

CHILI PLANNING BOARD  
January 12, 2016

A meeting of the Chili Planning Board was held on January 12, 2016 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 Michael Nyhan.

PRESENT: Paul Bloser, David Cross, Matt Emens, John Hellaby, John Nowicki and Chairperson Michael Nyhan.

ALSO PRESENT: Michael Hanscom, Town Engineering Representative; David Lindsay, Commissioner of Public Works/Superintendent of Highways; Eric Stowe, Assistant Counsel for the Town; Paul Wanzenried, Building Department Manger; Larry Lazenby, Conservation Board Representative.

Chairperson Michael Nyhan 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.

MICHAEL NYHAN: Out of order, we'll take the third applicant first and then proceed in the order they are listed.

3. Application of Genesee Valley Regional Market, owner; c/o William Mulligan, 900 Jefferson Road, Rochester, New York 14623 for preliminary site plan approval to erect five industrial buildings totalling 80,500 sq. ft. at property located at 1861 Scottsville Road in LI zone.

MR. HUTTEMAN: Good evening, Mr. Chairman. I'm Bob Hutteman from Lu Engineers representing Bill Mulligan, the applicant. I understand that some of the County Comments have not been received --

MICHAEL NYHAN: Correct.

MR. HUTTEMAN: -- for this project, so we request to table the application until next month.

MICHAEL NYHAN: Okay. I make a motion -- the applicant has requested to table this application.

JOHN HELLABY: Second.

DECISION: Unanimously tabled by a vote of 6 yes for the following reason:

1. Monroe County Comments have not been received.
1. Application of Lorenzo and Carl Marsocci, owners; 240 Fisher Road, Rochester, New York 14624 for Special Use Permit to convert existing building to a two-family dwelling at property located at 12 Chestnut Ridge Road in R-1-12 zone.

Lorenzo Napolitano and Lorenzo Marsocci were present to represent the application.

MR. NAPOLITANO: Good evening. I'm Lorenzo Napolitano representing Lorenzo Marsocci.

This is a -- as you indicated, this is a request for special use permit to convert this property into a two-family dwelling. It was actually about 30, 40 years ago originally just a two-family dwelling.

The proposed Special Use Permit -- it will not detrimentally affect the essential character of the neighborhood. It's a residential area by Chestnut Ridge Road. It's only two single-family -- one bedroom, excuse me, apartment. Minimal traffic, just residents and maybe an occasional guest. A lot less traffic than before which was a beauty salon involving customers coming and going.

There's ample parking for both units. There about eight units -- eight parking spots that could easily accommodate two one-bedroom apartments. So we are just asking for that special use permit. Again, I think it would keep in with the essential character of the neighborhood.

If there is any questions, I would gladly do my best to answer them.

MICHAEL NYHAN: Okay. Thank you.

JOHN HELLABY: Do you have a floor plan or something you can put on this Board for the audience?

MR. NAPOLITANO: I think there was a floor plan that was submitted if I'm not mistaken.

JOHN HELLABY: Technically we're supposed to have something up there.

MR. NAPOLITANO: Thanks.

JOHN HELLABY: With that, do you know where the bathroom facilities are for the -- I guess would it be the northern two-bedroom unit? I see it noted on the southern one, where the single bedroom is, but there is nothing on the other one as far as restroom or bathroom, I should

say. I assume there is one in there.

MR. NAPOLITANO: There -- and -- what is labeled the front apartment, there is a bathroom. It's very small.

JOHN HELLABY: Right. The two-bedroom unit that's towards the back of that drawing, I don't see --

MR. NAPOLITANO: This is actually just a storage unit. And then there is the bathroom here. So it is -- that is just a single bedroom.

JOHN NOWICKI: Where is the bathroom?

MR. NAPOLITANO: Right over here (indicating). If I can circle it. And then the front apartment, there is a small bathroom.

JOHN HELLABY: So then they're both just single bedrooms, correct?

MR. NAPOLITANO: Yes. The top one here is just maintenance and storage.

JOHN HELLABY: So it's two single bedrooms?

MR. NAPOLITANO: Two single bedrooms, correct.

JOHN HELLABY: That's all I got right now.

JOHN NOWICKI: Any -- any improvements to the outside of the building at all, painting, shutters, roofing, anything?

MR. NAPOLITANO: Just internal work. Nothing on the exterior. Just interior construction would be needed. The outside, there may be a sign that was there that needs to be removed. I think it may already be gone now.

JOHN NOWICKI: Okay. And the parking areas, that is also in good shape?

MR. NAPOLITANO: Yes. I visited it myself. It is directly in front of the building. It's a pretty large area that can easily accommodate eight cars.

DAVID CROSS: When was the last time it was operated as a hair salon?

MR. NAPOLITANO: I think the hair salon shut down about a year ago.

MR. MARSOCCI: That was just last year. Maurice used to sponsor your teams. 30 some years ago. 38 years ago when you guys were little kids.

DAVID CROSS: Yes, you're right.

Any signage on the building would come down and --

MR. NAPOLITANO: Yes. It has already been removed. There was a sign out front that Lorenzo (Marsocci) has since taken down.

DAVID CROSS: That's all I have.

PAUL BLOSER: What provisions do you have for refuse collection?

MR. NAPOLITANO: I think the tenants are responsible for their own garbage collection, correct?

MR. MARSOCCI: Yes.

MR. NAPOLITANO: The previous hair salon was. There was no dumpster. You're talking the normal residential totes that would be in there. And there is that maintenance kind of storage area at the -- kind of the back, by the back apartment where you could actually even probably put the garbage cans and recycling bins so they're not just sitting out front, so to speak.

