

A meeting of the Chili Planning Board was held on January 14, 2003 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 John Cross.

PRESENT: Ray Bleier, John Nowicki, John Hellaby, Dario Marchioni, Karen Cox, James Martin and Chairperson John Cross.

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

This is a draft only and has not been filed according to Section 106 of the Public Officers Law. These are not certified verbatim minutes; they are a summary of the meeting. These minutes have not been approved by the Chili Planning Board, and therefore, are subject to change.

Chairperson John Cross 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.

1. Application of Kevin Wehle, owner; 32 Stottle Road, Churchville, New York 14428 for resubdivision of two lots in the Wehle-Moran and Wehle-Chili Subdivisions to be known as Daniel & Kevin Wehle Subdivision at properties located at 3581 Chili Avenue and 32 Stottle Road in R-1-20 zone.

Robert Avery, Kevin Wehle and Dan Wehle were present to represent the application.

MR. ROBERT AVERY: Thank you, Mr. Chairman. Robert Avery from Avery Engineering. I'm here with the two property owners, Kevin Wehle, 32 Stottle Road and his son Dan Wehle of 3581 Chili Avenue.

The two properties that we're discussing I have outlined, the first being Kevin (Wehle)'s parcel outlined in orange at 32 Stottle Road where he currently lives on a 3.3-acre parcel of land.

Dan (Wehle)'s existing parcel is shown in yellow here at 3581 Chili Avenue, comprising 1.2 acres.

The proposal before you is for basically a lot line adjustment or resubdivision of the property, as Kevin (Wehle) would like to convey to Dan (Wehle) this rear portion of his parcel, which comprises 1.3 acres. That would be added onto Dan (Wehle)'s existing lot, making it 2.5 acres after that transaction. Kevin (Wehle) would be left a 2.1-acre parcel. The proposal meets all of the sizing requirements in the R-1-20 zone. There is no construction planned as part of this proposal. We have existing homes on each of the lots.

I might add at this point that the reason to come before you and request this subdivision is because Kevin has purchased land on the south part of the Town of Chili where he plans on building in the spring and prior to that he has the opportunity now to enlarge his son's parcel, thereby requesting the subdivision.

JOHN CROSS: Bob (Avery), the only note I have here is that -- I haven't looked -- unless you submitted a new map -- to indicate the rear setback distances for 32 Stottle and 3581 Chili.

MR. ROBERT AVERY: We would be in excess of 150 feet for Stottle Road, for 32 Stottle Road to the new rear line.

We would certainly be in excess of 270 feet off the Chili Avenue lot.

JOHN CROSS: Could you just show that on a new map when you submit it?

MR. ROBERT AVERY: Yes.

If I may, could I cover some of the comments?

JOHN CROSS: Yes.

MR. ROBERT AVERY: I might add first, the parcels are already in the Drainage District.

We had comments from Lu Engineers. Item 1 being a disclosure as to the recording information

for the existing 20-foot wide drainage easement to the Town of Chili that runs all through the Wehle property from Chili Avenue south and then along (indicating) and out to Stottle Road. That easement was recorded in the County Clerk's Office ten years ago at Liber 8070 of Deeds, page 169, April 12th, 1991. That's when it was recorded. I have a copy of that.

There were no comments from Monroe County Department of Planning and Development.

We had other comments, though, relative to the survey office needing to check the plat prior to filing and the typical note on survey monuments -- there are no monuments on either of the frontages and there is no work area.

There were no comments from the County Health Department, Monroe County Environmental Management Council or the State D.O.T.

RAY BLEIER: I was reading Larry Nissen's note there about the existing 20-foot wide drainage easement to the Town. Is that the easement he was pointing out, or are you talking about the other one along the right-hand edge of the property, down through?

MR. ROBERT AVERY: That is a sanitary sewer easement along the easterly property line. It is a GCO. The only drainage easement I'm aware of is the one that covers the paved concrete channel that runs from Chili Avenue over to Stottle.

LARRY NISSEN: That's correct.

RAY BLEIER: I just wanted to be sure which one you were referring to.

LARRY NISSEN: Thank you.

JOHN NOWICKI: This is a very clean application. Good presentation. No questions.

KEITH O'TOOLE: Mr. Chairman, I just ask that the final mylar note the Liber and page of deeds before it gets signed. Thank you.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

John Cross made a motion to declare the Board lead agency as far as SEQR, found this to be an unlisted action and made a determination of no significant environmental impact, and the Board all voted yes on the motion.

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

1. Applicant's surveyor to indicate the rear setback distances for 32 Stottle Road and 3581 Chili Avenue on the final mylar.
2. Applicant's surveyor to indicate liber and page number for easements on mylar.

JOHN HELLABY: Mr. Chairman, before we proceed, I request to step down from Applications 2 and 3 as I am employed by Wegmans Food Markets.

JOHN CROSS: You are excused.

2. Application of Wegmans Food Markets, 100 Wegmans Market Street, Box 30844, Rochester, New York 14624 for conditional use permit to erect a 400,000 gallon water tank at property located at 291 Fisher Road in L.I. zone.
3. Application of Wegmans Food Markets, 100 Wegmans Market Street, Box 30844, Rochester, New York 14624 for preliminary site plan approval to erect a 400,000 gallon water tank with a 24' x 24' pumphouse at property located at 291 Fisher Road in L.I. zone.

Art Pires, Bill Moore and Paul Colucci were present to represent the application.

MR. PIRES: Good evening. Art Pires with Wegmans Foods Markets. With me this evening is Bill Moore of Wegmans Development Group, and Paul Colucci of Costich Engineering, our consulting engineer on this project.

As Mr. Chairman just read into the record, we're here seeking both conditional use approval as well as actually preliminary and final, if the Board so deems, for a 400,000-gallon water tank and associated new pumphouse and water main loop. I will explain that in a second on the exhibits.

The reason for the request is that we're seeking to enhance our existing firefighting capabilities. We currently feed off the public main and we would like to have on the site of our office industrial complex a secondary source of water and a backup new pumphouse to bring that water into our facility in the case of need of a fire on our complex.

So once again, preliminary, final conditional use and site plan approval is being sought for that.

I have some brochures I would like to pass to the Board as I walk through the exhibits.

Mr. Chairman, what you have there are basically duplicates of the exhibits I will be walking through. Once again, a site plan, a line of sight as well as the picture of a typical water tank which we're proposing here.

The first exhibit, once again, is the site plan off in the right-hand corner. The key point being here north is up. Chili Avenue, the northwest corner here (indicating). Market Street comes into our office warehouse complex. The proposed water tank is right in the middle of this complex. So it is the furthest distance from any property, whether it be east, west, south or north.

A larger scale here, you can see the location of the water tank first in the darker brown, if you will (indicating). Off to the left is a 24 by 24 new pumphouse that is being proposed.

If I might modify the application slightly tonight, subsequent to submittal the engineers sought the need for a 32 by 32 square foot pumphouse, a nominal increase certainly.

Location of the water tank relative to the other facilities -- you can see these on the same exhibits you have in hand. It will be west of the existing maintenance building, southwest, if you will, of our construction barn here (indicating). South of the existing pumphouse and then, if you will, a little southeast of our frozen food warehouse here (indicating).

The key point coming back to the overall site plan is the distance, and we'll come up with a line of sight in a second, but the water tank itself is approximately 1800 lineal feet of the east property line, the 20-foot high berm from -- separates us from the westerly residential units on Lexington Parkway.

Looking at the site plan, once again, the Board has in hand, off to the left we show a typical house on Lexington Parkway. The berm here with the evergreens on top. And then we took -- it is not in the direct line of it, but we took the meat distribution building to give a sense of scale of the height of the building. This is currently approximately 45 foot in height, that being the meat distribution. Way off to the right here (indicating), approximately 600 lineal foot again from the westerly property line, we have the proposed water tank. The diameter of this tank is proposed to be approximately 60 foot in diameter and 25 foot in height to the top of the dome. The pumphouse also is shown just immediate left of that.

The key point being, as you're at Lexington Parkway, if you were to look over through the berm, you could see that this should not be visible at that distance and with that small profile at that distance.

As far as the third element of our application, it is a very minor one. We're asking -- internally we have a private water system. So once again, we have original tap of the public water main which currently comes up from the south, through the property, basically northeast over to Fisher Road. The existing pumphouse is the location that we tap the existing public water main now. What we're proposing is to have a connection once again, come into the tank, a secondary new pumphouse in the event of a fire that we need a secondary source, as well as if the existing pumphouse goes down, we would have a backup pump. It is as simple as that.

In essence, it is an extension of the existing fire main for this property, but it is all private.

The Board should have in hand, and if not, I have at least a copy of it, both the Monroe County Water Department as well as the Health Department have reviewed the applications. Mr. Moore and Colucci have sat down with both departments. They have reviewed it and deemed it not a matter for their review since it is a private system. We're tapping off the main, but the public main is protected because of the backflow prevention in the existing pumphouse, so the public is still protected in the backflow considerations and, therefore, they deemed no jurisdiction on this application.

We also met -- excuse me, in December, Mr. Moore and myself met with the Conservation Board, and I believe, but I certainly can't speak for the final word, that we addressed the concerns of the Conservation Board.

With that said and done, I would be glad to address any questions the Board might have.

RAY BLEIER: Are you required to have any containment facility in place in the event of a rupture of the tank?

MR. PIRES: If there were a rupture, because of its location and grades, we would basically be flooding our own lands that drain to the existing storm water facility. No impact on the surrounding community. Are we required? No. It is clean water. It is certainly not anything beyond that. There is no requirement for that. That is more self-consideration.

RAY BLEIER: I was just wondering if you had a rupture, a large flow of water, if it would possibly get over off your property.

MR. PIRES: Correct, it would not. There are two factors. Three actually. The terrain, the distance, as well as the soils themselves would most likely perk in. And -- actually a forth with our storm water facility there.

RAY BLEIER: What color do you propose for the exterior?

MR. PIRES: At this point, we'll probably go with the generic as you see in the photograph, the third exhibit that I submitted to you. A very light gray concrete. That may change, but certainly it wouldn't be any different than the colors of the existing.

JOHN CROSS: We don't want purple.

MR. PIRES: We wouldn't entertain that, Mr. Chairman. We have had a lot of suggestions internally what it should be.

RAY BLEIER: No wording?

MR. PIRES: Absolutely not. Well, today we're not. I can't see us coming back for that, no.

KAREN COX: Is that tank going to be metal or reinforced concrete?

MR. PIRES: Basically what they do is construct the panels on site. It is reinforced concrete. They put up the panels, then they wrap wire around it, if you will, heavy-duty gauge wire around it and then you spray sort of like a concrete spray around that. You put the final coating on it. So it is reinforced concrete, then wrapped with wire and then sprayed again.

KAREN COX: Will it require any kind of maintenance over the years, or start to look --

MR. PIRES: No. That is the beauty of it. And if it were for some reason, the external part of the maintenance program, there is a guarantee for a recoating of it, if there was ever failure in that regard.

JOHN NOWICKI: Again, we're doing pretty good here. This is the second application, I want to say it is well prepared, well documented, excellent presentation. The only suggestion is that the color of the tank be muted so it blends in with the overall good appearance you have already done.

MR. PIRES: Certainly. In that regard we can talk with the Director of Planning and Development as well as the Planning Board Chair if you would like to run the final color past both parties, if that would be appropriate.

JOHN NOWICKI: Yes. Thank you. Nice job.

JAMES MARTIN: I have a question for my own education. Are there seismic engineering requirements on a water tank of this nature in this particular area? I know there are certain seismic engineering requirements for California and places like that. I know we're still in an earthquake prone zone. For my own education, is that taken into education?

MR. PIRES: I know it is being built in accordance with the NFPA. So if that was a requirement in this area, we would have to comply. Plus we would have to be coming through to the Town for a building permit and if there is an issue in that regard, we would have that information provided. I don't have that specific answer today, but we can research it, number one, as well as I'm sure it will come up during the permitting process from the Building Department.

JAMES MARTIN: Thank you.

DARIO MARCHIONI: Is the water that is put in here staying here for years and years or is it recycled?

