they're looking at their property.

JIM MARTIN: Given the current site plan, that is correct. That could change.

MR. FITZGERALD: With the pond lots, they usually get a premium for them.

KAREN COX: Don't ask me why.

MR. LOPRESSI: Will we still have a little bit of a buffer in here? Was that still part of it or not?

MR. FITZGERALD: Yes.

MR. LOPRESSI: It is. Okay.

TERRY BARNWELL RILEY - 16 Dallas Drive

MS. RILEY: 16 Dallas Drive, north of the proposed development, and I wanted to make a couple comments about some statements that were made here tonight that are troubling to me. I have lived there for about 12 years, and the first four years we lived there, we were told by Joe Carr that every year there was a 100-year rain and we flooded, all of Dallas Drive flooded, and we found out that it was because the Town had not maintained its storm sewer. And when the CVS was built there, they televised the storm pipes and found out that most of them were in disrepair, and the Town fixed some of them, and since then, the latest storm included, we have not had flooding, although I think some other people in the area have had flooding. So even though it is called a 100-year rain, we get it more often than 100 years. We have gotten it five times since we have lived here, so I think that they will have to accommodate 100-year rains.

The other thing I just want to go on the record, that with Frances hitting the area, we did not flood, yet the first four years we lived at Dallas Drive we flooded four times. If after that development starts we flood, I'm going to know why we flood. And the Town will be responsible. There will be legal action because we lost a lot of things of our own property and would lose value to our house if we flood again.

JIM MARTIN: That is why we're being very cautious.

MS. RILEY: Well, you better be.

JIM MARTIN: One or two more quick comments.

JOHN MAY - 19 Dallas Drive

MR. MAY: Everything she said is right, but I would like to add to it one more thing for the engineer because I have not seen a good engineering plan yet on this whole job and my background is engineering. The outflow of our drainage that goes down into this property has a 24-inch drain and that was down about 5 inches from the top during Frances. If you want to calculate the outflow, go ahead or I can do it, but that should be considered coming off our place, our area, and that's one heck of a lot of water and that is not a 100-year storm. That's only what, 3 or 4 inches of water. It was pretty serious in there. We were clear, almost clear to the top of it. Amazing.

DALLAS BENEDICT - 8 Hillcrest Drive

MR. BENEDICT: I agree with John (May). There is an awful lot of water that backed up in this -- along the streets and people's backyards, in our park area and so on before it even got to the -- or could drain off. A lot of it didn't -- it took two or three days before it drained off. And if they put -- have a retaining pond and still have an overflow from that dump into the same drain that our drains go into, man, there is going to be a problem.

DECISION: Unanimously tabled by a vote of 6 yes to table until the October 12, 2004 meeting for the following reason:

1. Pending completion of the final drainage analysis and final drainage plan.

FOR DISCUSSION:

1. St. Pius X Church - proposed addition to church at property located at 3032 Chili Avenue in R-1-12 zone.

Lee Sinnebox, John Nichols, Bob Aman and Shawn Moran were present to represent the application.

MR. SINSEBOX: Good evening. I'm Lee Sinnebox with Costich Engineering. I would like to introduce the team. We have John Nichols, part of the team; Bob Aman, he is Facilities Director at St. Pius Church and Shawn Moran with Hanlon Architects, the architect involved in this project.

They're proposing a 11,400 square foot addition onto the church. The reason for this addition is they have had -- they need room for more worship space. Easter and Christmas services, they just don't have room to put people in there for the service. They will also be creating some meeting rooms, a kitchen facility, expanded lobby and just general improvements to the entrances associated with that, and I will have Shawn kind of go over his design here in a minute, but I would just like to talk about the site improvements associated with that addition.

There is a need for some additional parking spaces so we have added about 45 spaces, and that -- the addition required us to remove some, and then replace them over here (indicating) with some additional so we have a little increase in the parking area.

The existing parking lot to the east of the building was not efficient. It was the diagonal parking, and there was just kind of -- was not an efficient way to do it so we tried -- we laid that out to increase the parking spaces over there, and occupy them, essentially the same pavement surface. There were a couple small islands in there we would be removing to organize that parking a little better to actually gain some spaces there.