PAUL BLOSER: Will tenants be responsible for snow removal and grass-cutting?

MR. MARSOCCI: We do that.

MR. NAPOLITANO: My client, as landlord, has previously been doing grass-cutting, snow removal and he will continue to do that, as well.

PAUL WANZENRIED: Who has the maintenance storage shed? Is that for the owner's access or is that for the tenants' access?

MR. MARSOCCI: For us, the owners.

MR. NAPOLITANO: Just for the owners.

MR. MARSOCCI: We have tools in there to maintain the property. We have a lawn mower and a snowplow.

MICHAEL NYHAN: Excuse me, sir. Could you state your name?

MR. MARSOCCI: My name is -- Lorenzo Marsocci, 240 Fisher Road.

MICHAEL NYHAN: Thank you.

PAUL WANZENRIED: I think the Building Department would just request that the applicant obtain a variance. As per Town Code definition of a two-family, they fall under the square footage thresholds. So it would be a -- we would ask that the Planning Board make that a condition, that they obtain a variance from the Zoning Board.

MICHAEL NYHAN: Okay.

PAUL WANZENRIED: Thank you.

MICHAEL NYHAN: There is not going to be changes to the exterior of the building. Any painting or anything -- when you went by, I think the colors were unusual for the neighborhood.

MR. NAPOLITANO: Pink.

MR. MARSOCCI: It does stand out a little bit. We tried to bring the business up by doing that, but I don't think that helped.

MR. NAPOLITANO: It could be -- it could be put at like a neutral color if it was necessary.

MICHAEL NYHAN: More in conformity with the neighborhood. So it doesn't stand out.

MR. NAPOLITANO: It's a pretty loud pink.

JOHN HELLABY: One more question, Mr. Lorenzo.

Do you presently have other rental properties?

MR. MARSOCCI: No. That is the only apartment I have.

MICHAEL NYHAN: I will now open it up to public comments.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: In other words, the -- the owners do not -- as I understand it, Mr. Chairman, they do not plan on living there themselves. This is a profit-making rental proposition?

MICHAEL NYHAN: Correct.

MR. NAPOLITANO: That is correct.

MS. BORGUS: I also drove by there within the week, and frankly, if the inside is -- is -- if the outside is representative of the inside condition, I can't imagine that you're -- they're going to attract a very good grade of tenant, renter.

The driveway, parking lot, whatever you want to call it -- and the question was asked and I don't believe it was answered about the condition -- it looks to me like it's just a bunch of crumbled asphalt.

There doesn't look to be like any solid pavement there.

Um, I looked at the size of these apartments and see that one was going to be planned to be 434 square feet, which is roughly 20 by 20. For a one-bedroom apartment.

The other one was 629 square feet and that's about 20 by 25. Total square footage for an apartment.

I'm wondering if there are any other apartments of this size in the neighborhood. Maybe the Building Department could help with that answer.

MICHAEL NYHAN: Okay.

MS. BORGUS: All -- all of the homes down there tend to be small homes. All of them were built about the same time. They're pretty much of the same in style, size. And I think it's a poor precedent when you start to take these small homes and start hacking them up into really miniscule apartments.

It's an undesirable change in a neighborhood. I can't believe it's going to help their -- the -- the value of the neighboring properties. And frankly, I haven't heard a word about any hardship for this request. None. Where -- where -- where is the need to do this? If they want to rent it and it's a house, then I haven't heard why they can't just rent it as a house. I haven't heard why they need to make it into a two -- a two-apartment dwelling with such tiny, tiny apartments in them.

This is why we have zoning codes, to prevent this kind of thing. I think this is a horrible idea. The maintenance on the outside is -- is bad. The color doesn't fit. Nothing fits with that place now. And it sounds like if they want to make money, they're probably not going to be too anxious to do much maintenance or upkeep. And there is a lot of it needed on that piece of property, especially a corner lot. This is a bad idea.

Thank you.

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

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

JOHN NOWICKI: I just want to know about the staircase to the basement. Is the basement -- is that underneath both apartments? Is that a full basement down there?

MR. MARSOCCI: Yes. One is a crawl space and one is a full basement. One is a crawl space, about 2 feet. Crawl space. The other one is a full basement.

JOHN NOWICKI: So the one apartment will get to use the basement only?

MR. MARSOCCI: Yes. Yes. It wouldn't be for both apartments, no.

JOHN NOWICKI: So the heating units are -- is it two heating units?

MR. MARSOCCI: It's going -- two meters, two electric meters on the outside of the house. This place has been there for 38 years with two meters. They always had an apartment in the front and the beauty shop on the side, the front. Side by side. That is the way it always was when we bought it 38 years ago.

We weren't doing well with the business, because since then we got cut out of Chestnut Ridge Road going into Chili Avenue. There used to be a street where the bus went through. We had a decent business with the hair business. As it went down through the years, our business went down, we had to do something to be able to pay the taxes on the property.

As far as the money-making proposition, there ain't much money to be made. We're just trying to stay alive with this business here. Whatever we need to do with it.

JOHN NOWICKI: So the hair -- you say the -- is it air-conditioned?

MR. MARSOCCI: Does it have air-conditioning? It did have central air-conditioning for the whole unit. It was an outside unit with the vents coming from the ceiling and that's all still in there. But we got rid of it because the air-conditioning unit was one of those big ones on top of the roof. It's very expensive, so we never replaced it. We thought we didn't need air-conditioning any more.

JOHN NOWICKI: So they won't have any air-conditioning here?

MR. MARSOCCI: We have room air conditioners if they want.

JOHN NOWICKI: Heating units are in the basement?

MR. MARSOCCI: Yes. Baseboard water heat for both units.

JOHN NOWICKI: One furnace or two?