MR. PIRES: It is recycled.

DARIO MARCHIONI: In other words, fresh water?

MR. PIRES: Yes. There are a couple factors. It is required with NFPA to be no lower in temperature than 42 degrees, so we actually have to have a heater unit, if you will, to keep it at that. And that in itself, with the water being heated, there is that natural circulation right there. And then

periodically there is testing of the water, draining it, to make sure that the water is not stagnant.

Now, the key, too, to remember, this is strictly for firefighting purposes. It is not potable water. It will not at all be mixed with any domestic water certainly on site and certainly not off to the public because of the protection with the reduced backflow prevention. Initial question in regard to circulation, there is the natural circulation just with the heating of the water. There is that natural flow inside. Then there will be some air inside also. Then periodically I believe they do do a little draining of the system. We certainly don't drain it to empty it, but there is draining of it to test the waters.

KAREN COX: Was there a concern on Wegmans' part that the public water supply might not be enough to fight a fire? I mean this is why this is being built?

MR. PIRES: Quite frankly, we haven't done a final capital dollars assignment to this yet. We're doing a concurrent analysis at the offices as well as the application. What has happened there is the insurance coverage for the entire complex -- this is just one small part of the big package. It is not a requirement by our fire underwriters, but what it does is it helps us be proactive in showing we're protecting our facility well beyond the standard requirements, so a couple considerations. If there were for some reason in the community anywhere along the line of the public main a bust in that main, we would -- may not have -- say there was a bust in the public main outside the complex, number one, concurrent with a fire on the complex. Obviously because we would need to draw -- it may not be there depending on the size and the degree of magnitude of that break.

Secondly, there is the consideration if there is a fire in the community and then a concurrent fire on site, then once again, there may not be sufficient flows for that. Are we playing probability? Yes. That is what this is all about. That is what insurance is all about. But right now these are the only warehouses that currently serve 64 stores. If for some reason there were a major fire on site and it draws from the public main and concurrently there was another break or other fires in the community, we're trying to -- we would have a secondary source. The other part of that, this pumphouse itself, if there was a mechanical failure in that house, there is another reason why we would want to have a backup for it. Warehouse is central to the operation of this business. If there was a major fire to the fact that they went down, we would be basically out of business. That is a far-stretched scenario, but we're constantly looking at what we need to do to make sure we're a viable business, and this is kind of the other end of it, operational.

RAY BLEIER: The existing pumphouse, though, is used for fresh water?

MR. PIRES: Correct, both.

RAY BLEIER: And you have the ability in the other proposed pumphouse to switch from one mode to another?

MR. PIRES: We will have that. That is exactly it.

RAY BLEIER: So could you conceivably use some of the water in the new storage tank for refrigeration purposes?

MR. PIRES: No. Refrigeration, we don't have water for refrigeration purposes. So we wouldn't be using it for that. No. It is strictly for fire. That's it. There would be no cross contamination whatsoever.

DARIO MARCHIONI: One more question. Will the sprinkler systems be connected to this or not?

MR. PIRES: No. The sprinkler systems in the warehouses themselves, no, they are not. That is an ammonia system. It's not a water system.

I'm sorry, for firefighting or for the freezer units themselves?

DARIO MARCHIONI: For the firefighters.

MR. PIRES: Yes. Obviously there are heads in the warehouses.

DARIO MARCHIONI: They will be connected to this system?

MR. PIRES: Our internal system. Once we tap off the main, we come into the pumphouse and then we have an internal water main system, and part of that is going to be a looping, a completion of a loop on the internal system underground.

DANIEL KRESS: No further questions. Just want to mention for the benefit of the Board members and anyone else who might be interested apropos to your earlier questions, there are, in fact, specific building code requirements that cover such things as reinforcement for seismic purposes. Also the backflow prevention and some of the other fire protection issues, protection of water supply issues.

That is something that we have all sat down in the Planning Department and talked to the Fire Marshal about to make sure that there are no building code point of view issues with this. Separately under a National Fire Code and under the State Building Code.

MR. PIRES: Mr. Chairman, I'm sorry. I apologize. As I was responding to Mr. Marchioni -- or over here, Mr. Bleier, about the domestic. No. It is strictly for the fire with the new pumphouse. As I was talking in the back of my mind, I was thinking I was maybe going a little too fast. I had clarification with the engineers. It is strictly for fire. If for some reason the pump goes down, we just won't have it. But it is something we should consider, quite frankly, in our design.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

STEVE GINOVSKY, 19 Hubbard Drive, North Chili

MR. GINOVSKY: Steve Ginovsky. First of all, I would like to see the presentation this way, because I can't see around the corner. I hate to be a pain. That is one.

Second, with this tank, does the Town of Chili -- what do they get out of it, dollar and cents, tax wise? Is there any monies coming to us?

MR. PIRES: No. Let me rephrase that. As far as assessment, I can't speak to the assessment of a water tank. I would have to defer to the Town in that question.

MR. GINOVSKY: It is a structure.

MR. PIRES: If we use the water, obviously we would pay for County water.

MR. GINOVSKY: 400,000 gallons, I assume you don't get it for nothing. The 400,000 gallons you use as a backup -- God forbid we have a large fire here in Town, in the general area over there. Will your pumps come on and -- when we have say two fires, you brought it up, do we use pressure for the others, our Fire Department trying to put the Town Hall out, for example?

MR. PIRES: Once again, that is the reason for --

MR. GINOVSKY: That is why I am asking about the 4,000. You get down to a certain amount and it picks up if we have a major problem?

MR. PIRES: It is actually 400,000. It is sufficient design to fight an extreme fire on this particular site. So if there was a fire in the community, no, we would not be drawing that down. That is why we have the secondary source, so we would not be drawing at the same time beyond the capabilities of the public main. That is the whole intent of this.

MR. GINOVSKY: This tank is secondary as fire suppression for that area. Not off the regular water mains?

MR. PIRES: We have --

MR. GINOVSKY: That we have out front there.

MR. PIRES: The initial source is off public main just as all the surrounding, whether it be commercial or residential off the public main. If for whatever reason there are sufficient flows and pressures from the public main, we would automatically be cut off from the public main and be drawing from our private source, that being --

MR. GINOVSKY: That is the point I was trying to bring up.

MR. PIRES: So we're not taxing the main.

MR. GINOVSKY: Like I said, what is in it for the Town of Chili? You're on the tax base. As information. Nothing else.

JOHN CROSS: Well, Steve (Ginovsky), first of all, I don't think our recording secretary got your full name and address.

MR. GINOVSKY: Steve Ginovsky, 19 Hubbard Drive, North Chili.

JOHN CROSS: That is something the Assessor would be responsible for looking at.

MR. GINOVSKY: Well, 400,000 gallons is a lot.

JOHN CROSS: I'm sure they would have to pay the Water Authority for --

MR. GINOVSKY: For that, I would hope so.

KAREN COX: Of course they do.

MR. GINOVSKY: At a palatable rate.

JOHN CROSS: And I would say I met with the Fire Marshal on this application, and he didn't have any problem with the pressures.

MR. GINOVSKY: If it dropped down. That is what I was getting at, would the rest of the area

--

JOHN CROSS: That is a good point, but he reviewed that.

MR. GINOVSKY: It wasn't presented.

Also, the location, the aesthetics of the tank building, what are they? Is it kind of covered? I understand there will be a roadway proposed going through that area. I couldn't see around the corner.

MR. PIRES: What roadway? This application is strictly for a water tank pumphouse and underground water main loop internally through our complex. That is the application itself.

MR. GINOVSKY: Is that seen from the roadway, your main roadway coming in?

MR. PIRES: This is Chili Avenue (indicating). Market Street comes in here (indicating). This is the water tank right here (indicating).

MR. GINOVSKY: And the building.

MR. PIRES: You're asking if you come down our private drive if you will see the water tank?

MR. GINOVSKY: Yes.

MR. PIRES: Quite frankly, looking at the sight line, I doubt it, because you have the frozen food warehouse in the middle of and then the sight line between Market Street and the water tank. And even if you were to see it for some reason at this distance point here (indicating), I would reiterate from the westerly property line to the tank is approximately 1600 lineal foot. You take that distance again here (indicating), you're going to be at least 1800, 2000 foot at this point.

MR. GINOVSKY: The point is I am saying on Market Street that you have there, um, there is some proposal to extend it. That is why I was just wondering if there -- if it is going to be there or seen.

MR. PIRES: We have no proposal for a roadway.

MR. GINOVSKY: Not you, so much, but I understand there is somebody looking at it. The County and -- between the County --

MR. PIRES: Let me reiterate. This is private property.

MR. GINOVSKY: Private road. Okay.

MR. PIRES: You will see it possibly along our private road at some distance. But in general, I would say no, because of the distance. It will be a low profile, even if you were to see it.

MR. GINOVSKY: Okay.

BEVERLY NEDER, 82 Attridge Road

MS. NEDER: I notice the address of this is Fisher Road, yet you mention no site distance from Fisher Road residents. What is there --

MR. PIRES: It doesn't. I guess I should have done that. That is approximately 1400 lineal foot perpendicular to Fisher Road.

MS. NEDER: Where is Fisher Road?

MR. PIRES: Right here. The reason I didn't -- and you're right, I should have mentioned it -- right now it will be a lower profile than the existing facilities that we have over here (indicating). But this is the recreation complex right here (indicating). And this distance here (indicating) is less than this 1400 lineal foot from Fisher Road, but that is a good question and I should have brought that up.

MS. NEDER: One other question. How close is this to the airport? I'm not too good on distances.

MR. PIRES: The airport is over in this area here (indicating). I don't have a distance on that.

MS. NEDER: Say there was a disaster of great magnitude at the airport, would any of that water be able to be switched so that --

MR. PIRES: No. Once again --

MS. NEDER: Strictly private?

MR. PIRES: Correct. It is strictly private. I mean, just the logistics of it, its distance -- and quite frankly, if there was a major catastrophe, 400,000 gallons would probably not serve their purposes at the airport. But that is really a side issue. It is more -- the answer is simply no, it wouldn't be set up for that and the logistics of it is strictly not there.

MS. NEDER: Does Wegmans have their own Fire Department for fire protection?

MR. PIRES: No, we do not have our own Fire Department.

MARLENE KRETSER, 56 Lexington Parkway

MS. KRETSER: Marlene Kretser, 56 Lexington Parkway, also of the Northeast Chili Neighborhood Association.

A couple of questions on that. If you can't get through to it from the front of the property, how will you get to it? With trucks and so forth.

MR. PIRES: They would be coming down -- access to the site today is Market Street. Coming down this internal road and then over to the tank. If that is what you're asking, for fire? I mean basically, access today is Market Street for our site, and that is how --

MS. KRETSER: Well, there has been a thing, a proposal of a road along the berm, facing Lexington.

MR. PIRES: If I might, as a general statement, and I am sure -- someone may have to comment to it, the whole -- well, unless Mr. Chairman wants to address it.

JOHN CROSS: I just want to make sure that the audience knows that we are not talking about a road cut tonight.

MS. KRETSER: I was just wondering if that was the roadway they could get their vehicles to it. Usually the middle of the property --

JOHN CROSS: Market Street is the only one --

MS. KRETSER: You can't get through any more. It is dug up. Usually what would happen is -- I know the last time that we had checked it, um, you couldn't get through. We had to get out and then go down through Jetview Drive and come back up.

KAREN COX: Are you talking about Market Street is all torn up?

MS. KRETSER: Yes. It doesn't connect to Jetview Drive any more.

JOHN CROSS: No.

MR. PIRES: Mr. Chairman, if you would like, I could go over the map quickly for the sake of the citizens.

JOHN CROSS: Please.

MR. PIRES: Once again, Chili Avenue, basically where my pen is running in this direction here (indicating). Market Street comes right in here at this point (indicating). Then it branches off into the office complex (indicating). And then it branches off to the south here to the warehouses (indicating). The water tank once again in the center part of the entire complex itself (indicating). Access today, whether it be vehicles or trucks, or -- automobiles or trucks, comes down Market Street into the site. That is the same route that emergency vehicles would be taking.