Another part of the plan is to improve the entrances. Sunday, after the services when church lets out, there is a little bit of a problem coming out and turning left onto Chili Avenue, so we -- the existing entrance to the east we're going to be widening that, putting a stacking lane in for left-hand turns. The existing entrance that is about at the center of the property will be relocated, take that out and have a new entrance to the west.

DARIO MARCHIONI: Since I'm a member of the church, I would like to sit away from this one.

JIM MARTIN: Keith (O'Toole), I don't think Dario (Marchioni) would have any substantial financial interest in this.

MR. O'TOOLE: He is a member of the organization.

JIM MARTIN: He is a member of the organization?

MR. O'TOOLE: Yes.

DENNIS SCHULMERICH: I'm in the same situation.

KEITH O'TOOLE: In essence, they are a part of the applicant.

MR. SINSEBOX: No vote tonight, but at least we have a quorum tonight.

So the new relocated entrance, that is going to have an improvement --

JOHN HELLABY: Can I get you to maybe turn that a tad?

MR. SINSEBOX: With the package we sent, the first plan was existing features. It shows you what was out there today, how the parking is working. It did not show the addition on the building.

The second drawing on the set is the overall plan. To build the parking lot to the west, we have to relocate the soccer field. There is an existing soccer field out here that is used. We would simply turn that 90 degrees so we can maintain that facility, as well.

Since doing this, we did have some impact from the Town Engineer. We were asked to look at the Phase 2 regs and drainage control, so the sketch plan that you have doesn't show that, but we have since worked up the details on that and we're proposing a storm water management facility down in this corner here (indicating). That is the lowest area of the property where pretty much all this area drains. We'll be capturing the runoff there. We have a few little pipe upgrades within the lands itself that we're going to be doing with those improvements and essentially create a drainage control that does not exist. That pond, besides meeting the Phase 2 regs, water quality and channel protection will also have some storage capacity up to and including the 100-year storm.

JOHN HELLABY: Will you lose some of the trees down there?

MR. SINSEBOX: There is one tree we'll have to take out to facilitate that.

Careful study of the plan, you can see everything we're doing here, we're trying to preserve trees. We built the parking lot in here (indicating). All of the trees that are shown on the plan were actually survey located, and the trees in this direction here (indicating) will simply be paved around and maintain them, so it is very nice sizable loads across the property.

Another thing that we did is we did not want to expand any of the improvements closer to Chili Avenue. We have a lot of green space here that makes the site looks nice, so any of the expansions we did, we kept it to the west, to the north or limited to the front.

The entrances will require New York State D.O.T. permit. We have started that process with them. We know that takes quite a while to do.

Question came up regarding parking. We did -- Shawn did do an analysis -- in this case, parking requirements is one space for every four seats or one space for every 8 foot of pew. And Shawn did those calculations. I think we have about 30 --

MR. MORAN: The requirement with the existing seating and the addition would give us a requirement of 230.

MR. SINSEBOX: We'll have 260. So we'll have about 30 additional. The church personnel tells us on those Christmas services and Easter services they do use some of the parking now up along the school that runs up north, but those are not included in the calculations with the overall parking. Just looking at the improvement. So with that, I will have Shawn introduce the plan.

MR. MORAN: The elevation shows that the frontage that faces -- addresses Chili Avenue right now, the existing church facility, the proposed addition will extend a shingled roof to match the existing church out to include a covered canopy or drop-off entrance. A large glassed-in area for new gathering space, as you enter it -- before you enter the sanctuary. And wrapped around the back side of the building will be the meeting room space and the expanded seating area. The brick, we have already pursued matching the existing brick, coming up with a blend to match that.

So that the basic materials are brick, glass, aluminum storefront and roof shingles.

MR. NICHOLS: Stained glass. One of the stained glass panels that the expansion is going to require to be removed is going to be moved to the exterior of the addition.

JOHN NOWICKI: Would you gentlemen be looking forward to preparing something for next month and coming back?

MR. SINSEBOX: Yes. As a matter of fact, according to your submittal criteria, we have submitted final plans that detail all of the engineering to the site. We planned on bringing samples of the building materials, some more elevations and more --

JOHN NOWICKI: Sounds like you're pretty well along in the planning process.