MR. MARSOCCI: One boiler.

JOHN NOWICKI: One boiler for both of them?

MR. MARSOCCI: Yeah.

PAUL BLOSER: Is it zoned for the two different apartments?

MR. MARSOCCI: Different zones, yes. There are zone valves.

JOHN NOWICKI: I would assume the Fire Marshal will probably review this project, right?

MICHAEL NYHAN: Had no comments.

JOHN NOWICKI: Okay. That's all I got for now.

MICHAEL NYHAN: This building is just over 1,000 square feet, which I think is a pretty normal size for a single-family residence.

Have you considered making this a single-family residence rather than a two-family?

MR. NAPOLITANO: Well, I -- he has, but I think that would run into some, you know, hardships over there. Because of the size. It is -- it is limited. And -- and with maybe just one rental income -- I mean, it may not even be enough to pay the taxes on the property, let alone maintenance. So it may not be as a single-family economically feasible.

JOHN NOWICKI: Um, would you have any idea what type of rents will be charged on these apartments?

MR. MARSOCCI: Yes. Me or him?

MR. NAPOLITANO: What is the rents?

MR. MARSOCCI: The rent in the front apartment would be like about 575. And then the one in the back would be about the same thing, in the back. They're side by side. They're all one level. It would be the same thing. And what I planned to do -- if I do get that kind of rent, I plan to put it back into the house because if I'm going to keep it, I want to make it look nice, be clean and keep it.

You know, I want to put the money back into it if I make any profit. I'm not just going to take the money and run with it, because I want -- if I'm going to keep the place, I want to keep it up. Right now it has been very hard and very -- I can't afford it, to keep it up.

MR. NAPOLITANO: He is obviously local so we're not like dealing with an absentee landlord out of state or something. He is right around the corner essentially if there is problems or the tenants have issues.

MR. MARSOCCI: Yes.

MR. NAPOLITANO: He is there. He and his brothers owned the property for many, many years.

MICHAEL NYHAN: Thank you.

If I could ask, is there -- is there a standard size apartment based on plans you see come in? There are a lot of apartments, townhomes in our community.

Is there a standard size or is there -- I mean, I know the minimum size that's required.

PAUL WANZENRIED: Yeah. There is no -- I wouldn't say there is a standard size. But -- but these would definitely fall on the low end in terms of square footage.

MICHAEL NYHAN: Okay.

JOHN HELLABY: Well, here is another question. Are we putting the cart before the horse again? This comes up all of the time. He is going to have to get a zoning variance because these things don't meet minimum square foot standards for New York State code; is that correct?

PAUL WANZENRIED: That's correct. No, not New York State. Per Town of Chili Zoning Code.

JOHN HELLABY: I'm sorry. I'm sorry.

Well, anyway, what happens when he doesn't get it through -- I'm just throwing it out, a hypothetical question.

PAUL WANZENRIED: If he does not achieve the variance, then he does not achieve the special use.

DAVID CROSS: Our -- our decision would be contingent upon Zoning Board approval.

ERIC STOWE: It is a bit of the cart before the horse, but the other option is to send it to the Zoning Board to get a variance that doesn't get a special use for. So at some point one has to come first.

JOHN HELLABY: Okay. I realize that.

MICHAEL NYHAN: Any other questions or comments? How about conditions? Zoning Board variance approval.

MATT EMENS: Garbage kept inside. Garbage receptacles.

MICHAEL NYHAN: So the exterior color conforms to the neighborhood? I can --

ERIC STOWE: I don't think we should be conditioning any permits on changing colors of residences. That may be a polite suggestion to the applicant, but not necessarily a condition.

MR. NAPOLITANO: Suggestion noted.

JOHN HELLABY: There you go.

JOHN NOWICKI: Somebody mentioned totes. Where would you put the totes?

MATT EMENS: There was some discussion about -- I don't know. Little bit of confusion, because I don't know if they have access into the -- the tenants don't have access into the storage area or they do?

MR. NAPOLITANO: They could. There is a storage area where there is just like a lawn mower and other shovels and --

MATT EMENS: How are totes handled now for the rental units? Does it sit outside?

MR. NAPOLITANO: Well, I think prior --  
MR. MARSOCCI: Can't hear what he said.  
MATT EMENS: How is the garbage handled in the apartment right now?  
MR. MARSOCCI: Totes, 96 gallon totes.  
MATT EMENS: Does it sit outside?  
MR. MARSOCCI: Yes.  
MR. NAPOLITANO: The totes could be placed in the storage area.  
MR. MARSOCCI: We have a storage area at the very end that used to be a garage that we use for our storage.  
MR. NAPOLITANO: It could easily accommodate two garbage totes and recycle bins.  
PAUL WANZENRIED: Would members of the Boards speak into the mikes?  
Thank you.  
MICHAEL NYHAN: Matt (Emens), are you looking for a condition that totes be kept inside?  
MATT EMENS: Yes.  
JOHN HELLABY: Are any of the renovations going to be structural in nature? I mean, are you going to do any structural changes inside the building?  
MR. MARSOCCI: No.  
JOHN HELLABY: I guess I would still suggest that the Building Department walk through this and make sure this thing is up to code. I --  
PAUL WANZENRIED: One of the standard Board conditions, I believe, is that all building permits need to be --  
JOHN HELLABY: Well, he wouldn't as per se need a permit if he is just painting and whatnot in there, correct? He is not --  
PAUL WANZENRIED: Yes, he would because he has converted -- he has converted from the hair salon to a residence.  
MATT EMENS: Change in use.  
JOHN HELLABY: All right.  
PAUL WANZENRIED: So it's a change of use per the building code, not necessarily zoning code.  
PAUL BLOSER: I would like to make a comment on the garbage totes. We're asking him to put those in a storage unit or storage shed. If they're using one of the regulation totes with the lid on it, supplied like Waste Management or Boon or Suburban, any of those, I don't see how we can put a condition on them to put them in storage when most of the Town of Chili residents keep them on the outside of their garage or in front of their garage. I think if they're using standard garbage totes, provided by one of the carriers, and it is taken care of, as long as it is next to the building, I don't see where we can put a requirement to have them put away in storage. So just -- that's my comment on that. I -- I don't think --  
MATT EMENS: I just know it was brought up. I -- I understand what you're saying.  
PAUL BLOSER: We can't put a requirement on them that no other Town of Chili resident has.  
MICHAEL NYHAN: You're right. It's fairly common in Town -- unless there is a Homeowners' Association.  
PAUL BLOSER: If it is loose garbage, that's a different story. We could put a condition no loose garbage stored -- that it must be put in a container.  
MICHAEL NYHAN: Okay.