I think you may be speaking to in the past and more as a general, there was an airport corridor master -- management -- major improvement study done. Airport corridor study for a laymen's term, if you will. Currently here is Jetview Drive (indicating). There was within that body studying all of the road networks around the airport, including this property here (indicating), there were discussions about property -- a road coming up through here (indicating), which is Jetview Drive, generally in the past came up in this direction (indicating). It stops through here (indicating), but came through our property.

This is the road that we have eliminated. This does no longer exist. Jetview Drive stops at our southerly property line. We have currently no application and have no specific intents of coming in for an application of extension of that roadway.

MS. KRETSER: Well, it is also on the Master Town -- Master Plan for the Town, to -- it is shown.

Another question is, with this water being recycled and anything, that means you will have motors. We're inundated with noise from Wegmans, the trucks backing up, the beepers, the horns, the motors, the compressors, the air conditioners. I mean, we have even invited some of the representatives from Wegmans to come over to listen to it. We invited them to our meetings, but they declined. And we were just being good neighbors.

The thing is how much more noise would that also create now? I mean, we even hear conversations now and then if we're lucky and some of them are not nice.

MR. PIRES: There is no noise from a tank. It's a water tank, concrete, it holds water.

If I can address your other -- I'm familiar with your invites to the neighborhood association. I believe I have drafted you back a letter apologizing we missed the meeting. We had a meeting set up with one of the neighbors on Lexington, and that morning we were on site with our consulting

environmental engineer and unfortunately when I was out in the field, no one showed up. I got back to the office and there was, in fact, a voice mail saying they could not attend the meeting. I did call back and we have not heard back. We have heard the concerns. We have had our studies done, our informal walking of the sites with a consultant engineer and environmental engineer, and we -- both our audio, ourselves, as well as measurements, don't show any source of the problem here.

MS. KRETZER: Through the day, most people are working, the dogs are barking, the TV is on. It is at night that I have even noticed -- I didn't notice it at first, and then we have taken the dog in and out on a leash and sometimes the ground even vibrates from the noise. I don't know whether they're compressors, but it is like the noise will be steady, go up, steady again, and all of a sudden it will go up.

Another thing, this is all on -- one thing I would -- I was wondering is a question -- the addresses. Now, this is 291 Fisher Road. When we get notices for buildings, it is 249 Fisher Road. Why is that one parcel connected with two different addresses when it is all one?

MR. PIRES: Because this actually -- there is a little change in the Fisher Road address. I will have to defer to the Town to answer that. But generally, this parcel in the southeast corner was a parcel that was bought after the -- this one was rezoned back in '88, '89 (indicating). We own it. We have referred to it as the Robfogel parcel, if that helps. But that may be -- that is the explanation, because the maintenance building, as well as the tank, are located on this tax parcel (indicating), if you will, versus this tax parcel (indicating).

MS. KRETZER: Will there be lights on the building?

MR. PIRES: No.

MS. KRETZER: Now, we're all for safety, and if it -- you know, if it would help in the case of a fire, that is fine. We have no problems with that. It is just we're worried about the noise, and -- because I mean some of the summer nights you can't sit outside because of the noise.

MR. PIRES: I will extend the invite, too, again, whether it be the winter months or summer months, we can certainly meet again in the field on that.

MS. KRETZER: All right. Thank you.

PAUL JUSZCZAK, 42 Lexington Parkway

MR. JUSZCZAK: Paul Juszczak, 42 Lexington Parkway, also of the Northeast Chili Neighborhood Association. I have a couple of questions.

I would just like to expound a little bit on the noise. I don't think she was talking about noise from the water tower. Those pumps. Something has to run those pumps to run that water back and forth.

MR. PIRES: Well, yes. Once again, they're housed in a concrete unit.

MR. JUSZCZAK: The motors for those pumps?

MR. PIRES: Everything is in that pumphouse. There is that existing pumphouse today which walking by today you would not hear those pumps outside. So certainly this one you wouldn't hear either. Not to mention the distance from it either.

MR. JUSZCZAK: The sight line from the berm to the tower, we couldn't see it anyway because of the blinding lights coming from the building block our vision from everything over there.

MR. PIRES: Actually, we had calls on the lights that are on the westerly parking field over here. Firstly, they're faced towards the building, but we heard the comments made by the residents there so we actually put shields on the back of them. If it is still an issue, we can look at additional shields.

MR. JUSZCZAK: My last point is to the Board. We have had many complaints to our association, with the Town Board itself, against the berm that is back there and before we go and grant anything -- I have nothing against this Town -- or the water system by chance. It sounds like a great idea. I commend them for it. But we have existing problems with the berm that is there with drainage and weeds and so forth that seem to not get addressed by anyone, and we're asking you as a group to look at those before we go granting permission for any more new buildings and so forth.

MR. PIRES: Mr. Chairman, if I might address that, too. We have heard that before. In fact, that was in one of the letters we received from the association, and I did respond back to that, number one, we have been working with the Town, Mr. Carr's office on that. He is not here tonight. I'm deferring basically to the Town departments there. We have been working with them on the drainage issues in the back. And as far as weeds on the westerly side of the berm, it was my understanding back in '88,

'89 when we went through the initial approvals on that, this was to remain forever wild both on the top and the westerly side of the berm. It is, as we understand it to be from day one in that regard, and certainly we'll work with the Town if there is anything different on that.

The problem we get, quite frankly, when you have multiple residential units along a single property is you have different feelings on whether it should be basically a well-kept lawn or slope versus wild, and going back once again to the '88, '89 application, our understanding was it was to be forever wild on that side. So that is why it is where it is today. We have heard the comments and we have addressed them, at least responded back.

MR. JUSZCZAK: If I may respond to that. Their response has been they're not responsible for any drainage problems back there any more. It is not --

JOHN CROSS: Have you contacted Mr. Carr?

MR. JUSZCZAK: Yes. They have all been down in there. It has been basically sent from Wegmans, thrown back into the lap of the Town. Basically they have told us it is not their problem.

JOHN CROSS: My suggestion would be to continue working with Mr. Carr. That is his responsibility and we have no authority over him, so you are going to have --

MR. JUSZCZAK: But you do work with the Town Board, correct, on these situations?

JOHN CROSS: Well, we're an independent Board. Joe Carr works for the Town Board.

MR. JUSZCZAK: Correct.

JOHN CROSS: So that is where you need to work --

MR. JUSZCZAK: But doesn't this panel get together with the Town Board panel?

JOHN CROSS: No, we do not. We're an independent Board.

MR. JUSZCZAK: Thank you.

MS. KRETSER: Just to reinforce -- we're going back to 1988. You were on the Board, Ray (Bleier) was on the Board, John (Cross) was on the Board and Hellaby was on the Board. And with that -- with the idea of the berm, they were supposed to plant crown vetch and it was supposed to be up to the berm. They were going to let it grow wild. But also -- and I gave Don Faso a copy of the minutes, and I also gave Mrs. Griebel a copy of the minutes. They also said when they were building the berm, that it would not be fill. It would be good topsoil on top of it. I have pictures with the berm. There are lead pipes in there, rocks, boulders. There was no topsoil on it. The crown vetch did not take. They also said they were going to plant trees up and down the berm sporadically and that did not happen either. So if you want to look back in the minutes of '88 and '89, they're in there on the Planning Board minutes. So just to -- half of the berm was not taken care of like it should have been.

JOHN CROSS: Well, I think -- I heard Mr. Pires make an offer that, you know, come spring or early summer he would be agreeable to meet with your committee, your association. I know Wegmans has always been very good about addressing any concerns and I'm sure that between that and inviting Joe Carr to be there -- it is something I'm sure can be worked out.

CHARLES RETTIG, 1032 Coldwater Road

MR. RETTIG: In regard to your tie-in, I believe you said your tie-in would be -- your main water main would be into Fisher Road; is that correct?

MR. PIRES: No. Our main is currently -- the existing pumphouse is -- actually you can see it better here (indicating). This is the existing pumphouse right here (indicating). Currently the main runs on the south side to the east, to the west (indicating). This is the location the existing pumphouse taps off, if you will, the service taps off in that locale. The same would be for the new tank, in this locale (indicating). What I noted was the existing public water main comes up Jetview Drive, through our parcel and off to the northeast and then out to Fisher Road. That is an existing route of the existing public water main through this property. Our connection would be right in the middle here (indicating).

MR. RETTIG: You are not tying into a Fisher Road main that runs down Fisher Road?

MR. PIRES: No. We're tapping right in the middle of our parcel.

MR. RETTIG: Thank you. For the tank, are you working on a concrete pad foundation?

MR. PIRES: Yes, I believe so.

MR. RETTIG: What is the maximum pumping capacity of the pump?

MR. PIRES: 3,000 gallons per minute.

MR. RETTIG: And in this sprinkler system, recirculation system, are you working with a wet or dry riser system within your buildings?

MR. PIRES: We have a wet -- well, the existing warehouses?

MR. RETTIG: No. Where you're going to be supplying water to the sprinklers from this specific tank, is that a wet or dry riser system?

MR. PIRES: Um, clarification on that. I believe it is a wet system. Or --

JOHN CROSS: Bill (Moore), did you want --

MR. MOORE: Well, it is wet and it is dry because you have a freezer building --

MR. RETTIG: So you're saying some parts of it are dry?

MR. MOORE: Let's put it this way: Yes. Yes. Because of the fact that it is a freezer building and some parts of it are at minus 20.

MR. RETTIG: But your pumps are always maybe at lower capacity going through a recirculation system to keep your temperatures? Is that the way you're working it?

MR. PIRES: Are your questions related to the complex in general or the water tank specific? That is where I am -- I haven't been clear in answering.

MR. RETTIG: The water tank specific. You indicated you would have a recirculation system to keep your temperature at 42 degrees.

MR. PIRES: That is the heater system.

MR. RETTIG: So you do not have any circulation, and you do not have a call for sprinklers; is that correct?

MR. PIRES: For the tank itself, that's correct. I apologize. I was jumping back trying to figure out if you were talking about the warehouses.

MR. RETTIG: You see where it clarifies it? I thought you had a recirculation loop.

MR. PIRES: Mr. Hellaby might be able to clarify.

JOHN HELLABY: I think one of the big concerns here is that these pumps continuously run. They don't. They're jockey pumps that when the pressure drops in the system is what engages those. They're setting at rest 90 percent of the time unless they're called for on demand. I mean there is no noise whatsoever. They are just sitting in the house waiting to be called upon.

MR. PIRES: Thanks for that clarification. Maybe when I said "secondary pump" I wasn't clear enough to use the term --

MR. RETTIG: That is why I was asking the question for clarification.

MR. PIRES: It is a secondary pump upon need, right.

John Cross made a motion to declare the Board lead agency as far as SEQR, found this to be an unlisted action and made a determination of no significant environmental impact, and the Board all voted yes on the motion.

DECISION ON APPLICATION #2: Unanimously approved by a vote of 7 yes with the following conditions:

1. This conditional use permit is granted permanently for this structure.
2. Pending approval of the Town Engineer.

DECISION ON APPLICATION #3: Unanimously approved by a vote of 7 yes with the following condition:

1. Pending approval of the Town Engineer.

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

4. Application of Samuel Gallo, owner; 4 Krenzer Road, Scottsville, New York 14546 for preliminary subdivision approval of 5 lots with site plan on two lots, to be known as Krenmor

Pines Section 2 at properties located at 4 & 14 Krenzer Road and 136 Morgan Road in A.C. zone.

Rob Fitzgerald and Sam Gallo were present to represent the application.

MR. FITZGERALD: Thank you. My name is Rob Fitzgerald. I'm a Project Engineer with Avery Engineering. With me tonight is Sam Gallo. He is looking to get out of tonight's meeting subdivision and site plan approval for two additional building lots which he would like to give to his children.

