

CHILI PLANNING BOARD
September 21, 2010

A meeting of the Chili Planning Board was held on September 21, 2010 at the Chili Town Hall, 3333 Chili Avenue, Rochester, New York 14624 at 7:00 p.m. The meeting was called to order by Chairperson James Martin.

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

ALSO PRESENT: Matt Emens, Architectural Advisory Committee; Brad Grover, Traffic Safety Committee Representative; Ken Hurley, Town Engineering Representative; David Lindsay, Commissioner of Public Works/Superintendent of Highways and Building Department Representative; Keith O'Toole, Assistant Counsel for the Town; Pat Tindale, Conservation Board Representative.

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

JAMES MARTIN: Paul Bloser, Chairman of the Zoning Board, is also in attendance tonight.

PUBLIC HEARINGS:

1. Application of Lou Bivone, 55 Alliance Drive, Rochester, New York, 14623, property owner: Alliance Door and Hardware; for preliminary subdivision approval to combine three lots into one lot to be known as Bivone Commercial at properties located at 3763 and 3765 Chili Avenue and 2 Willowbend Drive in NB and FPO zone.
2. Application of Lou Bivone, 55 Alliance Drive, Rochester, New York, 14623, property owner: Alliance Door and Hardware; for preliminary site plan approval to erect a 14,250 square foot retail building/dance studio at property located at 3763 and 3765 Chili Avenue and 2 Willowbend Drive in NB and FPO zone.

JAMES MARTIN: Paul Bloser, Chairman of the Zoning Board, is also in attendance tonight.

John Caruso, Jess Sudol and Lou Bivone were present to represent the applications.

JOHN HELLABY: I would like to recuse myself from Applications 1 and 2 due to the amount of business we do with Mr. Bivone.

JAMES MARTIN: You're recused.

DARIO MARCHIONI: Mr. Chairman, with your permission, I would like to recuse myself also for I believe I have a conflict of interest with this application.

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

MR. CARUSO: Thank you. I'm glad there is enough to have a quorum.

Well, good evening. I'm happy to be here tonight. We were -- have been preparing for a few weeks to come to this meeting to try to work out some site plan issues we have with the Board. With me tonight is Lou Bivone and Jess Sudol from my office to help answer any questions both on the owner's side and the engineering side.

The proposed development, I will go through the description real quick, but for the sake of the audience here, we're proposing to construct an office building -- not office building, a commercial building on the east side of Byrne Dairy, on the south side of Chili Avenue. I just wanted to point out the location so everybody can see it. There is a map up here, an overall rendering, and the size of the building is about 14,000 square feet. It is a one-story building. And it sits on just under 3 acres; 2.8 acres of land. So our request for approvals is the subdivision of the three old parcels that were there, three into one, combining them, and then site plan approval, of course, and then SEQ. So that is what our request is.

I thought I would start off our presentation tonight by describing what is driving this project and what is the purpose of it. And I think the primary objective was to try to find a place for Lou (Bivone)'s daughter, who owns a dance studio, and she will be the primary tenant in this commercial building.

Then it evolved where his son wanted to open up an exercise gym, and before you know it, he had half the building leased.

So I wanted to make sure that it was something that we pointed out that all of the other uses that we show in the plan were just uses we selected out of the allowable uses in the zoning and it

doesn't mean that we have tenants, because we have heard everything from, "We don't want another pizza parlor" -- it is really not a site plan issue, but we have been before this Board and the Town Board for over the last six months and I just thought the more information the better. I just wanted to put that out there.

So if -- talking about the proposed development, the purpose of what is driving it, we're sort of down to the site plan issues, and so I thought that we would hit some of those head on, Mr. Chair, if you don't mind.

We have been doing some research, contacting, coordinating, um, meeting with several of the Town staff, the Town Engineer, you know, Dave (Cross) and his folks are great to meet with. We have attended DRC. We have met with the neighbors. We have tried to find out everything that there is to find out about this project and what our issues are so we could come to this meeting tonight to resolve.

So some of these are high gain conversations. I want to bring them up, let's address them and hopefully you will see we have really taken a good swing at trying to resolve some of the issues we have.

Jess (Sudol), everybody has their own copy?

MR. SUDOL: Yes.

MR. CARUSO: The plan you see before you is a little different than the original plans you saw in that we tried to resolve some of the issues we talked about. The first thing I want to talk about, the comment that we got out of the referral from the Town Board, when we rezoned -- the parcel was recently rezoned, I want to add, in May. It was rezoned from Residential to Neighborhood Business. This is an aerial photo of the site with respect to the nodal development around Union Street and Chili Avenue. Here is Arrow Mart, Byrne Dairy, Perna's station. This is the vacant parcel (indicating). This is the senior housing (indicating). So you can sort of see nodally how that was the expansion.

So we understand this parcel is a bit sensitive because it is the most recent expansion. That is what required us to do the work we did with the neighbors, with the Town, with the Building Department and so on.

So we understand that we needed to have a clear 30 foot buffer. You advised us of that when we met with you. As a result, we have maintained this 30 foot buffer along the east line. We have had some meetings and discussions with the resident here, Rick Taubold, and he and I have tried to work out to his satisfaction what screening would look like over there, including landscaping on both sides of a solid screened fence and so on. So you had asked us to make sure that we had a full landscape buffer there, and we did.

But I wanted to take that even further, because we didn't forget about these other residents over here (indicating). This is Mr. Rule's (phonetic) house, and his -- it sits very close to the property line. We took the same approach to screening to his property that we did to Mr. Taubold's up here on the street, and you will find that also in our plan. So I didn't just want to keep it oriented to the eastern side of the site. We looked fully all of the way around.

The next issue I wanted to bring up and discuss is the parking on the project.

We know that parking in the front setback is not allowed in the code and we're proposing a variance here to allow parking in the setback. We got feedback from this Board during the Town Board referral that we should look at that, and so we did. We took that seriously, and what we did is we looked for a compromised plan. The reason we looked for a compromised plan rather than just complying is because complying is not very, um, adaptable -- not adaptable -- compatible to what is going on around here. Putting this building up on the street really is not what we found a lot of the tenants are looking for because the tenants don't want people having to drive in and having the parking lot to the back. But we know the Board was looking for it. We also know that the Town's Comprehensive Master Plan Committee is talking about things like that, because we happen to represent one of the consultants, so we have our ear to that area there.

And so we know that it is a concern, but it is just not that practical to go put this building up on the street, when you look around here and it is not done anywhere else. It is sort of incompatible with what you're trying to achieve. If you look around here, these other buildings and businesses are only 20 feet off the right-of-way. And we're proposing way more than that. Nonetheless, it doesn't make it any better with some of you.

And so what we thought we would do is a compromised plan. The compromised plan is to take some of the parking, instead of having the massive parking lot here and put it around back (indicating). That is not done without any pain. We had to do that -- if you notice that row that sits behind the building there, that row of parking, that row of parking could be up on the north side of the parking, in the setback. But for the cost of putting another lane in there, we were able to tuck 22 parking spaces behind the back of the building. That is places where the owners can park, where employees can park and it leaves the front part open, and it minimizes almost a third of the parking to the back part of the project.

So that's what we propose to do, is a compromised plan. There are other issues I want to show you that drive that. First of all, there is a sanitary sewer easement behind the building that really impairs the development of this property. It is almost about a third way through it. If you look on that plan, you will see the sanitary sewer easement. You can't put the building back any further.

The other thing that we have is along the whole eastern side of the property is a 40 foot access easement which we are required to maintain for access to these two cottages that are over here (indicating). So we have an access -- we have sanitary sewer easement here (indicating). We have access easement we have to maintain here (indicating). The site, if you look at the west

property line, the west property line angles towards Chili Avenue. So to put a building up at the right-of-way, you would have to take square footage out of the building, and we're already meeting not only all of the lot coverage percentages, 30 percent is maximum, we're at 11 percent -- actually, less now. And we actually don't have any variances for parking. We can meet our parking requirements. So if you don't -- if you can meet your parking requirements and you're under the threshold, that means the building is not too big. But that brings me to the next issue.

We have heard that the building is too big. We have heard it through DRC. We have heard it through our discussions with staff. "What can you do about that?"

That is probably one of the biggest changes that we're showing you here tonight is that we have made a change to the building on the plan that you see. Different from the plans that were submitted. These plans have a reduced building size. The reduction in that building allowed us to solve almost five issues all of the way around.

First of all, the building got smaller, the less parking we needed, so the parking waiver that we were looking for was reduced.

Now I have less parking need. That's a good thing.

The other thing it allowed us to do is the building came in on both sides like this (indicating). The building came in. So now we have more separation off the line. There is some engineering comments and issues that were -- that we were dealing with with Ken (Hurley), and just housekeeping things, but there's an easement over there, stay away from the easement. We're away from all of the setback lines, we're away from the easement lines. And we're able to create more space over here (indicating), which helps us solve another issue.

That I will talk about in a minute.

So just the reduction in the building size alone allowed us to save for the Conservation Board about five to ten cherry and walnut trees over on that side. And to some people, it doesn't matter, but you know, I'm dealing with everybody here. I'm dealing with engineers, I'm dealing with Conservation Board, so everybody sort of wins with what Lou (Bivone) allowed us to do. We went to Lou (Bivone). "If we do this, this many feet off the building, we can make five good things happen."

Lou (Bivone) said, "Okay, go for it."

In addition to the massing of the building, that was reduced.

The next thing the reduction of the building allowed us to do is we gained 10 feet over here (indicating). Now, one of the things you may not know is that I have been meeting with Dario Marchioni who is a landowner here, and Dario (Marchioni) has been concerned about pedestrian access in and out of this place for his tenants. So he gave me his vision of what he would like to have done. It was a little bit different than ours, but our vision was to widen the pavement with the area that we created. We had a 20 foot access road in here (indicating). We widened it to 24 feet and we put a 4 foot pedestrian access lane in here (indicating). We striped it out. The reason we did that was, first of all, it hopefully resolves Dario (Marchioni)'s concern on pedestrian safety. You know we have known Dario (Marchioni) a long time. He has worked well with us. He has rights to his property through an easement. We have tried to maintain those rights through the design that we have with a new roadway and now a pedestrian access.

Secondly, is the roadway systems in and around this area already have similar type bicycle paths on the County highway, on the State highway, up through Chili Center, so this is not uncommon with how it is done for other areas for ped and bicycle access.