MR. SINSEBOX: The time schedule is they would like to try to start construction in November.

JOHN HELLABY: What are they doing as far as parking lot lighting and whatnot?

MR. SINSEBOX: There is existing lighting in this parking area here (indicating). That will be relocated just slightly to meet the new paving striping arrangements, so I think there is -- all together six

pole lights here (indicating). There will be six when we're done.

JOHN HELLABY: Additional lighting being added in the drive lanes or no?

MR. SINSEBOX: None proposed in here. There are some ornamental lightings for the -- on the crucifix here (indicating). There is some lighting up in -- near this area here (indicating). Those will stay.

JOHN HELLABY: Is that portion of Chili Avenue lit down there with streetlights? I don't remember. I know there is one at Archer.

DENNIS SCHULMERICH: Yes.

JOHN NOWICKI: You might have this ready by Christmas?

MR. NICHOLS: No. We might take some -- perform some site improvements and utility work this year with the bulk of construction to commence in the spring, but there is some strategic prep work, if we can get our approvals, that we'll undertake this year yet.

MR. SINSEBOX: Probably start with relocating electrical lines, cable lines and things like that, getting those established.

JOHN NOWICKI: You're in good shape with Mr. Kress and Larry Nissen and all of the guys over there?

MR. SINSEBOX: I hope so.

KAREN COX: It looks like a nice plan. I like the way that you did try as hard as you could to save the trees and work around them.

MR. SINSEBOX: Thank you. I think we had one that is removed and one relocation.

MR. NICHOLS: There is a memorial tree where the addition is going that will be saved and moved.

2. Kravetz Realty - proposed division of space A-1 (formerly restaurant) to four suites at property located at 3240 Chili Avenue in G.B. zone.

Gina Keyes with Kravetz was present to represent the application.

MS. KEYES: Gina Keyes with Kravetz, 95 Allens Creek Road. The owners asked that I come before you tonight to discuss the space that used to be the old Town & Country Restaurant in the front section, what we call Building 1, that faces Chili Avenue. It is a large space in this plaza, large -- medium to large. Total square footage is approximately 3,600 square feet and recently we have been experiencing influx of people calling our office, looking for smaller spaces. They're wanting 800 square feet to 1200 square feet. Nobody really wants a 3,600 square foot. We would like to accommodate that. The center has been leasing very well. Our projects have now been started, as I stated earlier, and progress is being made. People seem to be pleased with what they see on the proposed drawings so it is bringing a nice draw to our plaza.

JOHN NOWICKI: You feel comfortable about the inquiries that you're getting?

MS. KEYES: Yes. We're getting quite a few. At this time, we're feeling we're fairly close to almost 100 percent occupied.

JIM MARTIN: Do you have specific tenants in mind for this?

MS. KEYES: Significant inquiries, but we're not able to say yes and sign the legal documents with them until we know we can subdivide the space. We're looking between 800 and 12 square feet. What we really want to accomplish is we know the restaurant can't stay the way it is. We have talked with Dan (Kress) on several occasions about the interior and how it doesn't meet what is proper. I mean basically code. Based on how Town & Country has occupied and things have been grandfathered in and whatnot. Our intention is to split the 3,600 square feet light back to the vanilla box, get everything squared away, nothing to stay. It is not our intention to turn it into a restaurant again. So we'll be before with I guess co-applicants -- like I was with Mary Wing, together for change of use permits when appropriate use is known and then we'll be there.

What I am looking tonight to do is get your permission not to come back before you every time I have a prospective tenant so I can divide that space up.

JOHN NOWICKI: Just this space?

MS. KEYES: Just this place. No other place in the plaza at this time. We just want to be able

to have honest conversations with our prospective tenants saying, yes, we know we can subdivide it. We have to go through the necessary permits and applications and change of use situations, but we want to be able to say that to them, that we know we can sign this lease with you. That is what we're looking for today.

I don't know if there any questions I can answer for you to help facilitate that.