Presently -- I will walk to the board so I can point out more specifically. Sam (Gallo) presently resides on Krenzer Road in a parcel that is kind of shown off the map here (indicating). His son Steve lives in this house here (indicating) that was built a couple years ago. What we're looking to do is divide Steve's lot as well as Sam (Gallo)'s lot -- and Sam (Gallo) also owns the lot to the north, as well. We would have a common access, common driveway coming down so we would split Steve's lot into three flag lots, creating two additional parcels for Steve's two siblings. The two additional lots would be -- they would both have on-site septic systems and they would be serviced by water and gas and, of course, electric. We're still working with the Water Authority and RG&E to see how we would get all of the utilities back there.

As for the Health Department requirements, we have to have three separate water laterals to service the three houses.

You did notice, too, on Lot 3 it is an existing lot. We have a proposed house and there is an existing house on there. That is not part of the application. That is owned by a different party at this time.

I did receive the Town Engineer's comments. The first question was regarding Lot 3. Like I said, Lot 3 is an existing lot. So -- there was a variance that was granted for that some years back. That doesn't have anything to do with this application that you see before us tonight.

Lot 5, the Town Engineer has recommended increasing the elevation to 1.5 -- an additional 1.5 feet. That is a good recommendation and we're certainly going to do that. We'll probably go up 2 feet. We'll adjust that and raise the house up just for drainage reasons.

Mr. Nissen's third comment was if the final Planning Board approval is granted, he would request it be contingent on Town Engineer's approval.

We also received comments from the County DRC. A lot of them were referring to wetlands, both State and federal as -- in addition to 100-year flood plain. Our proposed houses are roughly -- just let me verify this here.

Our elevations, we're about 560 plus feet. The flood plain in this area is 520 feet. So we're more than 40 feet above a 100-year flood plain. I think what the County DRC was speaking of is this large parcel, 22.8 acres that extends to the north a bit. There is a classified tributary. It is over 600 feet north of our northern improvements.

JOHN NOWICKI: So you're saying there are no wetlands or -- whatsoever on any of these parcels that you're looking to subdivide tonight?

MR. FITZGERALD: On Lots 4 or 5, that's correct.

JOHN NOWICKI: There is none on 4 or 5?

MR. FITZGERALD: Right.

JOHN NOWICKI: Lot 2?

MR. FITZGERALD: There are remaining lands to the north.

JOHN NOWICKI: Remaining lands of Sam Gallo, is that where the wetlands are?

MR. FITZGERALD: Yes.

JOHN NOWICKI: There are no wetlands on R-1 or R-2?

KAREN COX: R-1 is the one that they're --

MR. FITZGERALD: That's correct. R-1, R-2 or Lot 4 and 5.

JOHN NOWICKI: All those are clear of the --

MR. FITZGERALD: Well clear.

JOHN NOWICKI: They're clear of the notations they're making here in regard to wetlands.

KAREN COX: Streams.

JOHN NOWICKI: Yes. They were talking about a stream with vegetated size and all that stuff. The stream is not impacting these lots at all?

MR. FITZGERALD: No. It is over 600 feet away. You can see with a topo it drops off greatly and continues to drop off wide before it starts to flatten out.

JOHN NOWICKI: They gave us enough information here certainly about the wetlands.

MR. FITZGERALD: I thought the same thing.

KAREN COX: Keep that for the books.

JOHN NOWICKI: Would you mind giving us a general description of the existing neighborhood, other than these parcels?

MR. FITZGERALD: The existing neighborhood? Probably Sam Gallo may be better answering the question.

JOHN CROSS: Mr. Gallo, do you mind coming on up and trying to answer that question?

MR. GALLO: Mr. Chairman, members of the Board, Sam Gallo, owner of the property in question here. I have a few photographs here that I didn't want to really bring out, but seeing that you mention that, I will do that. You can take a look at these and pass them around.

This is the property directly across the street (indicating).

RAY BLEIER: When you say "across the street," across Morgan Road?

MR. GALLO: Yes. And I'm going to show you what -- this is the house that I live in (indicating).

This is the house that my son built (indicating).

This is a new house in the neighborhood (indicating).

This is one of the --

JOHN CROSS: I'm sorry. Is this on one of your lots that you sold?

MR. GALLO: Which one is that?

JOHN CROSS: The new house.

MR. GALLO: Yes. That was the last lot that was sold. That is the one that we sold to develop the rest of them.

JAMES MARTIN: And Lot 3?

MR. GALLO: It could have been. This one here (indicating). Yes.

That's the barn right next to the property (indicating).

This is the view that you will see -- the houses are going to be built back in there where the pines are.

As a matter of fact, once the houses are built, that is exactly what you would see (indicating).

This is another picture here of people that are complaining about two more cars in the neighborhood (indicating). And likewise with this one here also (indicating).

You can take a look at those.

And if I may, while I'm up here, you're probably all aware that we made the front page of the Gates-Chili Post here a while back. Did everybody read that? I have the article here. It was people that were in opposition of these two lots being developed. But I made several phone calls. I contacted probably 10 or 15 of the neighbors after this article was written, and if I may, I have copies here -- I will give each of you one. You can separate those and separate those (indicating).

This is what I got from one of the fellows, Joe and Terry Roa, that live directly across where this new house is going up. "Subject, letter support." It is addressed to me.

"We wanted to offer you a letter of support in your request for variance from the Town of Chili. We understand what you are planning and we think it is just wonderful that you will be able to build a few homes that border your property for your family. We also understand that the house at the corner that is being sold is to help finance your efforts. We live directly across the street from the construction sites and have not found it to be at all offensive or disturbing in any way.

The homes that you have already built appear charming and we look forward to meeting with our new neighbors when they arrive. We believe that it should give you great satisfaction to do this for your family. We wish you luck and God's speed in your efforts. We believe that the petition circulating against you has not been delivered with a clear understanding of your objectives. I hope that the people that have already signed it get a chance to hear your true intentions and receive an opportunity to withdraw their signatures if they choose to do so. Take care and God bless, Joe and Terry Roa."

And let me say this, Mrs. Thirtle, who lives directly across the street on the corner of Krenzer Road whom I have known since 1962, has given me letters of support for everything I have ever done. Remarkable woman.

I talked to her in length here a while back and she said, "Sam," she says, "I don't know what to say."

I said, "What is that Margaret?"

She says, "I was led to believe that you were going to be building a subdivision and there's going to be all kinds of traffic coming up and down Krenzer Road."

Krenzer Road does not even enter into the picture. There will be no traffic on Krenzer Road. There will be two more cars probably coming up on Morgan Road.

She says, "I would be glad to come to the meeting, but" she says, "I already signed the petition" and she says, "had I known the true story, I would have never signed it. God strike me dead on the spot, everybody I spoke to, "Sam, we have known you for years. We were misled. We were under the impression you were going to be putting up a subdivision."

You break one parcel off a main portion, isn't that considered a subdivision? One lot? All we're asking for is two more lots. My daughter back here Pamela, she is the -- she is born and brought up there, and, of course, my son Steve built one of those homes there that you see.

And she wanted to build another one in the area and, of course, my other boy, probably eight or ten years down the road. And that's about all I really have to say. If anyone has any questions.

If you didn't see the article, the Gates-Chili Post, it was October 30th's, "Rural Residents Lament Loss of Countryside." They were talking about spoiling the view and all of the additional traffic that is going to be in the neighborhood, and you have seen some of those pictures up there. When you talk about one or two more cars in the neighborhood, and the letter that we got from Mr. Cross here -- I don't want to take up too much of your time, because I know you're busy, but there was a petition that was circulating and a lot of the people that were signing it were under the impression that we would be building a subdivision. That is not the case. It is just two lots for my two children.

KAREN COX: They thought you were going to be building a 20-house subdivision, with many families?

MR. GALLO: Exactly. And everybody I spoke to, "Sam, we were greatly misled. We would have never signed it had we known your true intentions."

And I get a letter from one of the parties stating to me -- we wrote a real nice letter to everybody that attended that meeting that night. And we got responses back -- well, here, "Pat and Sam." It is from one of the neighbors. It says, "My concerns are that you're setting a precedent for future building on Morgan Road. I called the Town and they told me that the approval that you need from the Planning Board is for subdivision. There are no subdivisions in this area at present. We are aware that the fields in the areas that could become subdivisions in this area once this plan has been started. We and 21 other neighbors that we spoke to do not want a subdivision in this area."

That is one of the paragraphs in this letter. And they end this letter, too -- they specifically stated that they wished I would have talked to them prior to coming to the Town Board.

I didn't think I would have to do anything like that. But the sign was up. We have got no calls from anybody. We didn't figure we would have any problems at all. But that's about all I have to say.

If you have any questions, I would be more than happy to answer them.

RAY BLEIER: It sounds like at least on one of the lots it is out in the future that -- before someone is going to build there, your son you mentioned?

MR. GALLO: Yes.

RAY BLEIER: What about your daughter? How soon does she anticipate --

MR. GALLO: She is right here. Hopefully she will break ground -- maybe not this spring, but the following spring for sure.

RAY BLEIER: Within the next year or so?

MR. GALLO: Yes.

RAY BLEIER: Are those Lots 4 and 5 being farmed right now?

MR. GALLO: No. There is no farming at all. There is property down below that is being farmed down below it. It is all in the pine trees. And, of course, the idea was that people were afraid that the pine trees were going to be cut down. That is not true. Those pictures that you see there are

the pines. Looking at those pines, that is exactly the view that you see there today, is what you'll see when these two houses are built.

KAREN COX: Will you try to save as many of the trees as you can?

MR. GALLO: Yes. Just enough of the pines taken down to build the homes and the homes will be nestled into the pines. It is a beautiful site. It is a nice high location.

KAREN COX: Your feeling is that there was a misunderstanding on the people who circulated this petition that when they heard the word "subdivision," that they thought --

MR. GALLO: Everybody I spoke with.

KAREN COX: And when they called to verify --

MR. GALLO: "You're building a subdivision. You're setting a precedent. We don't want a subdivision in this area."

KAREN COX: So did you speak to the people who were circulating this petition after it came out to try to -- you know, I'm not blaming you. I'm just saying was there some kind of communication to let the people know who were circulating the petition it wasn't just going to be --

MR. GALLO: Can I read a copy of the letter that I sent to everybody the following day?

KAREN COX: Sure.

RAY BLEIER: What is the date?

MR. GALLO: The date of this letter is September 25th. It was probably one or two or three days after the Zoning Board meeting.

This letter went to everybody that was in attendance here that evening and perhaps three or four more. I'm not sure.

"Dear Neighbor, we were surprised to see so many of our neighbors at the Zoning Board of Appeals meeting last night with objections to our proposal. We didn't realize there were any problems. We wished that you had called us and we could have explained the situation a little better. The sign that was posted of the meeting was very misleading. There really weren't four lots involved. Two of the four lots were from existing lots, ours and my sons'. We were taking a piece off mine and adding it to my boys'. Those are two of the lots."

Then it says, "We were taking 50 feet off our property on Krenzer Road and adding it to the rear of my son Steve's property. The other two lots were the ones at the end of the driveway that our daughter Pam and son Brian want to build on." Pam wants to build here (indicating). My son Brian here (indicating). My son Steve already lives here (indicating).

"Our son Steve talked with a few neighbors and after explaining the situation, they had no problem with it. If you had called us maybe we could have explained it to your satisfaction."

"We enjoy the wild openness of the area also and wanted to keep it untouched, too. That is why we didn't make the two lots into 5-acre parcels."

"The Zoning Board did approve our application. The vote was five in favor and two against. It passed. Now it has to go to the Planning Board for final approval."

"We're sorry that there was so much dissatisfaction and so many questions. From now on if you have any questions or problems of any kind, please call us, either of us at 889-2020. We have been in the neighborhood for about 40 years and certainly don't want any hard feelings. I hope this clears this up a little more and hope that we can remain good -- on good terms with all of our neighbors, sincerely Sam and Pat Gallo."

That was a letter that was sent to everybody that was at that meeting that night. Then I got on the phone to make the calls, and that is what I heard from everybody. "Sam, we were misled."

KAREN COX: So a lot of people that signed that petition --

MR. GALLO: Would never have done it had they known it wasn't a subdivision.

KAREN COX: Okay.