The parking that we have on the site, while we were asking for a waiver -- we could have stuffed ten more spots down in here (indicating) and constructed them; we're advised not to. We were advised just to ask for the waiver and not try to stuff them in because it would have been objectionable. And so, you know, we know Karen (Cox) doesn't like to have parking variances and if either you're going to build it or not -- we have the ability to land bank, but we chose not to because we decided and it was recommended to waive. So we need 87 spaces. We have 77 spaces. We're ten short. We could put them in there, but we chose not to, not to stuff it in there.

And so that is the issue on parking.

And then finally on the building massing, the building that you show -- that was presented to the Architectural Review Board -- is different than this one here. It was a bit taller and a bit more massive. Lou (Bivone) decided to take a different approach. We redesigned the building to be much more residential in nature. With that, this is brick and EIFS with the earth tones as opposed to the commercial colors. It blends much better with its adjacency to the residential area. Because we have shortened the building, it doesn't have that massive approach that some had suggested to us that it did.

And then finally, I just wanted to mention that I know we always try to promote cross access to different sites, and if this was -- if we had the ability to do it here, we would have. But our impairment is in order to construct this, we'll be cutting into the slope. We have a retaining wall here (indicating) that ranges -- it varies in height from 5 to 8 feet. So -- and the connectivity to Byrne Dairy is rather odd because this is where they have all their dumpsters and their -- they have their screening and a light pole here (indicating).

So, unfortunately, just due to grade alone, we won't be able to do that. But I know you wanted it. It was something we looked at. I'm just telling you the reason why we can't do it.

The site drops better than 15 feet across it. So how do we level a building on the site and not cut the pavement in or have all of the pavement drain up against the building? The way we did that is we came down the hill, cut into the hill and then set up a retaining wall to level out the building. That is just the way that it had to be done.

So Mr. Chairman, I am just sort of wrapping up here. We have tried to look at all of these issues. We hunted and gathered through all of the different agencies and departments and the Town departments and we tried to come up with this list that was -- that really needed to be addressed, and as a result we have made a modification to the plan. We're trying to show that to you here tonight. Jess (Sudol) and I and Lou (Bivone) are available to answer any questions in more detail that you wish to have on it, and we're also willing to answer any questions on public comment after the public comment is done.

JAMES MARTIN: Thank you, gentlemen.

I would like to start briefly with the response letter dated September 14th, 2010, I believe from Jess (Sudol) to Ken Hurley, Town Engineer, addressing many of the concerns that he raised initially from his first look at the project itself.

There were a couple of things in here that I guess between yourselves and Ken Hurley I want to be sure that we're okay on because there were some issues regarding complete conformance with the NYSDEC design, recommendations, regarding the storm water prevention and pollution plan and some of those things, and I just want to be sure that from the standpoint of this project, that the revisions that you have made, you know, truly alleviate the issues or do we still have some concerns there.

And I will ask Mr. Hurley to comment. If you care to comment on this John (Caruso) or Jess (Sudol), I would be happy to hear that at this point.

MR. CARUSO: Just quickly, Jess (Sudol) did address Ken (Hurley)'s letter, and you know, sometimes when you get -- this is quite a letter and you have to address it all. I don't know if Ken (Hurley) has had a chance to review it and comment back. Sometimes you don't have to. But in preliminary design we have addressed it. We made some significant changes to the storm water system he was looking for. The manuals that we use are guidelines, and I can just say that we will meet the design guidelines to Ken (Hurley)'s satisfaction and the Town's satisfaction. So we don't have to go into any detail. That is always our mission and we always look for approval subject to the Town Engineer's approval.

JAMES MARTIN: Ken (Hurley), any comments on that, regarding that response?

KEN HURLEY: I didn't get a chance to see that response letter, so there's -- there's a lot of items, and you can go on and on about every single listing that the DEC has. There is certain stuff that is listed as required elements and they have other things that are listed as preferred. I tried to really just point out the required elements that weren't addressed.

As long as the required elements are met, there is sizing changes -- shouldn't be too much where it would affect sight, but again, it is still subject to David Lindsay's review as Corps representative to sign off on anyhow.

JAMES MARTIN: Okay. Thank you.

At this point, I will go to the Board for issues and concerns.

DAVID CROSS: Sure. I was hoping to see the building closer to the road. I have a very strong opinion about front parking. The zoning went to Neighborhood Business. I would like to see a Neighborhood Business feel, more of a village-style feel. There are elements that I like that are pedestrian-friendly. You have the sidewalk along the frontage. You have the striping down to Dario (Marchioni)'s property. That's really good.

But I really think that with shifting the building closer to the road and -- you know, if you -- if you draw the line from the property -- from the front of the house to -- for the property to the east there, um, Mr. Taubold's property to the front of the Byrne Dairy and use that as a guideline, I think you're going to be really close to the 75 foot front setback. You may encroach a little bit. That is something that would have to be worked out with the Zoning Board.

You might have to shift some of the building space around, particularly on the west side of the building. I think you can do it and -- and that's -- I guess that's my -- my major thinking at this point.

JOHN NOWICKI: Yes. Let's see what we want to kick around a little bit.

I will pick up a little bit where you left off on the front parking. I can appreciate what John Caruso is saying in regards to the situation, but I do like what you mention about a village concept. It looks like there is a pizza shop there. It is always nice when you see a pizza shop that has maybe a possible area outside of the shop where people can sit and talk and enjoy themselves. I don't know if that is a possibility or not, but that is something that would add to the village concept a little bit, so that is a thought you might want to think about.

I know you put a lot of work into this thing and I want to give Ken Hurley a lot of compliments here because of the efforts he put into the review process, and you, too, John (Caruso), for answering all of the questions. Again, there is a lot to review here and it will take a little time to do that. We just want to make sure we're going in the right direction.

The architectural changes certainly are an improvement over what I originally saw the first time around. There is some issues, I think, on the landscaping that I will make sure the landscaping is really done to perfection when it comes to density of plantings and also size of plantings. It is going to be very, very important here, so that we protect the neighbors and the business area here. It has got me to this point here, from the notes I have taken.

But I do want to hold off on any further comments until we finally put to bed and get some of these issues resolved on Mr. Hurley's letter and John Caruso's comments.

KAREN COX: I will just agree with David (Cross)'s suggestion that I would like to see -- or it would be preferable to see a little less parking in front, a little more in the back, just to keep that neighborhood feel, as he mentioned. And the -- you know, John (Caruso) had a good idea with the seating area. But I just wanted to compliment you on working with the neighbors and

trying to find ways to keep some of the more mature trees on the property than you had done before. I'm sure that the neighbors around there will appreciate that.

That was all I had.

PAUL WANZENRIED: I will concur with my fellow Board members.

Just one question. How did you arrive at 3,500 square feet in the expansion area?

MR. CARUSO: Well, it's flex space. So it was --

PAUL WANZENRIED: Based on a construction cost equalization?

MR. CARUSO: No. Just the architects laid it out and -- it is just, you know, flexible space.

PAUL WANZENRIED: Okay. With regards to the architectural, are you trussing that roof there?

MR. CARUSO: Yes.

PAUL WANZENRIED: Thank you. That's all I have, Jim (Martin).

JOHN NOWICKI: Always -- this always comes up, so let's bring it up now. The heating and air-conditioning units, where are they going to be located, outside of the building, on top of the building? Because we don't want to see those.

MR. CARUSO: They would be located outside in the back of the building.

JOHN NOWICKI: Okay. We don't want to see them on top of the building.

MR. CARUSO: Right.

JOHN NOWICKI: Thank you.

JAMES MARTIN: I will at this point bring up the fact that we do not have input yet from the Architectural Advisory Committee on this particular project. Given the zoning classification and the nature of the project, that's a requirement for this Board to make a full determination on this particular application. So I just want to put that out for everybody at this point in time, that we do not have that information and -- so we'll move ahead at this point.

I have gotten your letter. This conserved more trees, which is good from a Conservation Board perspective.

PAT TINDALE: I guess I should make a comment. We don't have the final landscape plans. A lot of changes have taken place here, so I need a licensed landscaping architect sealed print, so there is not a question of landscape certificate compliance at the end.

JAMES MARTIN: Conservation Board needs the final landscape plan.

MR. CARUSO: We're not at final yet, but we know -- she has a nice checklist to go through and we'll fulfill that.

MATT EMENS: No comment at this time.

BRAD GROVER: No comment.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

RICK TAUBOLD

MR. TAUBOLD: Rick Taubold, the -- who will be their neighbor to the east.

First, I want to thank Mr. Caruso for the time he has spent. We have had a couple of meetings. He has shown me the plan and I gave some suggestions. My wife came up with a few things she wanted to see and we're basically happy with what he has done.

Now I'm going to take exception with your comments, Mr. Cross, about wanting the building up to the front. Put yourself in my house. Would you want to see -- look out your window and see that building right next to you?

DAVID CROSS: If I could respond. What my suggestion was, to bring the -- the front of this proposed building in line with the front of your house, so it wouldn't project out in front.

MR. TAUBOLD: But it means we'll look out our side window and see that building. As he has designed it, by the setting it back, putting up the berm and the fence on there, he did that specifically so that we would not see the building, so that we would not see the parking lot, so when we look off to the west, we're going to see trees, maybe even have a chance of seeing the sun out there, rather than having it blocked by the building.

By putting it back where it is, even if we're sitting on our porch, which is in back there, we're not going to have that much sight of the building, because it is set back and will be blocked by the trees back there. So I understand you like that neighborhood and putting it up there, but I think in this case, you're going to be doing it and you're going to make it feel more commercial. He is trying to make it feel more residential by putting it back from the street, and I totally applaud that. I have absolutely no problems or complaints with the way he has done it.

We have discussed the cutting, the landscaping, because actually the strip of land that belongs to them on that side is a very nasty hill that we have to mow. With what he is proposing by putting it out there, we won't have it to mow anymore. It wasn't even our property to mow, but we had to, or it was going to look ugly because no one else was cutting it. We'll now have flat grass along there to do it. We'll have nice edging to cut. And he has even said there is going to be a sidewalk along there, which means if we or anyone else wants to walk over to Byrne Dairy, I see no need to cut across that property anyway.

I understand what it is like there. So I -- as I say, he, Mr. Bivone and Mr. Caruso has been very accommodating to us, and specifically wanted to know what we wanted to see, and even before we came up with it, tried to show us, you know, what they don't want us to see. They want us to see neighborhood, residential feel, not a building sticking up in our line of sight. So that is all I have -- have to say on that.

I think -- I said, and I also would encourage you to make a speedy decision on it, because

none of us want to see a muddy mess with the weather coming up and all of that going on before -- you know, during the winter months. Thank you.