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

MICHAEL NYHAN: For conditions on the application, one, there was a comment that they're required to have six parking spaces. I know there are eight now, but if there are any changes, that you maintain a minimum of six parking spaces per the Town Code.  
Second condition is to obtain a variance from the Zoning Board of Appeals for square footage. Minimum is 850 square feet per each residence. For a one-bedroom residence. 1,000 for a two-bedroom residence.  
Any other conditions in addition to the standard Board conditions which would apply also? Any others?  
ERIC STOWE: Mr. Chairman, can you read in the standard comments just so that the applicant is aware of those and --  
MICHAEL NYHAN: Certainly.  
All previous conditions imposed by this Board still pertinent to the application remain in effect. Building permit will not be issued prior to the applicant complying with all conditions. Application is subject to all required permits, inspections and code compliance regulations. This is pending approval of the Zoning Board of Appeals for all required variances. And that's the only one -- any others? Okay.  
With those conditions, I will vote on Application 1 for Special Use Permit for 12 Chestnut Ridge Road.

DECISION: Approved by a vote of 4 yes to 2 no (John Nowicki and Michael Nyhan) with the following conditions:

1. Maintain minimum of six parking spaces per Town Code.
  2. Obtain variance from the Zoning Board of Appeals for minimum square footage required per Town Code (one bedroom is 850 sq. ft.)
  3. All previous conditions imposed by this Board that are still pertinent to the application remain in effect.
  4. Building permits shall not be issued prior to applicant complying with all conditions.
  5. Application is subject to all required permits, inspections, and code compliance regulations.
  6. Pending approval of the Zoning Board of Appeals of all required variances.
  7. Subject to approval by the Town Fire Marshal.
2. Application of Archer Road Vista, LLC, owner; 783 County Road 42, Fishers, New York 14453 for resubdivision approval of one lot into four lots in the Vistas at the Links Subdivision at property located at 100 Clubhouse Drive in PRD zone.

John Shields was present to represent the application.

JOHN HELLABY: Mr. Chairman, on advice of Counsel, I will recuse myself from this application.

MICHAEL NYHAN: Okay.

MR. SHIELDS: Good evening. My name is John Shields. I'm here this evening representing Archer Road Vistas, LLC, the owners of approximately 290 acres of property located on the east side of Archer Road, just south of the railroad tracks, north of Ballantyne Road, north of Black Creek. The application this evening is for subdivision approval for a four-lot subdivision. It is not for site plan approval. This approval would not allow the applicants to create any -- any buildings lots, not allow them to obtain any building permits without coming back to this Board for site plan approval for these lots or any of these individual lots should they be approved.

So I point that out just to stress the idea that this is subdivision only and no disturbance, earth disturbance is proposed with this application here.

This property is located in the PRD zone, and what we have done is to create four individual parcels, each of which, um -- conforms with the lot requirements for the PRD zone.

Um, I will take it -- I will take you through each of the four individual parcels. Parcel 1 is located just -- well, behind the existing homes along the east side of Archer Road. And Parcel 1, the limits of Parcel 1 are defined by the preliminary approval that was given by the Board, conditioned -- conditioned preliminary approval, I should say.

Earlier in 2015, spring of 2015, the Board approved what I believe were 185 or so single-family lots, preliminary approval to those lots, and the limits of that entire -- one of those 185 lots and right-of-ways that we're -- you know, were necessary for access to those lots, that perimeter of that area is what defines Parcel 1, on the attached -- the -- the provided map. It is approximately 58.3 acres in size.

Parcel 2 is -- the limits of Parcel 2 were basically crafted around an area whose highest and best use is anticipated to be farming. Of the 123 or so acres of Parcel 2, um, approximately 110 acres of that are currently used for farming. The other 12 acres or so are hedgerows and other areas that did support that farming and ag operation. And a portion of that, as well, is an access corridor leading to Lot 2 from Archer Road. 45 to 60 feet in width at any given point. It's -- it's just south of the railroad tracks and south of a property that is owned by Rochester Gas & Electric. Again, adjacent to the tracks. So that is Parcel 2. Basically an agricultural use parcel is the expectation of that.

Parcels 3 and 4 are 73 acres or so, and 75 acres respectively. The -- these limits were -- were carved around an area that was -- that is largely impacted with wetlands and flood plain. The intended use of that parcel would likely be recreation, active and passive recreation, including hiking, hunting, fishing. Um, things that the -- that parcel would support. That is kind of my segue into hiking specifically. I want to mention that one of the portions, one of the components of this subdivision, as you see it, is a -- an easement that would run across parcel -- across Parcel 3 from Archer Road the entire width, I guess, of the parcel, as far -- as far east, excuse me, as that parcel runs. This would be an easement given to the Town with the intention that it could be -- it could support a future trail to be constructed by the Town or others. We believe that this -- we have had conversation with the Town on this matter, and it seems to line up with the Comprehensive Plan, portion of the Comprehensive Plan that gets into recreation access across the Town and what they would like to see for future trails.