JOHN NOWICKI: Strange question. Supposing someone came to you and wanted to rent the middle space for the repair of boom boxes. How would that --

MS. KEYES: I already have one of those tenants in another plaza.

JOHN NOWICKI: How do you handle that?

MS. KEYES: Noise is always a problem. Similar to residential. You share walls with other people. But what we have done in other -- we try to place them in a more appropriate place. We have to do what is right on either tenants. I can't put one person in that alienates two other people. Logic will flow with it absolutely. What we have done in some of the other spaces, if I remember the landlord's list of work to be done for Sensation, I believe there is all walls be egg-crated. In a tanning salon, you can turn it up to ten while you're in your tanning bed doing your thing, so they have asked for sound proofing. So there are solutions to be had.

JOHN NOWICKI: You will deal with that on an individual basis?

MS. KEYES: Absolutely.

So you just know, as we divide the space up, we're actually going to have to add a different looking storefront than it currently has. Doors where appropriate and the whatnot, all that will be consistent with the plaza you have seen, for the rest of the plaza. It won't be anything new or different. It won't set itself aside from any other space in there.

JOHN NOWICKI: Couple quick questions. Dan Kress, could you just maybe clarify this question here: "The Board should ask the applicant what additional information and/or application will be required prior to the issuance of any building permits for work in the spaces." Is that a problem with what we just discussed?

DANIEL KRESS: This is not a complete application. We don't know what the use is being changed to. So my suggestion was the Board ask for some additional information.

JOHN NOWICKI: What kind of information would you like us to ask?

DANIEL KRESS: What the Board typically asks for, confirming exterior changes such as signs, lightings, locations of dumpsters. In this case you're talking about reconfiguring store fronts. It also is obviously not possible to know what we're changing to until we know what the tenants will be.

JOHN NOWICKI: That is my first question.

JIM MARTIN: They already said it will be consistent with the rest of the architectural treatment of the plaza.

MS. KEYES: Yes. Dumpsters will be in locations logical to the plaza, hopefully in locations with the other ones in place.

JOHN NOWICKI: Makes sense.

DENNIS SCHULMERICH: I can profess to be a neophyte for at least one meeting. I'm assuming this is for discussion only, yet I'm sensing we're starting to have discussion as though we're going to approve something. Help me understand what we're doing here. Are you asking for approval of something this evening?

MS. KEYES: To be able to tell my prospective tenants I can indeed divide the space with them and sign a legal document and proceed with the process to get permits and C of O.

DENNIS SCHULMERICH: You expect that from the Board in a binding way so you can go out and sign contracts?

MS. KEYES: Just to divide it, yes.

JOHN NOWICKI: She wants opinion.

DENNIS SCHULMERICH: I'm not hearing opinion.

MS. KEYES: If there is some other process I need to go through so I can be certain I can go to a tenant and say, "I'm going to be signing a legal binding document that says you can move in this space and I will prepare it for you and I will divide it in this manner." I don't want to say to someone, "This is something I can do for you" and then come before you and you guys look at me like I have eight heads.

DENNIS SCHULMERICH: I'm hearing commitment.

JOHN NOWICKI: Are we doing the same thing we did for the other one, the fitness gal there -- will you bring that back before for preliminary site -- preliminary approval?

MS. KEYES: Change in use is what I did with Mary, yes.

JOHN NOWICKI: You will have an opportunity to vote on it then. I don't have a problem with subdividing the space.

JIM MARTIN: I don't think there is a strong objection to what you're proposing. It's a business issue with Kravetz. You need to subdivision the space to meet requirements you're being asked to meet. We're not approving anything tonight.

DENNIS SCHULMERICH: The reason I was asking the question was the way that it was worded made it sound like the Planning Board was making a formal commitment to Kravetz that what we saw here tonight was an approval for them to subdivide it into four.

JIM MARTIN: We're issuing opinion.

DENNIS SCHULMERICH: If it is discussion, that is fine. I just want to know what we were doing.

JIM MARTIN: We're issuing opinion.

DARIO MARCHIONI: We appreciate you being up front with us to tell us what is going to be coming.

JOHN NOWICKI: Especially sitting here all evening. You're well prepared for what you're coming into.