JOHN HELLABY: I have probably been out in that area as long as Sam (Gallo) has been out there. You all know I'm not crazy about these things, and this is not personally directed at you. But until this Town moves forward on this Master Plan, this Board's hands are somewhat tied because this is becoming the norm in that entire area of Chili.

JOHN NOWICKI: A couple of issues. In regards to that point, I do agree with Mr. Hellaby that -- the last application we had out in that area I voted against it only because of the Agricultural

Districts. That is why I asked you the question, what the existing conditions of the neighborhood look like. Denser population. It seems like it is -- the lots are about the same size. They're close together. So you have community over there.

The other question I have here, the Lot 4 and Lot 5, the one for Pam and Brian, have those lots been transferred to them yet, in their ownership?

MR. GALLO: No. Not yet. No, not until we get them approved.

JOHN NOWICKI: Okay. And those lots will be transferred upon approval of the Planning Board; is that what you're saying, for the record?

MR. GALLO: Oh, yes.

JOHN NOWICKI: I just want to make sure this is a family situation.

MR. GALLO: They're interested in them, you know. They want to build on them. So...

JOHN NOWICKI: Okay. The other question I have for -- in the comments here from Mr. Kress, we have not received the district application for the Drainage District yet; is that true? Have you filed for it to be included in the Drainage District, your properties?

MR. GALLO: Oh, God, you can probably answer that, Rob (Fitzgerald).

KAREN COX: This is for --

RAY BLEIER: I think it is Sam (Gallo)'s residence they're referring to.

MR. FITZGERALD: If one hasn't been, the only one would probably be this remaining land (indicating). So these two pieces would have to be incorporated or this entire parcel (indicating).

JOHN NOWICKI: Drainage District application for 14 Krenzer Road has not yet been received. What parcel is that?

MR. GALLO: That is the 22-some-odd acres that is down below. That is all farmland and wetland.

JOHN NOWICKI: So again, my question is, have these parcels themselves been put in the Drainage District?

DANIEL KRESS: The rest of them have. Number 14 has yet to be applied to be added.

JOHN NOWICKI: So these lots, 2, 4, 5, 3 and R-1, they're all in the Drainage District?

DANIEL KRESS: That's correct.

JOHN NOWICKI: Okay. So we'll have to put the rest of the land in the Drainage District. I have think that is all I have for now. I wish you luck.

MR. GALLO: If there was just one thing I could adhere. John (Cross), you're probably aware that this all stems -- this goes way back to 1966. This whole parcel here was subdivided into four one-half-acre lots. 1966. One, two, three and four (indicating). One of the parcels was sold off to Jerry -- well, Jerry Erb lives here today. He is probably the third owner. John (Cross), you were here I think when we talked a few years back trying to get this squared away.

Four one-half-acre lots. This was downstream. This was a retirement plan, something for the kids, if and when they were ready to build.

The Town Attorney at the time told me, "Sam, don't bother filing them as building lots until you're ready to sell them."

We sold this one. That was filed. That was it. The other three lots were just left.

1966. Lo and behold the Town comes through and says, "You can't build on half acre lot any more. You have to have 20 acres." Then it was knocked down to ten. Then it was knocked down to five. Then with a variance you could build on an acre.

I came to the Town Board with a map of these four parcels, one being sold off. What do I do now? "Sam, they're not big enough. You didn't file them." I was told by the Town Attorney not to. I lost out.

"Okay, the children want to build back here, what do you do now?"

"Well, you own property to the north, do you not?"

"Yes, I do."

"Can you extend?"

That is where it all started. We extend my son's Steve's lot out 100 foot so we have good drainage for septic fields, and now where those four lots were, there are only three lots, but you can see now that they're -- the lots here are an acre and a half, an acre and a half, an acre and three-quarters, instead of the half-acre lots.

Now these two parcels back here are going to be pretty close to two acres and one and three-quarters. But these represent the four lots that we originally had planned back in here, back in 1966.

John (Cross), I think you were on the Board when we tried to get that through with Avery Engineering here a while back. Mr. Faso I think was on the Board. I have letters. I have a stack of information this thick (indicating). We paid through the nose. Everything was all developed. All of the tests and everything were all done. The engineering, the surveying, the laying of the pipes and all of that. All went down the drain. We had to start over again.

We still have, instead of the four lots that we originally had in mind, we ended up with one -- well, two, three -- there are four lots there now, but you can see that they're two or three times the original size.

That is something that I thought I would add into the question -- into the --

JOHN CROSS: Let's get on with it.

JAMES MARTIN: I had some confusion on the Drainage District, but that has been clarified. I don't have any more questions at this point.

DARIO MARCHIONI: I think it looks good.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

SHELLY REES, 147 Morgan Road

MS. REES: First of all, I would like to address the petition because my husband and I were the ones who brought the petition around to the neighbors. We carefully explained to all of the neighbors. We brought this map (indicating), which unfortunately my husband has written on, but which clearly explained that the lot lines would be changed by the son and the father and that there were two new lots being talked about. This is the map. We pointed out this map and this lot (indicating), and that these were the gravel driveways coming off Morgan Road. That is what everybody saw who signed this petition.

I also want to show you a letter. We are the ones who wrote Sam Gallo the letter that he just quoted from. In the letter, it also says, which he didn't quote, "Your plans affect the whole neighborhood."

We went to the Building Department when we received notice of the zoning variance and carefully looked at the plans. We were aware that they included lots for only two new houses. Everyone who signed the petition was aware that your plans included lots for two new houses. When we went around the neighborhood, we clearly explained that. I had come over and seen the plans at the Zoning Board and off that I made a rough map and we clearly explained to everyone who signed that petition what was going on.

JOHN CROSS: So you dispute what Mr. Gallo says?

MS. REES: I -- very much so.

We also in our letter offered to have a meeting with him, to host a meeting of the people in the neighborhood who were concerned, and there was no response to that.

And, you know, I would like to give you a copy of the letter.

JOHN CROSS: Are these copies that we can keep?

MS. REES: Yes. Yes, please do. The neighbors that I talked to, coming up to this Planning Board meeting, several of them said that Sam Gallo had contacted them and that they had expressed their concerns and are still very much against the proposal, including Margaret Thirtle. So -- and I don't think our concerns are about the quality of the houses. I believe that the quality of the houses are good.

Our concerns are that we value the green spaces around us. There are no other houses behind houses on Morgan Road. We all feel like we live in a rural area. Many of the neighbors that I talked to said that they would like to buy more land behind them. They want to protect their properties from further development.

It doesn't matter about the quality of the houses that are being built.

There is already a noticeable increase in traffic from just having one house occupied at this point. The house that is being developed by the builder is not occupied. His son's house is occupied. His son

is operating a child care center out of this home, and there is a lot of traffic going up and down that driveway. So it isn't -- even without any further development, there is a lot of traffic on that driveway.

Jane Halter, who could not have been here tonight, who lives in the yellow barn and is -- she and her husband are an elderly couple. They're against this project. She is very much concerned -- she would have been here except for that she is sick. She is concerned about that driveway becoming a road and her property becoming a corner lot at some point. And she also is very -- feels very much encroached upon by all of the development going up around her.

You know, one thing that I would much prefer and other neighbors that I have talked to would much prefer is if a driveway would come off of Krenzer Road up into the other lots. Um, that would make a big difference in the amount of traffic off Morgan Road. Morgan Road, if you drove by, it is on a hill. We all feel like traffic safety is a big issue. A lot of cars come very fast over that hill. We're all very nervous coming in and out of our driveways already because, you know, there just isn't good visibility, and adding more houses and more cars increases that safety risk. A driveway coming up off Krenzer Road, Mr. Gallo already has a driveway next to his barn that goes up into that field. That would alleviate some of those concerns.

I also would much prefer that he build along the ridge, you know, where his daughter's house is going to be -- would be fine, but if he would put his son's house down along the ridge, that would at least spread out some of the housing project. You know, we aren't against him giving land to his children, but we just feel like there can be a better way of doing this without encroaching upon the rest of the neighbors.

I realize that there is a pipeline going across this property, but according to the pipeline people, that is not an issue with putting a driveway across it.

And I don't really understand how his son's house can be built without a lot of pine trees being torn down. That is a densely pine treed area, and I don't really see how that can happen.

PETER REES, 147 Morgan Road

MR. REES: My question is to the Board. How many common properties can share a driveway before it is called a road? I mean, you know, there are actually four properties sharing a common driveway. To me it is a cul-de-sac, and I don't understand how that isn't designated a road or -- I mean I read through your little thing on what roads are and whether there is a turn-around in the back or if there is access for fire equipment or whatever.

One of my worries is eventually this will become a road. I guess there are a couple questions in there to the Board. If these four houses that share that common drive decide some day they want it to be a road, whose burden is it to do that? Or who regulates what that drive -- which in my mind, four people, it is really a cul-de-sac road.

JOHN CROSS: Can I defer to one of you on the side? I don't know the answer to that.

DARIO MARCHIONI: Avery knows.

JOHN CROSS: I guess the question is, is there a limit to the number of houses --

LARRY NISSEN: I might be able to help. There is not that I am aware.

MR. REES: There really isn't.

LARRY NISSEN: No. There are numbers of examples where numerous living units are serviced by private roadways, in many cases, more houses than here.

MR. REES: If you call it a private road, there is no jurisdiction or designation what the private road has to be?

LARRY NISSEN: There is a standard for construction of a private road.

MR. REES: It is a private road.

LARRY NISSEN: It is a driveway.

MR. REES: So there are no rules or regulations for setbacks, or if it is turn-arounds or access for --

LARRY NISSEN: It falls loosely under the Town site plan criteria, under the zoning code, but there are no -- my understanding is there are no requirements for driveways, per se.

MR. REES: In the future, when those four people say this is really a bad plan, because it is a bad plan, and they petition the Town to make it a road, what happens then? I mean has that happened in the Town? Is it a common thing? What are the procedures for that?

KEITH O'TOOLE: Well, basically it is an unlikely scenario because usually what happens when someone buys these types of lots off a private drive, they have an easement arrangement among all of the properties owners to contribute to the cost of the maintenance, so there is not a great advantage to dedicating a road to the Town.

The second is will the Town accept it. Chances are they wouldn't. All roads have to be made to Town standard, which is a higher and more expensive standard. They would have to rip out the existing road and good luck trying to find the money among four homeowners. I don't see it happening.

MR. REES: There's no way the Town would foot the bill to make that a private road?

KEITH O'TOOLE: When hell freezes over.

KAREN COX: Is your concern in the future the homeowners?

MR. REES: They could split it again. I mean the yellow barn has an easement to that property, that common driveway also and they could split their property and put a house behind theirs. I mean technically it could keep going on. If it happens here, there is ad infinitum you could split it up. 5-acre rule, according to the Zoning Board, is meaningless. If you have water, they don't care. I mean they said at the other meeting that the 5-acre rule was basically to separate your well from your septic. If you have water, then the 5-acre rule doesn't matter. That is how come they approved it. Technically you could make whatever you wanted on a cul-de-sac with no road and who cares?

JOHN NOWICKI: It is the sanitary sewers. They need a lot of room for the septic systems they put in here. You don't have septic systems.

MR. REES: No. In the future. We have other areas around right where we live that this same scenario could happen again and again and again. I'm just trying to find out what are the rules or how is the game played because it doesn't look like there are any rules.

JOHN NOWICKI: The rules -- they played by the rules. They went to the Zoning Board.

MR. REES: But the Zoning Board --

JOHN NOWICKI: The Zoning Board gave them a variance.

MR. REES: The Zoning Board doesn't care. I just said that. The 5-acre rule is meaningless in the Town of Chili.

JOHN HELLABY: The Town Board will not even act on the 2010 Master Plan. That is it in a nutshell.

MR. REES: Okay. It is just frustrating. It doesn't seem like there is any sense of what is going on. I think cul-de-sacs are a bad idea. That is why I am against it. The concept of four lots behind the main, you know, chunk of houses I think is a bad plan.

DARIO MARCHIONI: If you go around throughout -- especially in Riga or even more west you will see a lot of these.

MR. REES: I'm not saying it is a good plan someplace else and bad in my yard. I think it is a bad plan everywhere.