JAMES MARTIN: Thank you for your comments.

JOE DINOLFO

MR. DINOLFO: My name is Joe Dinolfo. I'm here to speak on Mr. Marchioni's behalf. The current owners of this property purchased the property with the knowledge of the topography, with knowledge of the residence and with knowledge of the existing easement that runs along the -- I believe it is the east side of the property.

As you have said, you are trying to get a village feel for this -- for this area. A village is made up of its residents, and coming into this, he knew full well that there are people bordering along the property that he purchased.

This is a new building. Anything that the Board directs is possible.

The proposed sidewalk that's -- that is being striped is not really a sidewalk. I would characterize it more as a shoulder. A shoulder, a 4 foot shoulder that people will use as -- essentially as an access to the parking lot, both the front parking lot and any back parking lot.

What this does is it essentially expands an existing -- expands the use of an existing easement that has been there for several years, which is used by the two houses -- and I take exception to the use of the word "cottage."

These are single-family homes, much like all of the other homes that are in the area. It expands that use to a use that is -- we consider unsafe and will also impede traffic from -- or individuals from walking from their home to the -- to Chili Avenue and points beyond.

I also believe that the existing properties that were there, that were purchased from the -- I believe it is the Cybil Walworth lot, which was the front lot on Chili Avenue, was a -- had an existing driveway, existing right-of-ways. There is no reason to have that access road or what I consider more a -- essentially an extension of the parking lot right where an existing easement for ingress and egress exists. It could easily be put into -- in the middle of the existing -- of the lots, or to the other side of the lot. Just -- it is just as easy to put it there as it is where it is now -- as planned, anyway.

The existing easement is a 60 foot easement. What he is proposing is to essentially eliminate that and have individuals who live in these homes, single-family homes, drive through a -- what I consider essentially an extension of a parking lot to access Chili Avenue to go and get their mail. To go across the street.

It's approximately 318 feet from the -- the residences to Chili Avenue. It's a long way to walk in what essentially is a parking lot and/or road.

I don't believe the accommodation of a 4 foot grade shoulder is really going to help those residents.

I also believe that by eliminating the easement, you're affecting the property values of those two homes.

We're not trying to be unreasonable. What we're saying is we would like a 20 foot driveway adjacent to what is being said to be an access road and have -- and have the project move over -- moved over 20 feet, or put the driveway -- or put the road in the middle of the lot, or put it to the other side of the lot, away from the residences.

I also believe that -- that the -- the use that is -- the -- although the easement -- although I believe that the existing easement has a right to be moved, I don't believe in the second paragraph, second numbered paragraph, I believe there is a -- it states that neither party will interfere with the use of that easement, and I think that there is actually a private right to the parties of that easement.

Thank you.

JAMES MARTIN: Thank you.

I will make a comment at this time. This Board, it is not in the purview of this Board to deal with easements. That is an issue between property owners. It is a civil matter. This Board has no authority to deal with easements in regard to any property issue. So I will make that comment right now, that that is between property owners.

As far as the proposed modifications, I think it is detrimental to the initial design of the property.

KAREN COX: Well, like -- I'm sorry. Go on.

JAMES MARTIN: Go on, Karen (Cox).

KAREN COX: I guess -- I'm going to go back to the presentation that John (Caruso) made. It was my impression from what he said that he is -- that they worked with the surrounding property owners. So I guess my question is: If you did, we assume that you talked with all of the property owners and this proposal you're showing is mutually agreed upon. Now we're seeing something totally different. So I guess how would that have happened?

MR. CARUSO: Your question is to me? Could I answer it?

JAMES MARTIN: Yes. Please answer it before we move on.

MR. JOHN MARCHIONI: Mr. Caruso did work with us.

MR. CARUSO: Although I did work with Mr. Marchioni, we did not come to a mutual agreement as to what we were proposing to do. Mr. Marchioni shared with me the plan that he has before you. And he asked me if we would consider it. I didn't think that that plan is constructible. And so I didn't consider it. I didn't want to bring it up. I didn't want to knock them. It was a good -- it is a good idea on what he is trying to achieve for himself.

Unfortunately, it is smack down the middle of the sacred 30 foot buffer that you asked me

to provide. It is constructed on the side of a hill that is one on three. There's no place to grade or build it. And then out at the roadway I have Mr. Taubold's driveway. I have that relocated driveway and I have our driveway within 100 feet. I would never be able to get that approved through the State and I would never -- I don't think I could get it through Engineering.

So my comment to Dario (Marchioni) was, "I don't think it's constructible."

Dario (Marchioni) said, "My concern is about my tenants and their ability to get to the street."

And I said, "Well, what did you have in mind?" We started talking about a sidewalk. And I said, "Okay, I heard what you said."

Then I came up with this plan. I widened our roadway. I cut our building down. I did all of that to try to make this go away. Okay?

I brought it to Lou (Bivone). Lou (Bivone) took the square footage out of his building. He added 4 more feet to his lane. It cost him just 5,000 bucks in pavement alone to make this alteration to the plan. We did it without going into the 30 foot buffer.

KAREN COX: So the reason -- part of the reason that you did not consider a concrete, let's say a typical pedestrian sidewalk as everybody envisions it on the east side of the access road is because it was going to be in the 30 foot buffer.

MR. CARUSO: There are several reasons why I didn't consider it.

First of all, let's be honest, this parcel doesn't warrant a 5 foot concrete sidewalk all of the way down to Mr. Marchioni's property. It's his opinion that he needs pedestrian access to consider his tenants safe. Right now, they have a 10 foot wide stone driveway. We're putting in a 20 foot paved driveway. There is all sorts of room to walk down there with what we propose.

But I considered a handicapped-accessible; 48 inch, which 44 is required; striped out; ped safe area, the same thing we did at Cinemark where you drive through a 1,000 car parking lot. We did it just like that.

And I did that -- and Lou (Bivone) agreed to it because it does open that 20 foot drive lane up to 24 feet. There is a little more room not only for pedding, but snowplowing, emergency vehicles, cars just making lefts and rights out of the front parking lot. Four more feet is a little more manageable. We didn't go into the buffer and we took it all to the right -- or all to the west, I should say.

But one more thing I wanted to point out. You know we're going to the Zoning Board of Appeals next week and we're going there for parking in the front setback, as you know. But while we're going there and this came up during the DRC process, where this access road -- you know, we have to maintain access to this other property because there is a common access easement, so this is an obligation to him that he is living up to.

That driveway, as you can see, it sort of tapers to the southeast to connect to Dario (Marchioni)'s property's roadway. That enters that 30 foot buffer along the property line. You see what I'm saying? This is the 30 foot straight and parallel (indicating), but it -- here it kicks in a little bit. It's questionable on whether really is that a variance or not, but we're going to the Zoning Board of Appeals already, right? So why not just make it totally nice and clean? So we also applied for this portion of the property to be in that setback. Do you understand what I'm saying?

Okay. So now when it is brought to me why don't we just put a 5 foot sidewalk, put it on the buffer -- you're going to the Zoning Board of Appeals anyway, and make the buffer 25 feet and all of this will go away, we didn't do that. We didn't do that. We kept the 30 foot line. We moved our whole property. We squished the building down. We picked up the area to do it. We did it in our space. We didn't take it away from what we promised Rick (Taubold), even at the end when we were trying to get this done.

So, you know, they want a sidewalk for their customers -- or for their people. I think we gave them what was -- I think we're pretty good in what we offered. And it's not a 60 foot wide access as the attorney mentioned. It's 40 feet. The 40 foot is still there. And I don't care to argue about whether we're encroaching on their rights. I agree that is a civil issue, and so I hope that answers your question.

KAREN COX: Could I point something else, out, Mr. Chairman?

JAMES MARTIN: Go ahead.

KAREN COX: Just looking at -- thank you, John (Caruso). I appreciate that.

We have in other areas along Chili Avenue, closer to Chili Center, looked at reducing the number of driveway openings in a certain -- in sections of Chili Avenue because, you know, I guess you would call it access management for -- for the correct term.

So with the plan that is in front of us, that -- that -- as opposed to the one that was just handed to us, that kind of -- that addresses our concern about multiple access points within a short section of the roadway. And I know that the State DOT, when they reviewed plans, it's their goal to try to get a driveway openings -- new driveway openings as far away from an intersection as they can, so that would -- the original driveway access to that property was closer to Byrne Dairy and the State would want to see that further away.

Usually. I'm not trying to put words in their mouth, but that's been my experience.

JAMES MARTIN: I understand.

Okay.

MR. TAUBOLD: Point of information?

JAMES MARTIN: Yes.

MR. TAUBOLD: Having lived on 3753 Chili Avenue for almost 15 years, I can -- my wife and I can attest to the fact that the number of pedestrians walking up and down that drive is

minimal. People do not walk up and do that to get their mail. They usually get it before they go in. Again, people walking, using that as a walkway is minimal. I don't even -- I can't even say that you see one a day going up there.

JAMES MARTIN: Thank you.

MR. CARUSO: Jim (Martin), I swear I didn't plant this guy. (Laughter.)

JAMES MARTIN: It's all right.

MR. JOHN MARCHIONI: Mr. Chairman, fellow Board members, the situation --

JAMES MARTIN: Name, please.

JOHN MARCHIONI

MR. JOHN MARCHIONI: I'm sorry. Attorney -- John Marchioni, for the record, 183 (inaudible) Drive.

The situation is this: We have a -- an attempt to build a commercial building in what was previously a residential area. We are not prohibiting or objecting to the intent of the developer to build this. But what we would like to do is maintain the integrity of a residential area for what has been a residential area for a number of years. I do not think it would be objectionable to ask for a sidewalk, a sidewalk that is concrete, that is designated a sidewalk.

Mr. Caruso brought up two points. One he suggested that expanding the road would provide them with an ability to plow the roads better. If you're going to plow the road, where is the snow going? Obviously it is going in the path of the sidewalk. The snowplow drivers are just going to plow right into the sidewalk. The residents in that area are going to have to walk up the street, in the middle of the street, to get to their property.

In addition to the commercial development being placed in front of these residential houses, it's a devaluation of the property, something you need to consider. These homeowners have owned these houses, they have paid taxes, they have lived there so many years. What they're asking for is a small accommodation to maintain the integrity of a residential area. And I don't think it's too much to ask the developer to provide this accommodation of a small sidewalk so these residents can utilize this sidewalk to get to the road.

And it's a designated sidewalk that they will be using specifically for themselves. And no other people.