Um, we did receive some comments from Lu Engineers, Mr. Hanscom, and we believe we can satisfy each of the comments or -- comments and -- or critiques, I guess, that he had on the

map. We made a couple of those changes already and we have no issue addressing all of the comments from Lu Engineers. Um, we did receive the DRC comments from the County, as well, and have no issue with any of the items that were raised by the DRC comments.

With that, I will answer any questions that may come up and try to provide any information I can.

MATT EMENS: John (Shields), I don't have any questions in regards to your application specifically. I guess I'm just -- I have a question that may be a learning thing here for all of us. But it looks like in our package here, which is one of the comments -- the County Comments is really what I was going to talk about -- you did say you received those and you reviewed them.

JOHN NOWICKI: Which one?

MR. SHIELDS: Which one, the --

MATT EMENS: County Comments.

MR. SHIELDS: Which one specifically are you looking at?

MATT EMENS: There was quite a few things in there. One of the things that was mentioned, I guess this might be just a learning experience for some of us here, or maybe just me, the Monroe County Agricultural Data Statement that we got in our packet here, is this something that we submitted to the applicant?

MR. SHIELDS: I submitted it as part of the application.

MATT EMENS: You submitted this. Okay. That was under the DRC comments. Okay.

MR. SHIELDS: Maybe that didn't get to the County. The DRC puts -- they see a lot of applications and I think many of their comments are a little boilerplate, so they may or may not have seen that. That's a good point. I am glad you bring it up we're in an Agricultural District. The entire parcel under subdivision review is, I believe, in Southwest District Number 3, I think. Don't quote me on that, but definitely within the County's Agricultural District.

And again, we're not really proposing any changes of use through this application. If anything, we're possibly strengthening the agricultural use that is taking place on the portion of the property right now.

MATT EMENS: I think I'm all set for now.

JOHN NOWICKI: On this map that you have shown here, it's -- it indicates there is a Truin (phonetic) Terrace, name of a road?

MR. SHIELDS: That map actually came from an information meeting. Sorry. That map actually was generated by the Monroe County -- they have a GIS website, Geographic Information Service website and the background map you see came from the County's website. Previously -- previously there was a subdivision completed, I will say, 12 or 14 years ago that did create Truin (phonetic) Terrace, the right-of-way for that.

Since then, that that map has been -- or that area has been reconfigured and resubdivided to remove Truin (phonetic) Terrace as a right-of-way. So I'm a little uncertain why the County still has it on there.

JOHN NOWICKI: So Parcel 1, that has all been resubdivided into lots?

MR. SHIELDS: Parcel 1, under this application, this application alone, Parcel 1 would just be one single lot. One single parcel.

JOHN NOWICKI: Used for what?

MR. SHIELDS: The -- the -- used with the intention it would be developed in the future in a manner consistent with the preliminary approval that was granted by the Board in the spring of '15.

JOHN NOWICKI: Parcel 4 would be used for what?

MR. SHIELDS: Parcel -- make sure we're looking at the same one here. Parcel 4 and Parcel 3 are intended to share -- are expected to share the same use, which would be recreation.

JOHN NOWICKI: Recreation?

MR. SHIELDS: Yes.

JOHN NOWICKI: Parcel 2 is agricultural?

MR. SHIELDS: Yes, sir.

DAVID CROSS: John (Shields), what -- what variances would you need for each -- each of the lots? Can you go through that, which dimensional area variances you would need?

MR. SHIELDS: For which?

DAVID CROSS: Any of the four lots that are proposed.

MR. SHIELDS: No variance is required that I'm aware of.

DAVID CROSS: Are you -- is everyone at the side table aware of that?

PAUL WANZENRIED: There is no variance --

DAVID CROSS: No variance required.

PAUL WANZENRIED: No variance.

DAVID CROSS: Just my standard question.

MR. SHIELDS: Not a problem.

DAVID CROSS: Then the other question is, Parcel 2, you're trading, I guess, future farmable, you know, parcel there, but it is landlocked. And I just don't see a means of access to a road.

What is the intention there?

MR. SHIELDS: Can I show you where access would come from?

DAVID CROSS: Yeah.

MR. SHIELDS: Access corridor.

MICHAEL NYHAN: If would you like to move up to see the map, by all means.

UNIDENTIFIED SPEAKER: We're at a disadvantage. We have not seen this map, so we

don't know what he is talking about.

MR. SHIELDS: This is -- is the map that was originally submitted with the application with -- admittedly with a couple changes that were made to address Lu Engineers comments. Parcel configuration, sizes, everything remains the same. They're looking at what was submitted.

I will say a little bit about access to Parcel 2. Um, and -- and the -- in order to make it a legal conforming lot, we brought the access in from Archer Road. We showed it as having frontage, I should say, from Archer Road, north of Parcel 1 and south of the railroad tracks. It's a 60 foot -- 60, 40 -- 45 foot wide corridor.

But one of the comments from Lu Engineers mentioned that there is a -- an RG&E easement that does blanket that entire access, and submitted that to the -- to the Town for review by the attorney and it was just yesterday, so I don't know if he had a chance to look at it.

ERIC STOWE: I have not received it.

MR. SHIELDS: I submitted to the Building Department so maybe he hasn't seen it yet. My point in saying that is that one of the changes we made here on this map was to show this -- there is a hatched area on the map. That's -- that's called out as a -- an access easement to the Town, and we -- we have revised that to say that that could also be -- provide access to Lot 2.