RAMONA ALICIE, 23D Silver Birch Drive

MS. ALICIE: Ramona Alicie. And first off, I would like to say that my interest in this application stems from --

JOHN NOWICKI: Your address?

MS. ALICIE: 23D Silver Birch Drive in the Town of Gates.

My interest in this application stems from the article that was in Messenger Post last fall. I am not related to Mr. Gallo, and I don't know the ins and outs about the zoning regulations. I am sure that he has covered all his points and made all of his applications correctly. My concern is when I read the article, it seemed to me that people were trying to tell this man what to do with his land, and I have a problem with that. I can see that he has been in the town for quite a few years. He pays taxes. I'm not aware that he has ever been in jail for any criminal actions, and I think very strongly that a person should be, with the proper easements and so forth, entitled to do what they want with the land they bought with hard-earned money and paid taxes for.

Now, if it is in violation of some sort of zoning standards, of course, then it shouldn't be considered. But for neighbors to come forward and talk about what someone else should do with their property infuriates me, and that's the reason that I came to speak to you today. Thank you.

KAREN COX: Somebody mentioned the possibility of taking a driveway off Krenzer Road.

Have you looked at that, Rob (Fitzgerald)? Was that a possibility, or was that not possible because of terrain or utilities or --

MR. FITZGERALD: There are a couple factors. One, of course, is the terrain, as you can just see how much it drops off on the contour lines. It would be quite the slope. The pipeline does run across the property. Could you put a driveway over there? Technically, yes. It is not really easy, an easy process. And plus there is -- just how they're situated, it would be a shorter drive and more economical. All of the utilities are there, as well.

I remember back when we did get this previous subdivision approval, that was one of the recommendations by the County D.O.T. is that we did have one common driveway. Originally we had two. For Lot 3 they had their own drive and they wanted to see them all together just to limit the access points.

KAREN COX: Because of the sight distance issue, or I mean -- to have one -- only one access point as opposed to several?

MR. FITZGERALD: Just to have one as opposed to several where there is more chance of conflicts. As I recall, I don't believe it was a sight distance issue.

KAREN COX: No. You have the right -- good sight distance on here.

MR. FITZGERALD: At this point, too -- well, of course, a lot of the driveways are constructed, so it is the natural extension.

KAREN COX: So maybe that addresses the question that one of the neighbors had about why a driveway could not come off Krenzer Road. That is what I wanted, the point.

JOHN CROSS: Rob (Fitzgerald), while we're on the subject, could you explain some of the details about this private driveway, you know, the width of it, the construction of it, the proposed construction to the far end of it and so forth?

MR. FITZGERALD: It is just -- there aren't real stringent design criteria for it. I think the minimum, it has to withhold a fire truck, which a lot of time 9 inches of crusher run would do that. It is already extended to Steve Gallo's house presently. It will Y off to the future houses.

KAREN COX: Has the Fire Marshal seen this plan?

JOHN CROSS: Yes. He had no comments.

NANCY ADAMS, 185 Morgan Road

MS. ADAMS: Nancy Adams from 185 Morgan Road. And I feel that Mr. Gallo has very severely misrepresented the feelings of the neighborhood about these buildings.

I am not aware of anyone in the neighborhood who has said, "Oh, now, I understand. I wouldn't have signed the petition."

Nobody I have ever talked to, in the -- and the whole neighborhood is talking about this, from Scottsville Road practically a mile down the road.

Margaret Thirtle that he mentioned specifically said, "If there is another petition about -- for the Planning Board, I will sign that, too."

She has said to him, "Why would I write a letter in support of you to the newspaper if I'm opposed to your plan and if I had signed the petition, which I did?"

And if she wasn't 85 years old, she would have been here tonight, but she doesn't go out at night and she slips on ice and has broken bones recently and is in no shape to come out. But she is very much against this, as the rest of us are, and this neighborhood is a rural neighborhood with one house on each side going along and farmland and open space all behind us.

And building this little subdivision changes the character of the neighborhood. And we are not for it. We're all upset about it. And we came before the Zoning Board -- a lot of us were here. And the Zoning Board paid no attention to us and went right ahead and gave him permission to do this when we all spoke adamantly against it. And so I just want you to know that I don't agree with most of what he said about how the neighbors have changed their minds. None of the neighbors that I have spoken to have changed their minds.

And the man that -- the Roas across the street are close friends of his sons who are already there. So that is my feeling why they're in support of it. Nobody else I have spoken to about it feels that way.

BEVERLY NEDER, 82 Attridge Road

MS. NEDER: The main thing that concerns me over here is that since water has been extended down there, I think you're going to, in the future, have a lot of these applications or similar type applications where land couldn't have been developed before. And this may be fine for them, as long as they're a family -- they're family lots and the family owns them. But what kind of situation are we creating 20, 30 years down the line when those same family members decide I don't want to say in New York State any more, I'm going to Florida or Arizona or, as we all know, things happen in families. Some of the bitterest enemies are among family members. I think you're creating a terrible situation. I mean if it was one house, that's something. But four houses, and maybe more? No.

RAY BLEIER: We're talking two houses.

MS. NEDER: But there are going to be four houses using this.

MR. REES: The first application was two houses and now is he back for another two houses.

RAY BLEIER: We're looking at two applications tonight.

MS. NEDER: My question then is, how many houses are currently using this common driveway?

DARIO MARCHIONI: Four. There will be four.

MS. NEDER: There will be four. That is what I am saying. That is a lot.

JOHN CROSS: Well, Beverly (Neder), the only answer I can come up is, in 30 years, if one of these people decide to move out of state, the buyer will have to read all of the deed restrictions.

MS. NEDER: John (Cross), you know, it is a stock answer. And --

JOHN CROSS: We all agree, I think, that we need to work on this type of situation. It is something that Mr. Kress and I and the engineer will probably spend some time on in the future. But right now --

MS. NEDER: How many years ago was water put down there? You knew this was going to happen. Everybody has said, as usual, waiting for the crisis to occur.

JOHN CROSS: I can remember you, of all people, maybe eight or nine years ago, saying you bought your home on Attridge Road, what 30 years ago --

MS. NEDER: 20.

JOHN CROSS: 20 years ago. Beautiful, all around you, you --

MS. NEDER: I still feel that way, John (Cross).

JOHN CROSS: It's called suburban sprawl, I guess.

MS. NEDER: It is.

JOHN CROSS: You know, we have to deal with it as the law allows this man to apply to the Planning Board and the Zoning Board.

MS. NEDER: I have no trouble with him building house, but I do think a road or a driveway should come in from somewhere else. You know, I just -- you're -- again, the Planning Board is setting a precedent, and you're going to get other people that say, "You did it over here, why can't I do it here?" And you are going to have a can of worms out there.

JOHN NOWICKI: We look at the specifics of each application that come before the Board. You know, we have looked at other applications in agricultural areas where the Board has felt uncomfortable and some of the Board members have voted against it. There are still a few of us uncomfortable proceeding with this because we have not advanced the Master Plan to a point where we should be.

MS. NEDER: Why not put a moratorium on it until you do something with it?

JOHN NOWICKI: The Zoning Board has already granted this gentleman and the family the variances.

MS. NEDER: For this common driveway?

JOHN NOWICKI: For this project.

MS. NEDER: Is this going to be a paved driveway?

JOHN NOWICKI: Probably not. It is a private strip of land, and many private strips are usually just bank run gravel put in there so they can get --

MS. NEDER: And they wear away until you're down to the bare dirt again.

KAREN COX: Paving that would be akin to almost building a road, money wise. I can't imagine that the homeowners would have the money to put in a paved driveway that far back.

MS. NEDER: I just think you're setting a bad precedent here, and I -- you know, think about

the future citizens of Chili if you don't want to think about the present citizens.

JOHN NOWICKI: The engineer, Rob (Fitzgerald), I just want to ask you a question, on the Lot 4, there is a 20-foot easement proposed for ingress and egress for Sam Gallo. What is that for?

MR. FITZGERALD: That was just so he would have access to the kids.

JOHN NOWICKI: Going back to the rear lot line of 4 and 5, is the land in back of that now, is that his land now also, Mr. Gallo?

MR. FITZGERALD: Yes, it is to the northwest --

JOHN NOWICKI: Well, the northeast. Right in back of 4 and 5, that chunk up in there (indicating).

MR. FITZGERALD: This piece here (indicating), yes.

JOHN NOWICKI: Is that developable? Buildable?

KAREN COX: With all of the wetlands on it.

JOHN NOWICKI: I'm looking at this 20-foot easement and I'm saying, "What are we doing with the 20 foot easement?"

DARIO MARCHIONI: Another house back there?

MR. FITZGERALD: That is not the intention.

JOHN NOWICKI: But it is a possibility.

MR. FITZGERALD: We would have to bring a road up there. There is a lot to consider. Could we get suitable perks? If he could fit a house in there. If he could get another variance, I guess.

DARIO MARCHIONI: Let's button it up now. Does he have intention of doing something --

MRS. GALLO: I'm Mrs. Sam Gallo. As far as when we went before the Zoning Board, they told us we could not build any more lots on that 20, 30 acres that we own. So that is all of the lots that will be able to be built there unless the zoning changes.

JOHN NOWICKI: How did they determine that?

MRS. GALLO: I don't know. Because of the wetlands maybe.

JOHN NOWICKI: He is saying that is higher ground up before 4 and 5.

MRS. GALLO: But then it tapers down.

As far as the driveway off Krenzer Road, that is completely impossible. There is a very steep upgrade there. You would never get up there in the wintertime.

MR. FITZGERALD: Maybe Sam (Gallo) can answer it better, too, because I don't think I answered the question very good, why he was looking to have the easement.

Can you address that, Sam, the 20-foot easement to the rear?

MR. GALLO: I farm all this property down in here (indicating). I own, oh, probably 12, 1400 foot back this way (indicating). You have a driveway down behind the barn and I just wanted an access -- I have a driveway up there now. If I wanted to come up here (indicating) with my tractor and come back in here (indicating) to get a load of firewood, I would be able to do it. I wouldn't have to go out across the plowed field. I would follow the existing driveway.

As far as more houses being built out here, off of Morgan Road, it is totally out of the question. There is 60 foot in here (indicating). There are three flag lots. 20 foot to each of these parcels. And as far as putting a driveway off of Krenzer Road, you think Morgan Road is a bad intersection, try pulling out of Krenzer Road onto Morgan. It's a 40-mile zone. Everybody goes by there 50, 60 miles an hour. I have had three or four close calls. A lot of people have over the years. And to develop a road from here, 12, 1400 foot down to Krenzer Road, and then up Krenzer, coming out onto Krenzer Road, that is probably one of the worse problems in the area.

I have talked with the Town several times. I have talked with the County of Monroe. As a matter of fact, they did raise the intersection a little bit to help the visibility pulling out of Krenzer Road. You pull out of Krenzer, and you look to the east up Morgan, there is an awful crown in Morgan Road. I was talking to the County engineers when they re-worked that road a while back. "You mean to tell me that you can't knock 12 or 14 inches off that crown when you're reworking it and increase the visibility coming up Krenzer Road?"

"Well, it's not into the budget."

KAREN COX: It's a lot of money.

MR. GALLO: It's a lot of money, yes, but it is a dangerous intersection. To try to put more traffic up through there, unbelievable. Unheard of. And you can't build -- and as far as

this -- let me tell you a little something about the barn on the corner. I just want to say this. Mrs. Halter -- my wife owned -- my wife's grandmother occupied all that property. She owned the barn and the property behind it. When we developed these four lots back here (indicating), back in the '60s, my wife's grandmother said to me, "Sam and Pat, do you want this parcel in behind the yellow barn?"

I said, "Grandma, it really isn't going to do too much for us." I said, "We have got four lots over here with a 60-foot right-of-way. Why don't you give it to the people that are in the barn."

That barn sat on a postage stamp, 100 by 125 foot of property is all that was with that yellow barn.

Everything else in behind it, all of the way back here (indicating), was given to that property. I didn't want that. I could have taken that and put another lot back there.