In addition, there was several other comments -- I don't know if you were -- if they were brought to your attention, but we do have a letter here from an engineer suggesting they reviewed the plans and they have made several suggestions in addition to the sidewalk. They requested that additional signage be placed not only in front of the homes where the private area starts, but also in the street, designating that the house is -- there are residential houses towards the back of the parking area.

In addition they asked for -- I can actually provide the -- the Board -- may I approach and present this?

JAMES MARTIN: I guess so, since we haven't seen that letter.

MR. JOHN MARCHIONI: It is additional comments from an engineer with respect to the review of the plans, if I can submit it to the Board.

JAMES MARTIN: I won't have time to study these at this point.

MR. JOHN MARCHIONI: I'm not asking you to, but there are additional comments I would ask you to consider. Thank you.

In addition, I also have a licensed realtor here who is willing to comment as to the devaluation of the property if certain accommodations aren't made to the existing residences.

Thank you.

COLLEEN BONAS (phonetic), 20 Golden Road

MS. BONAS: Colleen Bonas. I live at 20 Golden Drive. I have not spoke to anybody yet, so I'm not sure that you have contacted all of the residents in the area since I haven't seen you guys yet.

I did have a couple of concerns. One of the major concerns was the drainage on that property. The lagoon since Byrne Dairy has been in there is ridiculous with the water. It used to dry out every year. Now we're always full and it is flowing into our property. That is one of the major concerns I had.

The other thing is part of us having this home is it residential. We want to go home, be away from the road, away from the traffic and by doing this, I won't have the privacy.

And actually I do use my driveway at least two times a day to walk up there and I know that Ed, which is -- Dario (Marchioni)'s tenant uses that to walk up to Byrne Dairy quite frequently also. So we do actually use that driveway quite a bit. And to be walking through a parking lot, if I want my niece to go with me if I go get my mail or over to Byrne Dairy or whatever, it makes it quite dangerous to walk through a parking lot and I'm not that comfortable with the accommodations that were suggested here.

I know that even though all of us attend Tinseltown, there are lots of us that parked on that lined driveway or that lined area, so I'm not that comfortable with that as far as our safety.

We're also talking, I'm not sure how this will be now when I look out my house and see this big building, so I'm not sure about the landscaping plans for the back of the property. So I am a little concerned also regarding the parking, the -- the people coming out, maybe taking smoke breaks, maybe doing whatever and how that will affect me and my property when I'm outside.

So I mean those are a couple of my concerns, as well as I did have -- I believe that our

water access and all of that runs through that driveway that is there currently, so I didn't know if there were any plans for the gas line and the water lines that are currently running through that easement.

So those are my concerns. And I haven't spoke to anybody, so I'm not sure what the plans are as far as that goes.

JAMES MARTIN: Thank you. Anything else? Thank you.

The utility service that goes back to these properties, I'm assuming there is going to be no changes or -- on that.

MR. CARUSO: (Nodded negatively.)

ROBERT PIAZZA (phonetic)

MR. PIAZZA: Robert Piazza. I'm a realtor with ReMax. I have been selling homes for quite some time. Typically just for a lot of the same reasons that Colleen (Bonas) indicated as far as the value and concerns, when you go to put a house on the market and now you're dealing with a commercial structure behind you, and as far as accessibility coming from the road to here, people like that feel as far as having own private drive. Going through a commercial lot to get to your house just doesn't give you a proper feel and in today's market, too, I think that would actually devalue the property if you had to go through a commercial lot to get to your home.

So, you know, thing to do -- if we can keep anything as far as a private drive, um -- or something to keep the -- the same feel as far as going home, would actually be very sensitive to the homeowners in the back and keep their values there, too, as well.

JAMES MARTIN: Thank you.

DARIO MARCHIONI

DARIO MARCHIONI: I have a couple things to do. John (Caruso), you're really good.

I just want to just say one thing. You know my name, okay.

Just imagine you have children living in one of these houses. They got to go get the school bus, okay? Up the hill. That's the only place you're going to get the school bus because the school bus isn't going to go down there. They would have to walk on a road which basically, you know, you have businesses there that are night and day, okay? I understand one of the businesses is open 24 hours a day.

You have cars going in and out of there, continuously for the different type of businesses.

To walk on the side of that road without no protection, you're inviting a real, you know, dangerous situation. Think of the kids. Think if you have your own son there, living there, you say, "Go up the road there, go get the bus," okay? And he walks on that road and just imagine what kind of safety does he have. He doesn't have a distinctive area to walk on. There is no sidewalk, okay?

Because what it is, he is striping a piece of -- the extension of a blacktop. He is putting some stripes in it. In the wintertime probably will have snow and you won't see the stripes. You know, cars -- you know, are going to drive on that stripe, and if you walk in there without paying attention to the car, you're going to get a serious -- serious situation is going to happen, to your son, your daughter.

Now, I'm familiar with that, because on Old Chili Scottsville Road, when the subdivision approved -- was approved called Blueberry Hill, it was planned for a concrete sidewalk. Well, they didn't do it because the money that they got -- they received from the developer was used for a gate to go through the railroad tracks. Now they're putting a sidewalk there, concrete sidewalk, and thanks very much.

But also I want to let you know there is a cross -- a steel cross right there at the end of the railroad tracks, where a kid walking on that blacktop, whatever it is, shoulder, he was run over by a train, okay?

Now, you can see a train. Kids are not paying attention. You know, they have things in their ears, things in their mind and if they're walking on this blacktop driveway, I think it -- it is a real concern.

All we're asking -- John (Caruso) says, "Well, 5 foot sidewalk," this and that. Give us a 4 foot sidewalk, okay? But it has to be concrete. It has to be part of the curb, an extension of the curb, to get a sidewalk. Now, what is the big thing about this here? Is it because of money? I don't really want to spend any money, but, you know, for the sake of safety, I think it is well worth to spend the money to do it.

Thank you very much. That's my concern. Thank you.

JAMES MARTIN: Thank you, Dario (Marchioni).

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: I'm gathering that this so-called sidewalk is just pavement that's got a stripe delineating where people are supposed to walk versus where cars are supposed to drive? Clue me in.

JAMES MARTIN: That is the proposal on the plan.

MS. BORGUS: That is totally unacceptable. Totally. And as Dario (Marchioni) just mentioned, we have seen this in Town, we have seen it on Union Street. We have seen it on Chili Scottsville Road. The developers try to get by as cheaply as possible. Nobody wants to spend any money, and we -- those so-called sidewalks end up being nothing.

Now, I feel very sorry for anybody who owns property behind this because some very good points have been made. These people, in order to get to their homes, have to drive through a

parking lot of a store to even get to their homes, and I don't believe they should be walking in the road. And Dario (Marchioni) is correct, they get the school buses there at the top of the hill.

Now, this is not safe, and I'm tired of hearing about money. And I'm tired hearing about a square foot here and there. This building is huge and I'm going to get to that point in a minute. A few feet one way or another in the size of that building will not make one bit of difference. If it makes somebody safe and it makes people have access proper -- proper access to their homes, then give them a sidewalk.

Now, again, I hear the lady in the back who says that she is a neighbor and has not been approached at all. It seems as though when certain engineers come to this room to present their causes for their applicants and their customers, they kind of gloss over the fact that they haven't really done their job very well in dealing with neighbors, because every time there are neighbors who show up that say, "Well, nobody talked to me."

And then some particular engineers will come in here and they will say, "Oh, all of the problems have been smoothed out. We have met with everybody and everybody is happy." Then you know what you find out very quickly? That is not quite the truth. And it really puts, I guess, doubt in your mind about a lot of proposals when you start out on that foot.

Now, I'm glad that this gentleman who lives on the east is totally pleased with this project, but he is one person. And there are those of us who have lived in that neighborhood, as I have my entire life, and by glory, I'm not happy with this. There is a lot of things wrong with this that need fixing, some of which have not been mentioned tonight.

Now, I would like to know for my own satisfaction when these plans changed because I was in the Building Department last Tuesday and looked at plans and they were not these. So when were these brought to the Board?

JAMES MARTIN: This particular plan we're seeing right now was presented tonight for the first time.

MS. BORGUS: That is a sad situation, and I have brought this up to this Board before. That is not good policy. It's not good practice for the person who is applying and it's not adequate time for this Board to do their homework. You should not be given changes in plans the night of a meeting. What kind of a deal is this? You're going to shove this through? Does the applicant think that the people are so stupid they won't see this is a last-minute thing where you people haven't even had a chance to examine it or look at it? There is too much here at stake. Too much for the community, for the neighbors and for the Town.

This has been, as has been pointed out, a residential area, zoned residential area until just recently. Now, all of a sudden we're going to make it Neighborhood Business, whether we need stores or not, I guess.

Well, let's remember that we want to keep it Residential. I have been working along with a -- many more Chili residents on the Comprehensive Plan 2030 plan for well over a year now. And the one thing that we agree on, 100 percent, is that we want a neighborhood feel to our Town. That building is not a neighborhood feel. It's too big. I'm hearing that it has been reduced in size, but nobody has mentioned the exact square footage in reduction. I wonder if somebody could fill me in on what that reduction is.

JAMES MARTIN: You can answer that, John (Caruso). Do you remember what the square footage reduction is?

MR. CARUSO: I will let her finish.

JAMES MARTIN: All right. Go ahead.

MS. BORGUS: It still is too big. And if anybody in their wildest dream thinks that that building as is presented with all that glass stamped out across the front with a bunch of doors is any kind of a fit for Byrne Dairy and the historic house across the street, then I don't know where they're coming from. And again, I'm appalled that these people have even appeared here before even going before the Architectural Review Committee.

That's not the way it is done either. And the people who are bringing this, some of them have brought enough projects to this Town, they know what the rule is and they know what the process is and they know this isn't it.

Now, as far as all of the problems with this site, I would have to agree with the comments made before. Anybody buys a piece of property, they better look at what they're buying. Don't come in here crying later that this is wrong and that is wrong and somebody else is wrong and now the Town has to accommodate you because you bought something that really isn't -- isn't what you needed. Now, there may be 2.8 acres in this piece, but obviously it is not all usable land.

So what we're doing is -- is we have a building that is too big. We're squeezing more -- more, more, more storefront on the property than it really should take, and all of these exceptions wouldn't have to be made if we stuck to the code.