DAVID CROSS: I think I would ask our Assistant Counsel to review the language there just to make sure it --

JOHN NOWICKI: The size of this thing, too.

ERIC STOWE: Where is that RG&E easement? Up at the top; is that correct? The northern boundary there, the hatched line?

MR. SHIELDS: I will leave this with you. This is identical to what I submitted.

ERIC STOWE: Okay.

There was a conversation at the side table between Eric Stowe and John Shields.

MICHAEL NYHAN: Can you just explain to the Counsel, if you can go to the map and show the easements you just talked about so the audience can see it and maybe the Board members.

MR. SHIELDS: This area, this line right here (indicating), that is -- which is the limit of an RG&E easement. It's from that line north to this line. So my -- my client owns up to this point, the striped area. The striped area. This is actually a parcel, long and narrow. It's owned by RG&E.

UNIDENTIFIED SPEAKER: Is that along with that -- is that all RG&E?

MR. SHIELDS: No, sir.

UNIDENTIFIED SPEAKER: Just along --

UNIDENTIFIED SPEAKER #2: What is that?

MR. SHIELDS: Proposed easement to the Town so they can access the perimeter of the subdivision for any drainage concerns that may come about.

UNIDENTIFIED SPEAKER #2: And this is where you propose --

MICHAEL NYHAN: Excuse me, ma'am. If you could, we'll reserve that for public comments. At this point, I just wanted him to point out the easement he had just described to everybody so we could call see it.

Thank you.

JOHN NOWICKI: That hatched area, is that -- along the railroad tracks, going back to Parcel 2, then you come back down the bottom of Parcel 1, all of the way to Archer Road, is that all the proposed easement?

MR. SHIELDS: Yes, sir.

JOHN NOWICKI: Is that for -- what can go in there? What can you use it for?

MR. SHIELDS: Excuse me. That is a -- that is a proposed access easement to the Town with the intention that it be used for access for drainage concerns. It supports the preliminary subdivision -- I have got a map I can show you the preliminary subdivision if you would like to see that. It makes more sense when you put the two things together. But what that is for quickly is to allow Town -- the Town access to storm water management ponds that are located adjacent to the -- or within the proposed subdivision, that received preliminary approval.

JOHN NOWICKI: But that doesn't -- that doesn't provide access to Parcel 2 for agricultural purposes?

MR. SHIELDS: It could provide access to Parcel 2. Absolutely. Within that same easement, Parcel 2 could be a grantee of that easement. Parcel 2 has frontage elsewhere, but Parcel 2 could be accessed either through the frontage that is provided, which -- which is -- I mean, it's farmed right now. That's how the farmer gets there now. We're -- we're proposing -- excuse me, we're proposing to provide the -- a farmer, somebody who is working that line, to provide the same access tomorrow that they used to to access that land. There is really no change to what we're trying to achieve. I'm not sure where the hang up is. I would like to try to explain more clearly if I can.

DAVID CROSS: What frontage did you say Parcel 2 had? You just said Parcel 2 had frontage.

MR. SHIELDS: Parcel 2 is agricultural, intended for agricultural use.

DAVID CROSS: You didn't mean to say had road frontage? The only access to Parcel 2 is -- is -- is parallel to the railroad tracks up to the north there, right?

MR. SHIELDS: Parcel 2 has road frontage, just south of the railroad tracks.

MATT EMENS: John (Shields), is it 60 feet? It is about 60 feet you're calling out on

this -- that is part of Parcel 2, correct?

MR. SHIELDS: Yes, sir.

DAVID CROSS: That's clear now.

MR. SHIELDS: The hatching may obscure that.

DAVID CROSS: It's a huge flag lot. I get it.

MR. SHIELDS: Yes.

JOHN NOWICKI: That goes to the Town.

DAVID CROSS: Parcel 2, has a flag going out to Archer Road, 60 foot wide.

MR. SHIELDS: Yes, sir.

MICHAEL NYHAN: You own that 60 foot wide drive, John (Shields). You just have an easement to the RG&E at this time?

MR. SHIELDS: Correct. We own it. It's fee simple ownership by my client. As Lu Engineers pointed out, there is an easement, existing easement literally 100 years old over that -- over that entire -- over that -- that access. So again, Town Counsel will review this easement. There is nothing in that easement I'm aware of that is going to not allow that to be used for access to Parcel 2.

Should Counsel come up with some language or read that differently, we could -- we would still provide the frontage of Parcel 2, just as we show on the map that was submitted. All that I'm saying -- suggesting is as a possible change, the -- the striped area that is south of Parcel 1, we would -- he would simply make the Parcel 2 owner one of the grantees of that easement, as well, so they could access their property that way as an alternate means.

JOHN NOWICKI: So you own Parcel 2?

MR. SHIELDS: Yes, sir.

JOHN NOWICKI: Right?

MR. SHIELDS: Yes, sir.

JOHN NOWICKI: And that south of the railroad track there, is that where the agricultural equipment would get back to Parcel 2 for agricultural purposes?

MR. SHIELDS: Yes, sir.

JOHN NOWICKI: Wagons, plows, all that stuff.

MR. SHIELDS: As I believe it does currently. There's a farm access road directly from Archer Road at that location.

JOHN NOWICKI: I'm just curious on is this something that was done recently or was that done for the people that bought the houses on Clubhouse Drive -- did they know that existed, that that was going to be agricultural transportation through there for equipment?

MR. SHIELDS: No. It has been there for years and years. The -- the method that allowed those people to have that deeper backyard and that additional property, my client gave them that property. Short -- and -- and gave it to them in the shape that you see represented on that plan. So the 45 foot to 60 foot access was always -- was always there.