Peter's question was what is stopping these people from building another house in behind the barn? They have no access. They have no access. You would have to have a flag lot to get back to that parcel to build. There is no more property here available for flag lots. So building another house behind this yellow barn is out of the question.

Those photographs that you see in there, behind the yellow barn, looking back at these pine trees here (indicating), that view that you see right there now is what you're going to see forever. You will not even see this house in the pines, nor will you see this (indicating). The existing view that you have there right now will not change.

MR. FITZGERALD: If I could get back to Mr. Nowicki's question, I think he was just concerned with using this access to build a future house. We can put something in the description that states that it won't be used for that, or it is only for personal.

JOHN NOWICKI: I just want people comfortable with that, because that easement bothers me a little bit.

MR. GALLO: I would accept that.

DARIO MARCHIONI: I have a concern about that. Since he says he is going to have tractors or farm vehicles, that would be right in front of this house. I'm concerned if you have kids or something like that -- I was wondering if you could eliminate the easement. You can always get an easement so we're not a party to this situation. Do you see what I am trying to say? Because, you know, there will be a house there, a beautiful house. Kids are outside. If you have farm tractors, I just feel --

MR. GALLO: Well --

DARIO MARCHIONI: You can always.

MR. GALLO: You're talking about maybe once or twice a year. I like to go up there, put the hay wagon on there, put the kids on in the fall and go down and get pumpkins and whatnot. They get the biggest kick, the grand kids. If you go through with a tractor there, it is four or five miles an hour. It is not that you're speeding through there. But that was just -- I have all this property in behind here (indicating). I just wanted a way to get to it. I don't intend to build any more back there. If you want to write that into the proposal, be my guest.

DARIO MARCHIONI: What I am saying is you can always get an easement at a later date, but at least we're not party to this easement that you will put there.

JOHN NOWICKI: He has to write a restriction on the easement. Let him draft a restriction on it so it can't be used --

KAREN COX: For personal use only.

MR. GALLO: I can live with that. No problem.

MS. NEDER: With that condition that John (Cross) was discussing, will that go with the land if the land is ever sold for future owners?

JOHN CROSS: Yes.

MS. NEDER: So that land can never ever be built on?

JOHN CROSS: Any deed restrictions go with the land?

KEITH O'TOOLE: Yes.

JOHN CROSS: Easement restrictions.

MS. NEDER: So at no future time, nothing could be built on that land?

JOHN NOWICKI: On that -- the 20 foot in the back?

KAREN COX: The 20 foot could not be used as an access, driveway access --

MS. NEDER: Which would prevent building on that land.

KAREN COX: To put a building back behind Lot 4.

MR. REES: But you're saying in the future when all of the property changes hand, that a property owner on another chunk of property has an easement between these two properties? I mean, again, that is kind of goofy. That is my take on it.

JOHN NOWICKI: We'll restrict it.

KAREN COX: You restrict it to non-access use --

JOHN NOWICKI: Non-access.

KAREN COX: Access only for personal whatever.

DARIO MARCHIONI: For farm vehicles only.

KAREN COX: Yes.

John Cross made a motion to declare the Board lead agency as far as SEQR, found this to be an unlisted action and made a determination of no significant environmental impact, and the Board all voted yes on the motion.

John Cross discussed the proposed conditions with the Board.

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

1. Pending approval of the Town's Engineer.
2. Applicant's surveyor to follow item #2 of the Town Engineer's comments dated January 6, 2003 to increase the elevation of the first-floor level of the proposed house an approximate 1.5' on Lot #5.
3. Petition the Town Board to include this subdivision in the Chili Consolidated Drainage District, if not already in.
4. Applicant to follow the Town subdivision requirements regarding street tree plantings on each lot and be approved by the Town Engineer.
5. Applicant's Attorney to show a deed restriction for the 20' easement on the Gallo property at 4 Krenzer Road to indicate no future building or access, and indicate access to this 20' easement is to be used for farm vehicles only.

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

5. Application of Providence Housing, 1150 Buffalo Road, Rochester, New York 14624 for resubdivision approval of two lots in the Union Park Subdivision at properties located at 49 & 59 Union Square Boulevard in RM zone.

INFORMAL:

1. Application of Providence Housing, 1150 Buffalo Road, Rochester, New York 14624 for final site plan approval to erect a 50-unit senior apartment building totaling 50,845 sq. ft. at property located at 49 Union Square Boulevard in R.M. zone.

Gary Smith, Maggie Bringewatt and Roger Brandt were present to represent the application.

MR. SMITH: My name is Gary Smith from Parrone Engineering and I'm here tonight with Maggie Bringewatt of Providence Housing and Roger Brandt of Rochester's Cornerstone Group with regard to the resubdivision of Union Park or the resubdivision for Union Park at Union Square.

We were before the Board back in January of 2001 and were granted preliminary approval for the project along with the subdivision. The subdivision was subsequently filed. Since that time, what

has happened is that the project was not built. The project is going to be back before the Board. The project has been scaled back from the original 61 senior apartments to 50 senior apartments due to the change in size of the building. We are requesting a resubdivision of the property going from 4.91 acres down to 4.66 acres.

JOHN CROSS: We all pretty much have seen the original plans. You're basically saying that you're scaling down the number of units to about 50?

MR. SMITH: 50 from 61.

JOHN CROSS: Could you briefly on the map explain what the resubdivision would accomplish?

MR. SMITH: The wings on the building got smaller, so that allowed us to pull the parking areas back in closer to the building, which allowed us to pull the property lines back on this line and this line (indicating).

Basically, the reason for that is because Providence Housing is purchasing the property from Rochester's Cornerstone Group and it is based on acreage. So if the building got smaller, we would like to make the property smaller because obviously the price would be less.

RAY BLEIER: I was wondering if there were any variances granted previously?

MR. SMITH: There were variances granted for the size of the apartments. Those would be the only variances granted.

RAY BLEIER: That will not change?

MR. SMITH: No. Basically the project itself didn't change as far as the size of the apartments. It is just the number of apartments changed.

RAY BLEIER: There were no parking variances?

MR. SMITH: No.

KAREN COX: I don't know if it was directly associated with this development, but I remember a letter from the Chili Fire Marshal expressing concern about the senior -- you know, the number of senior housing units putting a strain on the ambulance corporation. And at the time somebody mentioned -- again, I don't know if it was this development or the one out by where I live, but have you approached the Fire Marshal and talked to him about this plan since it was last here to see if he has any concerns whether or not he wants to have you contract with an ambulance corporation?

JOHN CROSS: If I can intercede, I was in a meeting where the Fire Marshal was included, and that concern is still a concern. I think I would make it a condition that the applicant discuss that subject further with the Fire Marshal and to consider contracting with a private ambulance service. It really taxes the Town Fire Department with the senior citizens projects. I don't know if you guys do that with other projects now --

MS. BRINGEWATT: We don't currently, but that was a condition of your approval about two years ago, so we had anticipated that being another condition, and if -- we have actually talked to some other similar entities in the Town to see how they handle it.

One of the other issues that has come up in discussions in some other locations is the size of the elevator, and it is a sufficient size to allow an ambulance gurney to be utilized if someone did have to be taken out by the volunteer ambulance.

JOHN NOWICKI: So modifications are being made?

MS. BRINGEWATT: Yes.

JOHN HELLABY: I guess the only question I have is more out of curiosity. I somewhat recall two years ago you thought originally it wasn't going to be big enough. How come all of a sudden the change and downsizing?

MS. BRINGEWATT: The State of New York has reduced the amount of dollars it will make available for projects that service senior citizens. We could get more money from the State if we were building a family project, but they have reduced by half a million dollars the amount of money that they will put into an elderly project, and that's had an impact obviously on our ability to carry through. Frankly, we feel comfortable that the market is there based on what we have seen in other projects and our waiting list for one bedrooms over at Union Meadows right across the way -- but that is the principal reason.

JOHN HELLABY: If you jog my memory. The reason this didn't take off two years ago -- you were on a waiting list for State funds?

MS. BRINGEWATT: At that point we were on a list and never came off the list, and --

JOHN CROSS: Your turn --

MS. BRINGEWATT: We're still waiting, yes.

JOHN NOWICKI: All of the other plans that we have approved, the landscaping plans are all in place, everything is ready to go?

MS. BRINGEWATT: Yes.

JOHN NOWICKI: I have no questions because we certainly went through this very extensively. I'm all set.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

BEVERLY NEDER, 82 Attridge Road

MS. NEDER: We have been going around and around and around with this for so many years, I am beginning to feel like I'm stuck in Ground Hog Day. The last conditions that were put on this on February 13th, 2001 were approval of the Town Engineer; applicant to negotiate and sign a PILOT agreement with the Town of Chili as approved by the Town Board; applicant to apply to the Zoning Board of Appeals for a variance required for the number of units permitted and unit size. Do they have to reapply again?

JOHN NOWICKI: No.

MS. NEDER: Because 12 units are permitted there, and they were going to put in 61 and now they have to do 50. So that is just automatic, even though two years have gone by?

JOHN NOWICKI: It is just a modification.

JOHN CROSS: Typically if -- if I am right, Keith (O'Toole), if they're lowering the number of units, that is within our requisite to approve?

KEITH O'TOOLE: That's correct. The variance sets a maximum threshold, nothing more.

MS. NEDER: And applicant was to add additional security lighting on perimeter of property near walking path area. Applicant is to --

JOHN CROSS: Okay. What I suggest that we're going to do is, as a condition of this approval, is to make all prior conditions of the February 13th, '01 approval stay in place.

MS. NEDER: Does that include the approval of -- or the change in conditions for when Union Square Boulevard is to be built out to Union Street and the improvements to Union Street?

JOHN CROSS: Yes.

MS. NEDER: I would like an update from the applicant of where that stands. I would like an update from the applicant as to where that stands, building that road out.

JOHN CROSS: The owner of the property is here.

MR. BRANDT: Sure. Roger Brandt, Rochester's Cornerstone Group. After the last meeting -- or the last time we were here, go ahead, you could build Union Park plus two six-bed facilities for DePaul, but after that, that's it. In the meantime, we want you to go out and seek alternative means of access or just get this done and connect a road from Union Square Boulevard to Union Street. We did that. We worked for probably nine months to a year with the New Hope Community Church. We were unable to come to an agreement with them.

Since that time, we have worked closely with the State D.O.T. and the Town, and it appears as if we have identified appropriate funds whereby we could move ahead with that project for doing the improvements on Union Street, as well as doing the connector road from where it is right now up to Union Street, and we're talking about summer, July, August of this year. 2003 is when we hope to have final plans and approvals and be able to commence construction with those improvements.

The D.O.T. project looks as if it has been pushed back until 2004. When I say "the D.O.T. project," it is the intersection of Union and Buffalo Road, and the spikes off that. So it just takes time. This is a -- like with our Paul Road project, that is in the -- this is an eight or nine-year project. This is pushing that, as well.

KAREN COX: Is this the same type of funding as the Paul Road project?

MR. BRANDT: No. It is multimodal they're talking about.

MS. NEDER: So if I understand the applicant correctly, in July or August of this year, 2003, the improvements will be made to Union Street from the Union Square Boulevard exit up to King Road?

MR. BRANDT: Commence construction.

MS. NEDER: What does "commence" mean?

MR. BRANDT: Start the project.

MS. NEDER: When will the project be finished?

KAREN COX: October. What is the latest date you can put top course down?

MR. BRANDT: It is a \$900,000 project. It depends on when D.O.T. gives the approvals. It could go into the winter and they don't like to do topcoating then, so it is going to depend what D.O.T. will allow us to do. It could be a nine-month project starting in July, August, and it will spring of 2004.

MS. NEDER: I hate to split hairs here, but I want to be perfectly clear on this. When you say "start," do you mean that you're going to start the application process, or are you going to actually start digging on the road and doing something?

MR. BRANDT: Starting means physical construction.

MS. NEDER: Okay.

MR. BRANDT: The plans are in pretty good shape. We don't have final approval yet because we're trying to match in with the D.O.T. project which has come along since the time that we have been working on this.