The one thing I would like to bring out and I haven't heard anybody mention is snow storage. Now, if the plans that I looked at last Tuesday still hold, the snow storage for the front of this building is going to be a very simple thing for the owner. They're going to scrape up all of the snow on those 55 spaces out front, and they're just going to push them up next to the road. Do you see where the snow storage is for the front on this building? Now, if you want to see what that looks like, go down to Chili Paul Plaza about March and look at the dirty pile of snow that sits out at Chili Avenue until it melts sometime in early June. We don't need that kind of thing along Chili Avenue. There has got to be some room for snow storage and it can't be along Chili Avenue. We don't want this kind of thing in West Chili. And if -- you wouldn't allow that in Chili Center. We don't want it out in West Chili either.

Now, I had one question and there again, maybe this isn't on the new plan, but what is a demising wall?

JAMES MARTIN: A what?

MS. BORGUS: A demising wall. On the original plan that I saw last Tuesday there was something called a demising wall.

JAMES MARTIN: Can you address that after she is finished commenting, if you care to?

MR. CARUSO: Yes.

MS. BORGUS: Might have an opinion about it, if I could get an answer now, please.

MR. CARUSO: Mr. Chairman, these are all Ms. Borgus' opinions and I don't have any comment on them.

JAMES MARTIN: All right.

MS. BORGUS: I would like a definition. It should not be that hard to come by.

JAMES MARTIN: I don't know what a demising wall is.

JOHN HELLABY: It is simply a separation of tenant spaces.

JAMES MARTIN: Thank you.

MS. BORGUS: A folding wall? Is there a portable, a moveable wall or a permanent line? It is a wiggly line on the plans, so I'm assuming it was not a regular wall.

Now to get back to the parking, the original plan that I looked at last Tuesday clearly identified 90 spaces as being the requirement for the property as it stood and it clearly stated on there there were 90 spaces provided in that plan. It was right up in the legend.

I counted 77. There never were 90, people. 77 doesn't equal 90.

Again, this puts -- to me this puts -- casts a whole doubt on the veracity of some of these things we're being told and I don't know why somebody on the Board didn't catch that. 55 and 72 don't equal 90, and clearly it said there were 90. Now they're saying they want 87, but they only still got the 77. Now they want those waived. You know what? Chili's codes are not up for waiver for every developer who comes in here and just doesn't like what he sees and what he finds and what he can't have. Our codes are there for a reason. And it gets mighty annoying to come to this meeting month after month and have developers come in here and just act like they have some kind of entitlement to every kind of a waiver they need or want because it's what they want. We have codes for a reason. And I'm tired of hearing about waivers.

Now I would like to talk about the fact that we evidently have hopefully two tenants in a five-unit commercial building, retail building. That leaves three unaccounted for, and who knows how long they will sit there empty. I don't think that we need empty stores built in Chili. If we don't have a plan, we shouldn't be building. And if you want to know how that goes, I will point you in the direction of the Dunkin' Donuts building on Scottsville Road. That was built some -- I don't know, what, eight -- I don't know, eight, ten years ago, long time now. There were three stores. Dunkin' Donuts wanted the one on the end. For years those other two spots sat there empty. Finally, a couple of years ago, a nursing staffing company took one of them. Do you know that after eight or ten years we're still looking at empty storefronts on Scottsville Road because it was over built? Now you want to do -- these people want to do the same thing in West Chili. If you need two businesses or two storefronts, build two, not five so we can look at empty space.

MR. BIVONE: Mr. Chairman, may I speak?

JAMES MARTIN: In a minute.

MS. BORGUS: I'm not done. I'm not finished.

Now, Mr. Caruso says tenants don't want rear parking. You know what, tough luck. Tough luck. The code is the way it is. The code says you can't have front parking. And the Comprehensive Plan advocates no front parking. And just because they want it, again, it's another just, "I'll have it because I can waiver it. I'm going to get it."

Don't compare this building to the ones next door because those buildings have been there for a while and the feeling in this Town about front parking gets tougher every month. So those buildings are old. Let's not look at them. Let's look at what we're doing now. Let's talk new construction. No front parking.

Now, the way I understand it this building is going to sit below the road; am I correct?

JAMES MARTIN: Elevations would indicate that it is somewhat below the road. I would have to go back and look at the topo elevations, but what is your point on that?

MS. BORGUS: I'm trying to think of the appearance. It is going to sit below Byrne Dairy. It's going to sit below the road. That is not how one gets a neighborhood feel. This was a residential area until just recently. Let's come up with a building, not this plain vanilla drawing that we have here, which is horrible, by the way. I mean it is not obnoxious in the way it is ugly, but it just doesn't fit what we want in Chili any more. That will never pass the Architectural Review Committee, I can tell you now. It's nothing but glass. It's glass and doors. The whole front of it. That's not what -- that's not what their criteria say.

The mass of this building overwhelms the other buildings in the area.

And to do with line configuration and arrangement of doors, windows, porticos and other openings, and I'm referring now to the criteria of the Architectural Review Board, under A5A1B, they recommend an interruption and variety in wall plane, offsets, recessed entrances, awnings, canopies, roof overhangs, shadow lines, courtyards, balconies. That's not it.

What is not recommended is that one element or design feature dominate the building design. That does (indicating). That will be up to the Architectural Review Committee, which we wouldn't be having this discussion if these people had followed the proper process and done things in the proper order, which they chose not to for whatever reason.

And the point was made about landscaping on the rear of this. I don't know if I would -- I would think the Conservation Board has thought about that, but they definitely need to. The people from down below to the south of this need to be protected, as well.

All in all, this needs a lot of work. A lot of work. We'll start with doing something smaller and doing something that more fits what we want to see in Chili in design.

Thank you.

JAMES MARTIN: Thank you for your comments.

Mr. Bivone?

MR. BIVONE: I really have no comment.

JAMES MARTIN: John (Caruso), anything you want to address?

MR. CARUSO: (Nodded negatively.)

CHARLES RETTIG, Coldwater Road.

MR. RETTIG: Just a summary for what I have heard this evening, what I observed with the plans.

The lady and neighbor has not been contacted, not dealt with.

The plans, the changed plans were just presented this evening. This Board didn't -- this Board and the public did not have reasonable time to review.

The architectural review has not been done and submitted.

Front parking needs to be revisited, reviewed with resolutions to be made.

Landscaping to the rear, unknown, and should be presented so that there is some reasonable input to know what is expected -- know -- so the neighbors know what to expect.

My bottom line comment is this Board should properly table this this evening so that these items can be properly reviewed. Thank you.

JAMES MARTIN: Thank you.

Paul Bloser, Zoning Board Chair.

PAUL BLOSER: In listening to the comments tonight, and reviewing the application myself, just what I am seeing tonight, we're supposed to hear this next week for some variances. The first thing that strikes me, I was unaware that Architectural had not seen this yet, the new revision. Based on our code, I think it is 12-4, it is a code that Architectural do -- the Board does review that before it comes to Zoning if there is a requirement.

Not knowing what -- where the sentiment of where this Board is going yet, I think for us to hear it and the possibility of even thinking about granting any type of variance at this point would be premature, and I would at this point be inclined to ask our Board to table it, pending further review by Architectural and possibly to site plan preliminaries.

I don't think we have enough information before us to hear it. That's my opinion. It's still on the schedule for next week, but I guess in fairness to Mr. Caruso and Mr. Bivone, and also to the Town, the vote could go in either direction, and I think for everybody, it would be better to have more information for all of the Boards. Thank you.

JAMES MARTIN: Thank you, Paul (Bloser).

Anything else from the audience at this point? Last chance.

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

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

JAMES MARTIN: I appreciate all of the comments from everybody regarding this particular application. I have already noted the fact, and it has been brought up several times, that we have not had Architectural Review Committee review of the project. Not having that information before the Board, the fact that we only have had some new information presented to us tonight, I feel it is only appropriate at this time that we table this application until a future meeting to allow some time to study the revised plan, get the input from the Architectural Review Committee and at that point in time we can go ahead and make -- do our SEQR determination and decide which way we're going to go with this particular project. So at this point in time I would make a motion that we table this particular application at this time.

Do I have a second on that?

JOHN NOWICKI: Second.

DECISION: Tabled by a vote of 5 yes to table with 2 abstentions (John Hellaby, Dario Marchioni) for the following reason/finding of fact having been cited:

1. Due to the fact that the Architectural Advisory Committee has not had an opportunity to review the application, it was unanimously tabled, by a vote of five to a later date. During the public hearing portion of the meeting, several of the comments made are worthy of further consideration by the applicant. Also, concerns raised by Planning Board members should be taken into consideration prior to rehearing these applications.

JAMES MARTIN: At this point I will point out again, the Public Hearing is closed.

There was a recess in the meeting from 8:20 p.m. to 8:37 p.m.

3. Application of Metalico Rochester, Inc., owner; 1515 Scottsville Road, Rochester, New York 14624 for preliminary subdivision approval to combine three lots into one lot to be known as Metalico Rochester Subdivision at property located at 1511, 1515 and 1525 Scottsville Road in G.I. zone.
4. Application of Metalico Rochester, Inc., owner; 1515 Scottsville Road, Rochester, New York 14624 for preliminary site plan approval to erect a mechanical metal shredder at property located at 1511, 1515 and 1525 Scottsville Road in G.I. zone.
5. Application of Metalico Rochester, Inc., owner; 1515 Scottsville Road, Rochester, New York 14624 for special use permit to allow an auto shredder and dismantling at property located at 1511, 1515 and 1525 Scottsville Road in G.I. zone.

Kip Finley, Ron Paul, Mike Drury, Bob Frank, Jason Cobb and Bart Kemper were present to represent the applications.

MR. FINLEY: Kip Finley with Razak Associates. Just for the record, all of the paperwork and studies to this point say Avery Engineering. Same people, same firm, just a different name. So there is continuity there.

We're back here again after many months. We were here at -- last in December of '09, and our application was tabled so that we could do some more research and provide some more data, and tonight we're requesting that we pick up the review and go through and answer any questions.

We have a lot of experts here tonight. We have -- I will just go row by row. Front row we a third party reviewer for the Town that reviewed the work that we did, so there are comments that he has had after you looked at.

The second row, audience.

Third row, we -- is a whole bunch from Metalico.

Ron Paul is here in the suit that is going to help us along with process.

And Jeff in the yellow is from Ohio. He has operated several plants for Metalico and started several from scratch.

Mike Drury is an Executive Vice President, Corporate for Metalico.

Jason (Cobb), in the blue, operates the shredder in Pittsburgh.

Bob Frank is General Manager at Scottsville Road, where this application is for.

Bart Kemper, in the blue, is the one who did the report. He is up from Louisiana. So we want to try to make use of all of these people tonight to answer all your questions. The next row is Metalico Environmental so they can help answer questions also.