JOHN NOWICKI: Okay. Thank you.

MICHAEL NYHAN: What are the long-term plans for Parcels 2 through 4, and why subdivide them? What are you looking -- why do you want to subdivide them? What are the long-term plans?

MR. SHIELDS: Long-term plans are to have the ability to sell those individual parcels off for their highest and best use of each one. There is no contract. There is no proposal that I'm aware of of anybody wanting to purchase them. But my -- but my client would like to set himself up for that opportunity, should that -- should that come around.

MICHAEL NYHAN: Okay. At this time, those Parcels, 2, 3 and 4, are all just intended for active recreation at this time and farming, no buildings, no other development or use whatsoever for the land?

MR. SHIELDS: Yes, sir.

JOHN NOWICKI: Is there currently agricultural activity on the Parcel 2?

MR. SHIELDS: Yes, sir. Can I bring up a map that may help?

JOHN NOWICKI: A lease agreement between whoever farms that, or the farmer?

MR. SHIELDS: Yes. Yes, there is. I don't know if that helps or -- or I'm confused. All of the areas in white are being farmed currently. The areas hatched there in the white boxes are being farmed currently in Parcel 2.

MATT EMENS: I believe you said in the beginning of the presentation it's about 110 acres out of the 123 that are here, correct?

MR. SHIELDS: Yes.

MATT EMENS: That you're proposing in this subdivision?

MR. SHIELDS: Yes.

MICHAEL NYHAN: Also, you mentioned the use or the ability for the Town to build trails within there, recreational trails along Black Creek.

Is there any provision for any parking at the trail head or any area? I don't notice any land set aside for any type of parking for people to be able to park their vehicle and then hike the length of Black Creek to do that.

MR. SHIELDS: Just to be clear, this application doesn't propose to build that trail. I -- I'm sure that my applicant -- or excuse me, my client would be willing to entertain granting an easement elsewhere for parking, if that -- if the Town wanted to build that when the trail construction came along.

MICHAEL NYHAN: Okay. That is not proposed at all here. This is just for the subdivision of land?

MR. SHIELDS: Correct.

PAUL BLOSER: I think it would be great for the developer to build the trail before they donate it back to the Town. As part of the gift. I -- I'm opposed to the Town absorbing more land we will not pay taxes on any more. You -- you know, the developer buys a big plot of land, skims the cream off and leaves the rest for the Town. I guess as a taxpayer, I look at it from a selfish standpoint that -- I guess that's all I got to say right now.

MR. SHIELDS: I'm not sure if I'm misunderstanding, but no property here is intending to go to the Town.

PAUL BLOSER: I think you said at the beginning of the meeting this was going to be donated to the Town, offered to the Town.

MR. SHIELDS: An easement would be provided over a portion of this parcel. An easement only. No ownership would be conveyed to the Town.

PAUL BLOSER: Okay. Then that clears that up. Thank you for that.

ERIC STOWE: Yeah. It -- mine is just -- sorry. With respect to that easement, just the opportunity to review it. If that's going to be the sole access portion for Parcel 2, um, just to make sure that there is -- the flag lot complies and there is no ability to place any structures or anything else in that easement that would impede the Town's ability to access or any owner, future owner of Parcel 2 to access that. So my request would be an opportunity to review that rather than have it be a condition of any approval just so that we're not -- we're hashing that out from the beginning.

DAVID LINDSAY: Um, just to add, tie in the County Comments on this, there was a recommendation that they provide an updated wetland boundary survey. I don't know if that is necessary. But we would certainly request that the applicant provide information on the current wetland boundaries and the date that that was done as well as any flood plain boundaries, that they should show those limits on the map.

MR. SHIELDS: Dave (Cross), I talked to -- I think it's a gentleman from the DEC who put that letter together, because that comment kind of alarmed me, because again, we're not proposing any disturbances as a result of this application. And you know, he pointed out the fact that his terminology was very clear, it's recommended, and they didn't use the word "required." Now I understand that doesn't mean the Town can require it.

DAVID LINDSAY: We're not requiring you do an updated one. Just take whatever wetland information you have on the existing limits. It could be from 2009, whatever. Show it on the map.

MR. SHIELDS: Certainly.

MICHAEL NYHAN: You're asking to add that as a condition or prior to --

DAVID LINDSAY: Just a condition on the approval prior to signing off on the subdivision, that they provide that information.

MICHAEL NYHAN: Say this again, current wetland?

DAVID LINDSAY: Current wetland and current flood plain boundaries. Nothing further.

ERIC STOWE: Mine was just in case it wasn't clear, if the applicant is okay with tabling this for this purpose, just to review that, as opposed to making it a condition, if that is okay with you guys, so we can look through that in advance.

MR. SHIELDS: Trying to think that through, the pros and cons of each, I would rather make it a condition --

ERIC STOWE: I'm only concerned with the 1908 easement and what they did in 1908 and any changes and modifications to it, just to make sure we're not rehashing this and coming back in for a problem trying to address it from the onset.

MR. SHIELDS: I guess that is why -- maybe I didn't do it very clearly, probably didn't -- but I had mentioned and offered the idea that we still -- even if that easement from RG&E would preclude access, at that point, we would still keep the lots in the same configuration so that we provide frontage, but admittedly, access to Parcel 2, which is -- which is in the back let's say of the property, could come from -- could come from another location. From Archer Road at another location.

ERIC STOWE: I guess -- my chief concern with that is now we're getting conditioning approvals contingent on secondary options being available that aren't really part of it.