MS. KEYES: I have sat through many. I sat through the 104 project, all of the public hearings there. It was an event, to say the least. So we will proceed with our prospective tenants, know we can sign leases with them, come before you for the change of use as well as the building permit, C of O and all of the necessary paperwork?

JOHN NOWICKI: Great.

DARIO MARCHIONI: And make it contingent they get Planning Board approval.

MS. KEYES: Of course.

JOHN NOWICKI: No problem. We'll look forward to that update.

MS. KEYES: Actually, on the break I did speak with Brad. I said you're very concerned about receiving that timeline and getting it updated, and he is scheduled at this time to be in town. The family, unfortunately, owns some property in Florida and needs to attend to that. So they're tentatively scheduled to be here Monday and Tuesday and I asked them to put this on their agenda.

JIM MARTIN: We're really looking forward to the facade improvements.

MS. KEYES: Nobody is looking forward to it more than me, than my voice mail and my phone.

3. Discussion of Modification to Conservation Board Checklist.

JIM MARTIN: Charlie (Robinson) asked us to do a discussion on modification of the Conservation Board checklist. Everybody has a copy of that, Items 5 and 6. Charlie (Robinson), any input?

CHARLES ROBINSON: Just a couple real quick. The reason for this particular change we're doing in the checklist is simply because the public came to the Conservation Board about what we may be able to do to address their concerns. So upon discussion from that and feedback from that, we did, in fact, come up with the following two items that you have in the Item 5 being, "Indicate the number and location of existing trees, 12-inches in diameter or greater at breast height."

Keith (O'Toole) suggests we change that to chest height. I don't know why.

JIM MARTIN: Whose chest, Kobe Bryant's?

CHARLES ROBINSON: Item Number 6, "If any trees 12 inches or greater ought to be removed, show the number and the locations."

By inserting these two items we feel it would help us get a better indication as to what developments are intending to do or proposing to do. It would give us a heads-up, if you will. And also make them think about what they're really doing before they go ahead and do it.

So we're here -- I'm here tonight on behalf of the Conservation Board to get the Planning Board's approval and buy into these changes as well as any other comments that Keith (O'Toole) might have or Dan (Kress). Whatever.

KEITH O'TOOLE: No comments.

KAREN COX: Can I ask a question? How is the 12 inches chosen?

CHARLES ROBINSON: We chose the 12 inches because that is pretty much what we classify as a mature tree or a growth tree. I mean you're going to get the random shrubs and wild growth in any location that sits dormant, so you have to pick a happy medium. As Larry (Nissen) was saying, perhaps there is a reference to it in the code as well.

LARRY NISSEN: I believe there is existing reference to showing existing trees of -- I think it is 12 inches in diameter or greater.

KAREN COX: I'm familiar with the State D.O.T. clearing and grubbing item, anything 1 inch to 6 inches coming under that, and then beyond that, you start paying for tree removal by size, and I'm just thinking your average adjoiner to a parcel thinks of a tree as probably, you know, anything much bigger than about 6 inches to them is a tree.

CHARLES ROBINSON: That is probably correct, but I guess in this case you have to draw the line somewhere. So we're looking for the sense of saying, with this definition, we consider a tree to be 12 inches in diameter because this is a fully mature tree. Smaller size, once again, that would be wild growth sitting in there. You can go out there now and put your finger around anything that is 6 or 8 inches and this is a wild tree growing. Given in time that could go to 12 and once again, that fits, but if you are going to whack it down, the premise is do it now.

JIM MARTIN: We all okay? You have our blessing.

DARIO MARCHIONI: But does he need -- do you need a letter of -- from our Planning Board?

CHARLES ROBINSON: The Conservation Board would like something in writing saying unanimously approved to a degree to it and once we know -- once this is out, we know that we have got this legal and binding sense of what we propose to do and we followed all the channels.

DARIO MARCHIONI: You need a letter of recommendation from us that we accept this or agree with it?

CHARLES ROBINSON: Yes. That would be appreciated.

DARIO MARCHIONI: That is basically it.

KAREN COX: So we concur with --

JIM MARTIN: I will do that.

The meeting ended at 10:05 p.m.