I don't know if we really need to go through much of a review process other than the project was once approved, for the benefit of audience, anyone listening, in 2007, and it was challenged and is now back here because of an aviation concern that we did some research on, and Bart Kemper was hired to do a report that reviewed the potential for fragments from the shredder affecting aviation.

So I don't know if we want to just go for questions?

JAMES MARTIN: Well, I think at this point what I would like to do, Kip (Finley), since the primary concern that was brought back to this Board was explosions within the shredder, ejecting scrap metal in various directions -- I have -- I think everybody here has read the report from Mr. Kemper analyzing the results of his look at the operation of the shredder and what the potential was.

I think what we would like to do, since that was probably the key aspect upon which this Board would focus, that I would like to go ahead and have Mr. Kemper review his findings at this point and then be subject to any questions or concerns by the Board, side table, and then we will open it up to a Public Hearing tonight to listen to any comments that our public may have.

So let's go ahead at this point in time and have Mr. Kemper come up and review for the Board his findings.

MR. FINLEY: Bart Kemper. Kemper Engineering, Baton Rouge, Louisiana.

MR. KEMPER: Would you like me to state my qualifications or just go -- go right into --

JAMES MARTIN: Your resume is quite extensive. Is the Board willing to except Mr. Kemper as an expert engineering person on this?

The Board indicated they had no problem.

JAMES MARTIN: You don't need to go into that. Your resume speaks for itself.

MR. KEMPER: Thank you, sir.

For the benefit of everyone, I will just start us at the 10,000 level, 10,000 foot level and drill our way in.

What we have here is an overall view of -- now, let me say up front, I was brought in based on my mechanical engineering. I have expertise in blast and ballistics and things that go boom. I'm not an expert in the actual operation of the machinery and what the machinery items are. I have these wonderful people here that can speak to their own equipment.

I'm here to talk about, given some information, what is a relative threat, what could potentially happen. This is the in-feed right through here (indicating). This is the existing wire

mesh (indicating). The material comes into here (indicating). There is a large roller here (indicating). There is a large roller here (indicating). This is where all of the fun stuff usually happens (indicating).

Now, if an explosion happens in this area (indicating), there is venting in these -- there is venting in there. This is all covered with plate metal (indicating), so this is not an area of interest, because if a propane or acetylene bottle explodes in that area, it is contained and vented. So that is not the issue.

The issue is there are some breaker wheels -- I may use the incorrect terminology -- but there are some breaker wheels right through here (indicating) that as the -- as the bottle comes in, not previously identified, got through the safeguards as it is -- but it could happen -- that a bottle got in there, and in the process of being deformed, there is a rupture and then an explosion. Once there is an explosion, the stuff could come this way (indicating), or go this way (indicating). If it goes this way (indicating), we don't care because it goes back into the nice big safe box. These are the two areas.

So having said that, we look at it a little more closely.

What I termed Roller A and Roller B, the two big roll wheels. There is another thing I thought based on the material was -- a Roller L is actually a strut, which is actually stronger than a roller. From my point of view, I'm looking in terms of line of sight. Can something get out there? Whether it is a roller or a strut, as long as it is solid, it is all the same as something flying around.

Using the standard sizes for bottles, for welding bottles and -- acetylene is the most energetic material that is normally available that could end up here, in here, more energetic than propane. That is about the diameter of the large -- the larger welding bottles (indicating). So it is going to get past Roller A. It is going to get caught on Roller B, and that is where an explosion could happen.

Now, normally -- oh, and sorry, and here is where currently they have specified some rubber curtain shields (indicating). If something happened here (indicating), if it tried to shoot up this way (indicating), it would run into it. If it tried to shoot straight up, it would run into the rubber shield. That's pretty much it. The rubber shield does 100 percent block the line of sight from potential explosion in this region right here (indicating).

Now, normally in engineering you want to have a design margin, a safety factor. The thing about explosions are, and -- and so you all know, I'm also an Army guy. I was in the Army before I got my engineering degree. I'm a Corps. of Engineer officer. I served in combat. I have been involved with the IED fight, so I -- not only have done demolitions, I have also seen what other people put out there, and the stuff is not fully predictable.

You can generalize, you can design for general effects, you can go for worst case, but this stuff is not 100 percent predictable, even when you are doing construction. This is a totally unplanned event, and there is a lot more stuff around it. It could be covered in scrap. It could be totally empty, just be the only thing in there. A lot of variables. So in order to address all of the what ifs, what if this, what if this, I used a series of simplified assumptions that would, when taken together, could never physically happen.

For example, I assumed that 100 percent of the acetylene, was a full tank, 140 cubic feet, I assumed it would all be exploded at once. That's not going to happen. In your own internal -- in your own automobiles, with all of the fancy stuff they have in there to get most out of the gas, typically 20 to 25 percent is actually combusted. The rest blows out and is not used. I used 100 percent.

If you all ever played with welding and torches and stuff, you know it is not just acetylene, it is oxyacetylene. If people could make what they wanted to out of acetylene and just use air, no one would bring another bomb with them called an oxygen tank. You have to have pure oxygen mixed just right to make that 100 percent happen, if you could have it happen.

Then on top of all that, we're not in a cylinder. We're not in a test chamber. We're not in something that is all tamped down. We're out in the open with a shredder with things moving. So right then and there, I have already totally blown out any sort of realism in the spirit of conservatism because the particles that we launch with this unreasonably efficient explosion. If we can stop that sucker, we got it stopped. That was my intent here, was to insure that it is safe.

That is my goal here, is to say if I can say it can be stopped, it is not mostly stopped, it's not probably stopped. If I say it is going to be stopped, it's going to be stopped.

The other simplifying assumption I made on a lot of this was in terms of launching it. When you launch a bullet in a rifle, you have the explosion in the back, and the barrel hangs onto it all of the way out. Even that doesn't get all of the kinetic energy from that explosion to get the projectile out, but it gets most of it.

We don't have a barrel here. I still gave it some confinement factors and still did other stuff that pretty much gave it most of the benefit of the doubt just in case it was that one bad day. I have seen the one bad day in another place, things you never thought could happen happen and I tried to account for that, maybe that just one bad day something happened the wrong way.

So when I say something is very conservative, and I will touch on it a little bit more, that is what I am trying to go with on this.

Now, what we did here is -- this will work out really well.

I used a program called Vexdam, a commercially made program, been around for a long time, where it models explosions. Vexdam is one that models explosions due to vapors and gases.

And just to orient you to my diagram, this right here (indicating) not -- shows the

approximate location of the initiation of the explosion. In that circle is an itty bitty spot. That is basically my probe, where I have a flat thing in there that is going to receive -- when the computer does its calculations, it will say what the pressure is and the impulse and these block shapes are just geometric representations of those Roller A, Roller B and the strut.

Again, there is no way to predict exactly what is going to come -- what would be projected out of this. Intuitively, if it's a piece of sand, we're not going to worry about it because it can't get far enough. If it is an engine block, it won't get out there, and it is not going to get up in the air. It has to be somewhere in between. The other thing you can think about is if something is flat and catches a full-on wind, it will go farther than something that is relatively round.

So I -- just to bracket my analysis, I used four different particles, four different projectiles.

First one is a 1/2 inch by 1/2 inch by 1/2 inch.

The next one is an inch, by an inch by quarter inch thick.

The next is 2 by 2 by 1/8.

Actually, last is the greatest, 4 inches by 4 inches by 1/4, and that is how much it weighed in ounces.

Assuming steel. Steel -- the heavier the material, the more momentum it will have. If it was aluminum, it wouldn't go as far. Also doesn't penetrate as well, so I went with steel. This could be fragments from the tank. It could be fragments of something else in the shredder that was just laying in the area.

Now, one thing that I did not make clear in this report, but you imagine this is 140 cubic feet of gas. That ball of gas is actually that big (indicating). This was another simplifying assumption. I made the assumption that -- that the explosion would be basically like that (indicating), and the particle would be right there (indicating).

Going back to that whole thing about the rifle. The actual explosion is this big (indicating). As the whole thing ignited, if it did ignite all at once, that shock wave would propagate up and around and you wouldn't just have the explosion underneath pushing it. You would also have a gas expanding and exploding on top of it. So you wouldn't have it all behind like a rifle barrel. You would also have it pushing it back down.

I ignored that since we can't predict what was happening, what if it was just right. What if it was on top of the whole heap and lined up right about there, and was held just right and just caught -- just caught it bad. Highly, highly, highly improbable. Add up all of the other improbabilities and we're getting really improbable here, but again, that is why when I say it is very conservative, that is the approach I was taking.

And this -- I will even get it up there right this time -- is some of the graphics of this -- this explosion, and what you can see is the program does take into account the shielding. It does channelize that blast. That is why I am using this program versus simple hand calculations, because this is one of the few programs out there short of doing a full high-end analysis, using computation fluid dynamics and a bunch of other letters, this actually gives me almost as good an answer, but this is specific to blast, and this basically conforms to known laboratory experiments and known tests done by the Corps. of Engineers and the Ordnance Corps.

But you can see right here (indicating), the blast propagation is coming out this side (indicating). It is going out this way (indicating), and it is scooting up that way (indicating). These are the expanding gases and the shock wave. At the gut level that makes sense because it is the only place it can go.

So what happens? I have a velocity, I have a height, I have a penetration and does it cut the mesh. I can go into more detail and I am anticipating there will be some questions, but I'm trying to get down to the bottom line. Given these weights, you get a velocity. Then I have a height. Now, these heights are the theoretical height if it could go straight up the top, not if it is scoots out the back. And by the way, this actually is oriented this way (indicating), because this -- chute is on a 55 degree angle. So -- but -- but let's say you had the worst possible case where it just went straight on top, that is the height it would get if it was unimpeded, if it was unimpeded. And then how far could it penetrate through a rubber mat and the last items it would cut the mesh.

Now, the only thing I want to throw in here to add to this is for the larger item, which is 4 by 4 by 1/4 inch and the mesh is -- is square mesh, basically it's 1 3/8 inch square, in order for that piece to get out, it would have to cut through two pieces of wire, not just one.

Now, the two small -- the first sample 1 and 2 doesn't matter because I'm ignoring that because I'm assuming they could scoot through the mesh. So the way I was looking at this, the first two, yes, they could scoot through the mesh. But that is not a problem, is could they get past because they're the smaller ones and most likely to come out the top -- could they get through the rubber mat.

The bigger ones, because -- imagine this. I have something about like this (indicating), and I'm giving it full value for being face on to the explosion. Now, when it says whether or not it can cut the mat, this is a ballistics program called ConWep. ConWep is developed by the Corps. of Engineers, standards for conventional weapons effects. It gives it a weapons-like profile. You have a choice of bullet shape. It doesn't let you do something like this (indicating). I mean why would you have a weapon that did that?