MR. SHIELDS: We could up front -- in fact, the map we revised, I showed that access being Lot 2-- Parcel 2 owner, excuse me, being one of the grantees of that easement. So they would have -- if -- if the RG&E easement precludes access to the north, they would use the other one. If RG&E says you can use both of them --

DAVID LINDSAY: I think our concern here, too, you currently have preliminary approval for a multi-phased development on Parcel 1. It is not illustrated on the map. It's in that access way that you're talking about on Parcel 3 is -- you know, assorted grading, assorted storm water ponds. I'm not so sure and I don't think we're comfortable that you can actually provide adequate access all the way to Parcel 2 based on the information we have on this map.

The code talks about access ways shall be designed and constructed to provide adequate access to fire and other emergency vehicles and equipment. I'm not confident with the information we have in front of us that Parcel 3 would be able to do that. If we review this easement and -- and come to the conclusion that the access way along the railroad isn't going to suffice, you will have to come back to this Board any ways.

I think the Counsel is asking perhaps it is best to table this, give him an opportunity to review that so we're not backtracking and redoing anything.

Is that a fair statement?

ERIC STOWE: Very fair.

MICHAEL NYHAN: John (Shields), if I could add to -- John (Shields), if I could add to that, that certainly changes as -- as has been pointed out, people's comments and their feelings towards having that easement, it's a little different for that other phase where the lots are not developed yet, if the road would be going through there rather than along the railroad tracks. So I think I share that concern, as well.

ERIC STOWE: If I could just chime in, this appears to be an excerpt from an abstract that would -- the first -- I didn't even read that. I just looked at the date and stopped at the first line, "Grants and releases the right easement to erect necessary poles and string wire therefrom."

So already we're putting -- whether engineering from a -- from a legal boundary standpoint, we would need time to look at it. But just the first two lines granting of the easement gives someone the right to put obstructions in that easement. So what it is, where those obstructions can and cannot go would certainly be important. That is my chief concern.

DAVID CROSS: There is enough concern by our side table. I move to table.

PAUL BLOSER: I will second that.

MICHAEL NYHAN: I think I would ask the applicant if you would wish to table this? You have heard the concerns of the Board and the side table. I think to continue on for what we have, all of the information in front of us to be able to make a decision.

MR. SHIELDS: Okay.

MICHAEL NYHAN: So it would be up to you if you would like to request to table this?

MR. SHIELDS: Okay.

MICHAEL NYHAN: Okay. The applicant would like to table this for -- until the proper documentation has been requested could be submitted.

MR. SHIELDS: That's fine. Could I just ask if there is any other -- what other information would you like us to work on? Any other items you would like to work on between now and then to have a more productive -- not that this wasn't productive.

DAVID CROSS: Like David (Lindsay) said, overlay the preliminary approval from Section 1 on there.

MR. SHIELDS: Okay.

MATT EMENS: The wetlands and such.

ERIC STOWE: Mr. Chairman, if we could also just note and we'll make a note elsewhere, but there was no Public Hearing held so we would still need to hold a Public Hearing when this is brought back from being tabled, assuming it is tabled in a vote.

MICHAEL NYHAN: Correct.

MR. SHIELDS: I -- I guess I will just ask the question, because this is the room that would know the answer. I thought a Public Hearing wasn't necessary because of the resubdivision? That's why we didn't have a Public Hearing before this evening's meeting.

ERIC STOWE: We had it on for a Public Hearing.

MICHAEL NYHAN: We have it on for a Public Hearing. That would have occurred after all of the comments that you have heard from us and the side table. The next step would have been to open it up to the Public Hearing. We're going to wait until we have a complete plan before we do the Public Hearing so that people have an opportunity to review that new plan, if there is one, and they can then comment on it.

MR. SHIELDS: Okay.

MICHAEL NYHAN: I would ask the Town Engineer comments? I think -- did you read each of those comments, as well?

MR. SHIELDS: I read them.

MICHAEL NYHAN: We have already talked about that, as well as for the multipurpose trail?

MR. SHIELDS: Yes.

MICHAEL NYHAN: The sizes, et cetera.

You will be able to answer all of the questions from the Town Engineer? As well as any questions that may be outstanding from the County Comments that were received?

MR. SHIELDS: Okay.

DAVID LINDSAY: Mr. Chairman, if you would maybe share with the applicant the Assessor's request she had today in regards to what she is looking for.

MICHAEL NYHAN: The Assessor also had a request that the applicant provide an updated soil group worksheet to the Town Assessor for the four parcels being subdivided.

MR. SHIELDS: Okay. Will do.

MICHAEL NYHAN: Soil samples. Comments from the Town Engineer. And then the overlay -- preliminary site approval from Parcel 1 over Parcels 2 through 4.

Any other -- any other items that we wanted to see before the next turn?

ERIC STOWE: I have homework. I will give you a call and we'll sort out some of this stuff.

MR. SHIELDS: Okay. Sure. Thank you.

MICHAEL NYHAN: Then I make a motion to act on the request to table this? Was it seconded?

MATT EMENS: Second.

DECISION: Unanimously tabled by a vote of 6 yes for the following reasons:

1. Pending resolution of Commissioner of Public Works and Town Engineer.
2. Further legal review required by the Assistant Town Counsel.
3. Compliance with County comments.
4. Provide updated soil group worksheet to Town Assessor for four parcels.
5. Overlay preliminary plan approval for Parcel 1 to this plan.
6. Submit current wetlands and flood plain boundary map to the Town.

MICHAEL NYHAN: Next order of business will be the approval of the previous meeting minutes. I'd like to make a motion to accept.

MATT EMENS: So moved.

The Board was unanimously in favor of the motion.

The 12/8/15 Planning Board minutes were approved as submitted.

The meeting was adjourned at 8:05 p.m.