So one of the things about going straight up the top into the rubber is there is no way that this thing could accelerate and give it the full value that I calculated using a worst-case analysis. There is no way it could come up and accelerate that far and then magically at the last nano second, be transported onto a perfect edge on configuration and get through there. It is going to smack belly flop. A belly flop is something to get through that. So the programs did not allow

me to go into all of that, and again, the reason why I was doing it this way is I was getting a bracket. I'm not trying to definitively say.

If I was given a specific fragment, will this get through, I would have done a more detailed analysis of that fragment. What I am trying to do here is paint a picture of different sizes of possible scrap and whether or not a given safety measure would work. So the little stuff, they're the ones that can get through this little area. The question is will the rubber stop it.

The bigger stuff is the stuff that is say on the back end over here (indicating) that -- saying is maybe even oriented as that pencil is (indicating), and when the explosion happens, it gets launched up the chute. That was my concern with that.

My finding is that the one that the -- that the half inch by half inch by half inch would be stopped by the existing proposal from a half inch rubber mat. However, the larger one, the one that could just barely -- possibly 1 inch by 1 inch by -- by -- about a 1/4 -- now you got to think is this -- this -- the square is 1/8 -- 1 3/8 by 3/8 by 3/8 wire. You would have to wiggle it through in the first place. But you could get through -- you could conceivably, if you wiggled it, got it through the wire mesh, but would the -- would the rubber mat stop it? No.

So my recommendation is to increase the rubber matting size from half inch to an inch and a half just to make -- like I said, to make absolutely sure that anything scooting out the top is going to be stopped. And linking up the larger stuff, the stuff that picks up a lot more connectivity, issuing it also has a weight, once it accelerates, it has a mass momentum and energy, looking at whether or not the mesh would stop it. In those cases, it was stopped.

You all have read the report. I have pretty much summed it up, as well, at this point. I would ask for any questions.

JAMES MARTIN: Just a clarification. You know, we have -- obviously we have pictures of the -- of the equipment, the machinery. Do you have something that would indicate, you know, where the -- where the mesh cage is located and where the rubber mat -- I know you have that picture. But for clarification purposes, I would like to have that shown.

MR. KEMPER: Thank you, sir. This is -- the yellow highlighting shows where the mesh cage is, so if the explosion was in this area where the red dot is, and it was coming back up the chute, you -- it basically came out from underneath the roller and separated out in this way, caging would be -- the caging would go around it. And what is maybe not apparent, is that the sides right here (indicating) are solid. I mean that is part of the chute. Plate metal.

MR. FINLEY: Maybe a photograph.

MR. KEMPER: Yes, sir.

JAMES MARTIN: That is the location of the mesh that would attenuate the large particle sizes. None of them can really cut the mesh, but could the small ones actually get through at that point in time?

MR. KEMPER: Yes. That is going back. The small ones could get out the back, however, their mass momentum is such that they would not -- at a 55 degree angle, which is -- assuming they have a straight laser beam from the -- underneath that roller and shot straight out and there wasn't a big pile of scrap in front of it, as there normally is -- because normally when it is in full operation, there -- this whole chute is filled with material (indicating).

But we're assuming, again, bad day, that just that one -- that whole area is clear, there was a clear shot up there, yes, a small particle could get up there, but the -- but the mass momentum of it would be such that it would not go out and shoot -- and shoot more than a couple 100 feet up.

Right now, the one that is most likely to get out, 1/2 by 1/2 by 1/2 is calculated with all of the -- all of these simplifying assumptions is still only 80 feet up. It will go out a bit, but only 80 feet up in elevation.

JAMES MARTIN: Okay. All right. I'm trying to remember my college physics.

MR. KEMPER: There is up (indicating), and there is out (indicating).

JAMES MARTIN: Okay. Paul (Wanzenried), any clarification questions for Mr. Kemper?

PAUL WANZENRIED: None.

KAREN COX: None except to just enter into the record that the -- the assumptions that have been made by the engineer are very, very conservative, just based on my experience, I guess as a civil engineer, making assumptions. So I just wanted to state that.

JAMES MARTIN: Thank you.

JOHN HELLABY: Dust matter. I guess should something -- and again, I understand that you need to know what was in the chute at that time, but if an explosion occurred, all right, there would be some sort of dust cloud.

MR. KEMPER: Yes, sir.

JOHN HELLABY: I would assume that would come from that. How large, how high? I mean --

MR. KEMPER: Well, I would like to bring that forward, because they have different types of feeds. I'm familiar they have a wetting system. They have -- can someone here better speak to that?

JAMES MARTIN: Can we hold off -- I would like to bring the Metalico people up.

MR. KEMPER: I can't speak to it, because I'm not familiar with the type of material. Also, I know they have a dampening system in there that would mitigate that right off the bat.

JAMES MARTIN: Okay. Let's -- before we get into that, I just want to finish with Mr. Kemper.

Any questions or issues regarding his analysis, engineering analysis?

JOHN NOWICKI: Not at this point.

DAVID CROSS: Nothing further.

DARIO MARCHIONI: I have a question. Once this thing is set up in operation, what is the life span for these -- this equipment, all these safety measures? In other words --

JAMES MARTIN: Well, I think we'll have Metalico people answer that.

MR. KEMPER: Sir, that is outside my lane.

JAMES MARTIN: Anything else on the analysis at this point? Anything in the side table? Okay.

What I would like to do is have Metalico people come up. A couple of things that I would like to just basically touch on. You know, you -- your safety procedures prior to anything going into the shredder, how you basically determine that you're free of any acetylene tanks or propane tanks. Mr. Hellaby asked a question about if there was an explosion, has anybody had an experience with an inadvertent happening of that nature, and what was the actual result of that particular incident.

And, you know, just a very brief overview. You know, I think we have been through this enough. I think we have a pretty good understanding of the operational characteristics of the shredder, and I think we have a very good understanding from, I will say the -- you know, the downstream, the draining of all of the fluids out of the vehicles before they go into the shredder. I mean we have been over all of that analysis before. We have addressed this application prior to tonight. So is somebody prepared to come up and answer those questions?

MR. COBB: Jason Cobb, Metalico Pittsburgh.

Basically, I have installed and operated a shredder very similar to what you're looking at on the screen for seven years now in Pittsburgh, Pennsylvania. The machine that you're looking at there has some newer technology safeguards than even the machine that we have at this time. For example, the cage on the in-feed conveyor, in order to help protect from any scrap flying out and also coming off the slide sides of the in-feed conveyor, first and foremost as an operator the last thing you ever want is an explosion in your shredder. So I will start with your safeguards that we have at our facility.

First of all, all of our buyers that go out on the road inspect the scrap we're buying from dealers. Peddlers are inspected at the time that they come in from people on the ground. We have a full-time inspector on our staff, as well as myself and other managers that are out front all of the time looking at the material going in. You're going to have to handle the scrap multiple times with different crane operators to feed the machine, so people are looking at it all of the time.

Number 1, you never want to see a propane cylinder come in. We don't buy them. We don't want to buy them. If somebody sneaks them in, we pull them out and have to take care of getting rid of them. I'm not telling people haven't sneaked one in. And have I had explosions in my shredder? Absolutely, but the machine is built to handle it. We have a smart water system on our machine, the Texas shredder, called the smart water system. Other machines have what they call damp shredding. They even have chemicals today that is like a soap that can go in there to help mitigate any type of explosion and/or dust.

What happens basically, and I have had an explosion in the machine while I have been running it, you drop the scrap in, you don't know what it is, because you can't see it. Once it is underneath the feed rolls, everything is out of your line of sight, in the box, as Bart (Kemper) said, which is the safest place to be. You have an 8-inch steel box basically that you have an explosion occurring in. You already have water in the shredder, so there is naturally steam all of the time while you're shredding. It takes out the oxygen in the box which allows -- as Bart (Kemper) said, you don't have any oxygen in there to help explode the gases that might be inside.

As soon as you would have an explosion, you can then hit a button. They just basically have a deluge button which pumps water into the machine to immediately suppress any cloud and/or flames that would be ignited. Very rarely do you have a fireball or anything of that nature because it's instantaneous. It goes out. Then you have a water deluge and then you have other safeguards to be able to isolate the material, if necessary. But to be quite honest with you, if an explosion occurs, it maybe lasts for two seconds and I'm back shredding within ten seconds of that happening.

JAMES MARTIN: Thank you. All right. I will go to the Board. Questions at this point?

MR. COBB: Anything else that you asked --

JAMES MARTIN: I think you addressed everything that I had asked. Did he address your issue?

JOHN HELLABY: So virtually there is -- if you have all this water --

MR. COBB: There is already water in there so it won't be a dust cloud. It is not dry inside the box. There is other reasons for the water, but it is there also as a safeguard.

KAREN COX: Steam.

MR. COBB: Naturally while we're running you see a small steam plume above the shredder because of the heat that is in there shredding steel.

JOHN NOWICKI: Compared to the existing operation, in this case, with the shredder going in, what would be the difference in decibel levels if something happened with an explosion?

MR. COBB: I wouldn't think there would be any difference in decibel levels because the machine itself is identical. You're saying what happens when there is an explosion, the change in decibel level?

JOHN NOWICKI: Yes.

MR. COBB: I can't answer analytically what changes, but it is just a quick pop. It is not even the sound of like a firecracker going off or a loud firecracker going off.

JOHN NOWICKI: Quieter than some of the motorcycles on the road?

MR. COBB: I would say yes. Sometimes they happen and you don't even hear a sound. It's that...

DARIO MARCHIONI: Just the type of maintenance you have for these kind of machines.

MR. COBB: With the cage apparatus they have there, other than daily checks to make sure nothing appears -- it would have been easy to have that mesh on the side, so if something did, you could reweld it or put a piece of patch in place over top of it. Ours has rubber curtains on it instead so we change the rubber if anything would ever tear or rip or anything like that.

JAMES MARTIN: How thick is the rubber?

MR. COBB: I believe ours are -- it is either half or three quarters and we have them doubled so about the same as what Bart (Kemper) is proposing when you add them together.

JOHN NOWICKI: Do you actually put a whole car in there at one time?

MR. COBB: Absolutely.

JOHN NOWICKI: Who drains the fuel?

MR. COBB: We buy them -- in our case we buy them from automobile salvagers that do them -- we buy them flattened.

JOHN NOWICKI: You get them cleaned.

MR. COBB: Correct. In our case we have not installed at our place a rack, um, to actually do the drainage and everything. We don't -- we try not to buy cars from peddlers that -- it opens up a whole another can of worms with titles and things of that nature.

JAMES MARTIN: If my recollection is correct, you were going to install a drainage rack on your facility for cars that are dragged in, you know, on the end of a tow truck or something like that.

MR. DRURY: Mike Drury, Metalico. We run several facilities, unlike Pittsburgh, accept cars that are not drained, and it is called an Enviro Rack, basically something you buy that enables you to drain the gas line, drain the block, drain out the antifreeze, so essentially you're putting the car in dry. You're also taking off other items like the battery, catalytic converter, mercury switches, which are a big item. So the car goes in as dry as possible before it goes into the shredder.

JOHN NOWICKI: Then you recycle the other materials?

MR. DRURY: Yes. The oils, if you have -- if you have a heater on site that can handle dirty oil, basically, we use that. The gasoline actually, you put it through a filter and most locations give it to their employees. So -- because there is nothing wrong with it once it has been filtered. And then the antifreeze, third party recycler or disposal company would take it away for you.

JAMES MARTIN: I guess from my information, you know, the cars that we see coming in on flat beds that are all crushed, have they been predrained or have they been cleaned in some way?

MR. COBB: In our instance, that's -- the thing that we have to do on the front end, we have to know we're buying the vehicles from people that are doing it properly, licensed salvagers or auto wreckers that are doing everything by the book on their end, yes.

JAMES MARTIN: Because we have a facility in Chili that goes boom on a regular basis, okay.

MR. DRURY: Typically, and Jason (Cobb) can speak to it, the third party suppliers that flatten automobiles are recurring customers. So if you had someone who is causing issues, you had explosions in the machine from their material or you noted as you were unloading it off the truck they were dripping, you won't continue to do business with them until they clean up their act. It is an ongoing relationship. It is not like someone brings in a load and you never see them again. They're continually delivering cars to your facility.

JAMES MARTIN: Thank you. Side table, any questions at this point?

Indication was no.

JAMES MARTIN: Just for the record, I would like to note that a lot of the things that were conditions of approval in the previous hearing on this particular project, such as some of the paving activities at the site, you know, some of those other modifications, a lot of those have been accomplished. I think it has been a benefit to keep Scottsville Road much cleaner than it used to be, and we do appreciate that fact.

Anything else from the Board at this time or anybody from Metalico or Kemper? Okay. I will open it up to public comment at this time.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

CHARLES RETTIG, Coldwater Road

MR. RETTIG: Just a couple of questions for clarification. If Mr. Kemper can review the names of the explosion software programs he used, please.

JAMES MARTIN: Um, if you -- you can give him the names of the software programs. I don't know what you're going to do with them. Go ahead.

MR. KEMPER: Yes, sir. The first one is Vexdam. V-E-X-D-A-M. Published by Trinity Consulting in Dallas under the software group -- I think it is called Breeze, B-R-E-E-Z-E. You Google that, you will find it. For the penetration, I used a program called ConWep. ConWep that is a U.S. -- I received that program when I went through the blast analysis and secured

engineering course with the Corps. of Engineers when I was on active duty, so I had that software available.

Any other questions?

MR. RETTIG: Thank you very much. That does make a difference if someone that does look it up, can evaluate those. So I appreciate your answers, Mr. Kemper.

On the entry, the inlet, is Metalico proposing any vertical strip rubber curtains on the inlet?

JAMES MARTIN: On the feed chute?

MR. RETTIG: On the feed chute.

JAMES MARTIN: Other than the mesh cage. You can answer that, go ahead.

MR. COBB: I would just like to show something real quick that maybe isn't clarified.

This -- on this piece of machinery right here (indicating), this whole unit is a solid structure. You have rubber curtains here (indicating). Right in this area is a solid 36 inch steel feed roll, okay, that Bart (Kemper) alluded to.

JAMES MARTIN: Is that the A roller?

MR. COBB: He calls it a roller. You have an identical one right here (indicating) where this orange apparatus is going across and then you have a solid steel tube strut that goes across because this is a big piece of steel. As a matter of fact, it was almost 25 tons when it is all complete on its own. A piece of material cannot -- cannot -- would practically never go through here (indicating). I would have to pass a 36-inch steel roll and then go through another 36-inch steel roll and pass that strut that basically goes all of the way across the front. Up here (indicating) is a steel plate with another -- you can see that round strut that goes all of the way across. This part up top is solid steel. I have to get up there and clean this every couple of days because stuff just sits on top of it. These rubber pieces (indicating) are basically the curtain that Bart (Kemper) is talking about that a piece would have to go -- somehow go between all these three things and out this direction. It can't fly here because I just told you all of the different obstacles it could have to circumnavigate. The only other place to go through is here (indicating).

By having this cage, anything going in that direction cannot go up and out. It will have to go in here and travel down back towards the crane operator feeding it. On our machine we have rubber hanging in this direction (indicating). This is much more substantial and protective than what I have. The only thing that we discussed would probably be hanging some rubber here (indicating), but I don't know what benefit you would have, because all of this is already in that way.

JAMES MARTIN: Thank you.

MR. RETTIG: Thank you for the clarification. You have an equipment manufacturer on this machine.

JAMES MARTIN: I think it is Metso Corporation?

MR. DRURY: Correct.

JAMES MARTIN: M-E-T-S-O. I think they're in Texas.

MR. RETTIG: Thank you. One additional question for your smart water system, your operator on site. I assume -- I really am asking is there an operator on site at all times while the machine is running?

MR. COBB: The control tower is the structure to the right-hand side above the shredder. There is a gentleman sitting in there operating the machine, watching everything go in.

JAMES MARTIN: So the answer is yes.

MR. RETTIG: Thank you.

JAMES MARTIN: Thank you. Anything else?

MR. RETTIG: (Nodded negatively.)

JAMES MARTIN: Other comments?

WENDY MARSH

MS. MARSH: Wendy Marsh. If I can approach.

JAMES MARTIN: Yes.

MS. MARSH: Good evening. We represented the Petitioners in the litigation that was ongoing for a number of years and we are pleased to see that both the Town and the County is taking a look at the air hazards. And we just spent about an hour and a half talking about the risks associated with walking on a sidewalk in the previous application. I just wanted to highlight the fact that now we're talking about fireball explosions and projectiles and very risky issues associated with this project.

I would note that it's been about eight months for the report to be prepared and submitted to the Town. We were just able to get a copy of that last week and we just received the County documents this morning in the mail. And what we would like to do is to take a look at these documents and provide any comments that we may have to those to both the Town and the County. And I do understand that the County has requested an extension of time to respond to the submitted documents until December, and I would ask this Board to table this application and hold the Public Hearing open to allow the public the opportunity to comment on this application once the County provides its opinions, especially with regard to the air traffic issues, which was the issue that the Court sent this application back for.

So that's what I would ask from this Board, is to give us the opportunity and the public the opportunity to come back and comment on this once the County makes its recommendation.

And just a few other comments based upon -- the statements by the expert, they are conservative assumptions, I would agree with that, and that is from a layperson's perspective.

But the words that were stated as far as "absolutely safe" and "absolutely sure," you know are not actually set forth in the report. The report actually says it is "highly improbable." You know, really we need to take a look at what is highly improbable and what could the impact be to the airport. I also understand there was recently an explosion at the airport that caused a lot of disruption. So we would like to have the opportunity to comment on these once these reports are reviewed and the County has an opportunity to comment.

Thank you.

JAMES MARTIN: Ms. Marsh, we're aware of the fact that at this point in time we do not have the official report from the Airport Authority regarding this particular application. All right? Given the lack of that, to proceed other than to a tabling tonight would be inappropriate as far as this Board is concerned, so I plan to keep the Public Hearing open until the October 12th meeting. All right? So you have -- hopefully in that period of time we will have response from the Airport Authority, any potential revisions to the reports that have been presented will be forthcoming very quickly, so you will have time over the next what 21 days, all right, to do an analysis of that for any, I will say substantial changes to any of the information that we have heard tonight. Okay?

MS. MARSH: Great. Thank you.

JAMES MARTIN: Any other comments at this time?

(No response.)

JAMES MARTIN: All right. Seeing none --

JOHN NOWICKI: One here. Just to ask a question. That's all.

The truckers who bring in the crushed vehicles, for shredding, who would a resident call or talk to within your company or would they call the Town, for example, if these truckers are delivering using -- and they are coming down our Town roads and braking with engine brakes and making a lot of noise, or with noisy mufflers? How do you handle complaints like that?

MR. DRURY: We're on Scottsville Road. They would be using the main -- the main roads like 390 or Scottsville Road to get to the facility. I would think if residents aren't calling currently to complain about trucks that are coming in and out of that facility, because we do have over-the-road trucks in and out on a daily basis, I don't think there would be complaints in the event we have a shredder there because they're going to use the same routes for transportation, which are the most efficient to get in and out of the facility. So if there were complaints, you know, I think -- I think we have proven that we're very receptive to comments that folks have.

JOHN NOWICKI: Just in case somebody asks, because I want to make sure that they call you or someone --

MR. DRURY: They can call Bob Frank because --

JOHN NOWICKI: Put that on the record.

JAMES MARTIN: Anything else from anybody on the Board? All right. Given where we're at, at this point in time, what I would like to do is make a motion that we table this particular application. We are going to keep the Public Hearing open until the October 12th meeting on this particular application, but I would think at this point in time I make a motion we table this. Do I have a second?

JOHN NOWICKI: Second.

JAMES MARTIN: I'm tabling this application.

JOHN HELLABY: That is all three applications?

JAMES MARTIN: I'm sorry?

JOHN HELLABY: You don't want to take care of subdivision now?

JAMES MARTIN: No. No.

JOHN HELLABY: Okay.

JAMES MARTIN: I'm going to keep this -- this tabling refers to all three applications, to correct the record. Okay? On tabling all three applications?

DECISION: Unanimously tabled by a vote of 7 yes to table for the following reason/finding of fact having been cited:

1. Due to the fact that an official review of the modifications to the shredder had not been completed by the Greater Rochester International Airport Authority, the Planning Board was not able to move forward with a SEQR determination and therefore tabled, by a unanimous vote of seven to a later date.

The input from Kemper Engineering regarding the improved safety aspects to control shrapnel ejection from the shredder was very thorough. Input from other locations operating similar equipment was helpful from an educational standpoint.

The meeting was adjourned at 9:24 p.m.

No minutes were approved at this meeting.