MS. NEDER: Well, since they have, as I have heard, this week delayed the improvements to the corner of Union and Buffalo Road, also Attridge Road and Buffalo Road, and the sidewalks, we get a lot of traffic on Attridge Road. A lot of people try to avoid that corner on Union and Buffalo Road, cut down Davis Road, come up Attridge Road. And it's not getting any better. So I just -- I don't understand. I went to those meetings last year where they said it was all set for this year, they had the funding, and now this year, this week we learned it has been yanked.

KAREN COX: Priorities.

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: Again, I would like to understand this change in application. Am I understanding that you can decrease the requirements of a proposal and not come back with a new application?

KEITH O'TOOLE: They are here with a new application.

MS. BORGUS: Decrease. That is the magic word, right?

JOHN CROSS: Yes. Decrease.

MS. BORGUS: I want to go back then to Wegmans' application where it was increased. How does that work?

JOHN NOWICKI: What was increased?

MS. BORGUS: The size of their pumping station. They went from 24 to 24 to 32 to 32. So you can go either way?

JOHN CROSS: That was just a revised --

MS. BORGUS: Everything is a revision.

JOHN CROSS: We have the approval to do that.

MS. BORGUS: So you can go either way. Once you put an application in, you can just jockey it around?

JOHN CROSS: If it is a minor change, we can do that.

KEITH O'TOOLE: I believe it was a technical correction, Mr. Chairman.

MS. BORGUS: I believe it was a change.

KEITH O'TOOLE: It was a technical correction reflecting the filed plans; therefore, in conformance with the code of the Town of Chili.

MS. BORGUS: Well, it seems to me there is a lot of latitude here on the part of what we accept and what we don't.

I, again, would like to see finally this road be put through to Union Street. I hope that that is in the minutes and I'm sure Mrs. Hewlett has got it down, because this road has been like trying to reinvent the wheel. Five years plus, and we're still waiting for a road for those poor people that are trapped down there like rabbits in a cage if they had a fire. It is not safe.

And now I would like a little explanation on this road. I would like the applicant to explain to me what multimodal funds are for his roadway.

JOHN CROSS: Roger (Brandt), do you want to try that?

MR. BRANDT: Sure. New York State gets certain funding sources, Federal and State monies, and there is an allocation of monies called multimodal monies. The State can work with towns, not private developers, but towns to work with improving their roadway system. I believe these types of funds were used over at Penfield, 441 and 250, to help improve that intersection to make it bigger and better, and we have been told that the State has an allocation of money which is going to go -- an additional allocation of money to go toward the Union Street improvement project. That money would go directly to the Town of Chili and the Town of Chili would administer those improvements and those dollars.

MS. BORGUS: All right. Now, that would be for the part of the road that intersects with Union Street, right?

MR. BRANDT: That's correct.

MS. BORGUS: The part of the road that goes back through Mr. Brandt's project would be paid for by whom?

MR. BRANDT: The owner of the property, Rochester's Cornerstone Group.

MS. BORGUS: All right. Thank you. I certainly hope we see this road finished and I hope this is not just another dream. So many problems have come before the Planning Board, and they're just puffs of air. Everybody spends their time on them, and then two years later they're back with another pipe dream.

JOHN CROSS: You make a good point, but you're a smart lady, and you must realize the costs that have been involved so far for the applicant. I don't think they would do this to blow smoke.

MS. BORGUS: That project over there has not exactly been a smashing success with the exception of the adult care home. That is wonderful. The rest of the project has not been right up there at the top of the list for successes.

JOHN CROSS: The Town is aware of that, and we have had some conversations with the owner of the property, and he is working on it.

STEVE GINOVSKY, 19 Hubbard Drive, North Chili

MR. GINOVSKY: I'm glad to hear that you're helping relieve the ambulance calls by basically getting -- I believe I did hear private ambulance coming in to help us. I'm glad to see that.

Also I would personally like to see, you know -- you know, you have got an apartment complex here. North Chili. We just got a new ladder truck, by the way. Awful lot of money that was spent on it. Would you consider a donation or maybe helping out our Fire Department, and the Town, you know? This is what talks (indicating). The residents, you know, don't mind helping out. We have a new truck. They needed it over at Roberts. Additional housing. Structures going up in the area. Nice gesture. Henrietta, for RIT. Guess what? RIT coughs up the money every so many years to get an upgrade.

DARIO MARCHIONI: Do you have a question for us, sir?

MR. GINOVSKY: Yes. I'm working up to --

JOHN NOWICKI: Get to it, please.

MR. GINOVSKY: With the access coming over at Buffalo Road and Union Street, they, during the day, tail-ending in the beginning part, traffic is backed up almost all of the way to King Road. The Fire Department or the ambulance or anybody had to get through, you can't. As part of the Certificate of Occupancy for this said structure, I would hope before people are put in there, that another access point is up and running. That the Fire Department and ambulance corporation can get in here. That was the whole point. It is not going to be -- by the time this is completed. If you let these people go in, God forbid something happens, someone is going to die. I don't want to see anyone die just for our dollars and cents. They're putting money up. They need to put pressure on and I would not give a Certificate of Occupancy for people to be in there, 50 apartments. If something happens and they can't get through North Chili, that is what is being driven here. It has been asked for over six years for the roadway to be put in. Put it in. And also the rest of the Town. We do not have the money for it. Thank you very much.

KAREN COX: What is the schedule of the two projects? Are they going to be running kind of

--

MR. BRANDT: Ours would come first. I'm sorry, the two projects -- the road would --

KAREN COX: The road improvements would be started, or partially finished before the apartments were --

MR. BRANDT: Apartments are looking at occupancy late summer, maybe August, September of '04.

KAREN COX: So, in other words, the access point off Union Street would be open and usable before the apartments were occupied?

MR. BRANDT: Right.

MR. GINOVSKY: As a condition, that's correct.

MS. NEDER: I just -- maybe I'm dense tonight. I don't know. But am I understanding that State, Federal taxpayer money, my money is going to be used to improve this Union Square Boulevard exit up to King Road? Not the developer? You said multimodal money was going to be used for this. That is not your money, right?

MR. BRANDT: Correct.

MS. NEDER: Okay. I just wanted to clarify. And that this is going to be done first, for you, before we get the needed improvements and the sidewalks on Buffalo Road and Chili -- and Union Street, right?

MR. BRANDT: This project is slated to be done before D.O.T. finishes their project.

MS. NEDER: Well, that project was supposed to be started this year.

KAREN COX: That is not the developer's fault. That has something to do with --

MS. NEDER: Politics.

KAREN COX: And the priorities of projects that the State has.

MS. NEDER: It is called politics.

KAREN COX: It is not the developer's problem.

MS. NEDER: It is politics and how much you contribute to campaign funds. Don't be so naive.

JOHN CROSS: All right. I think that is -- we heard enough.

CHARLES RETTIG, 1032 Coldwater Road

MR. RETTIG: Is there a letter in the file with the Planning Board in regard to fire protection to this facility having been reviewed with the single access?

JOHN CROSS: Check with the Fire Marshal. He has all of the documentation.

MR. RETTIG: I don't consider that a sufficient answer from the Board that should know this before.

JOHN CROSS: We do now know it.

MR. RETTIG: Okay. Then you're stating there is a letter on file?

JOHN CROSS: That's correct.

MR. RETTIG: Okay. Thank you.

DARIO MARCHIONI: Mr. Chairman, are we dealing with the resubdivision or informal application now?

JOHN CROSS: Both at the same time. We're bouncing back and forth.

MR. RETTIG: He stated that before we even started, if you were listening.

JOHN CROSS: Unfortunately, it is a catchall here because we -- I did combine those so --

RAY BLEIER: Well, the reason Dario (Marchioni) is mentioning this point is the fact if it was strictly addressing the informal, we're not required to have a public hearing on the informal application.

JOHN CROSS: That is right. So you would not be allowed to speak.

MR. RETTIG: I understand. But it is still -- the question still addresses the entire issue of resubdivision. Okay?

DARIO MARCHIONI: It does?

JOHN CROSS: Whatever you call it.

JOHN CROSS: Fire Marshal has reviewed it.

MR. RETTIG: Thank you very much.

With the Buffalo and Union Street and Attridge Road improvements planned by the D.O.T. delayed, my comment is that with -- the C of O should not be approved until the active tie-in road to

Union has been completed. I believe that should be a condition based upon firefighting, traffic flow, traffic congestion, et cetera. That can easily be a condition. If the Planning Board is doing their job.

JOHN CROSS: Okay. Well, first of all, I think we are doing a good job.

Secondly, Roger (Brandt), would you please explain your agreement with the Town for that breakthrough exit onto Union Street?

MR. BRANDT: Obviously at this current time the primary access, the only access to the property is off of Attridge Road. But as one of the requirements for starting the development, the Town said we want you to put an emergency access road through to Union Street. And D.O.T. would not let us put the road all of the way through until major improvements would be done. So what they did is came back and said, "We'll let you put a gate up there," and that gate, the fire -- the Fire Department right there has a key to unlock that gate, or just crash through it in the event of a fire, and the Town does plow that under an agreement with ourselves. They do plow that road so that emergency access is available. So you have two means of access at the current time.

JOHN CROSS: That is the way I understood it.

Does that answer your question, sir?

MR. RETTIG: It does clarify it. However, my comment still stands that that should be completed as a complete access road to Union Street before the C of O is issued.

JOHN CROSS: I believe we have records in the minutes that state that that will happen.

JOHN NOWICKI: It is all being recorded.

JOHN CROSS: It is all being recorded.

MR. RETTIG: Thank you.

JOHN CROSS: You're welcome.

John Cross made a motion to declare the Board lead agency as far as SEQR, found the application to be an unlisted action and made a determination of no significant environmental impact, and the Board all voted yes on the motion.

DECISION ON APPLICATION #5: Unanimously approved by a vote of 7 yes with the following condition:

1. Pending approval of the Town Engineer.

DECISION ON INFORMATION APPLICATION #1: Unanimously approved by a vote of 7 yes with the following conditions:

1. All prior Planning Board conditions of 2/13/01 approval remain in effect.
2. Pending approval of the Town Engineer.
3. Developer to discuss with the Fire Marshal the subject of providing a private contract with a local ambulance service for emergency ambulance service to this site.

INFORMAL:

2. Application of Rusty Mehlenbacher, 2663 Old Rt. 15, Wayland, New York 14572 for final site plan approval for a change of use to allow heavy trucks sales and service at property located at 44 Paul Road in G.I. zone.

Mike Wall, William Fletcher and Rusty Mehlenbacher were present to represent the application.

MR. WALL: Good evening. My name is Mike Wall with FRA Engineering. With me tonight is William Fletcher and Rusty Mehlenbacher. At the November 12th Planning Board meeting this project was granted preliminary site plan approval with ten conditions. And we have worked with the Town

and we have addressed all those conditions. They're incorporated into the plans which you have received tonight. Along with our final site plan application, we have written a response letter to each of the ten conditions, and I know it is late, and I'm asking the Board, may I skip over reiterating what is in that letter and just move on?

JOHN CROSS: I don't think it is necessary.

MR. WALL: Okay. Thank you. One of the conditions dealt with having a landscape architect come up with a landscape plan and present it to the Conservation Board.

On the 6th of this month Doug McCord met with the Conservation Board and they added a couple of conditions that we, too, have addressed and incorporated into the final site plans. I have with me tonight the revised landscape plans if you would like to see them.

JOHN NOWICKI: Oh, yes.

MR. WALL: Essentially, the comments that the Conservation Board had dealt with to increase the size, the caliper of the trees, the height of some of the screening trees and to add some landscaping around the buildings or the berm area. And that's -- the plan that you have before you addresses all these comments, and if you have any questions -- our landscape architect could not be here tonight, but I could address some of your questions, if you have any, with the landscaping.

JOHN CROSS: I think this is very sufficient. I know that the Conservation Board has reviewed it and worked with you, and it is a good set of plans.

MR. WALL: With that I open up for questions.

JOHN HELLABY: I think I am satisfied with all of the concerns we had at prior meetings.

JOHN NOWICKI: I just have a couple. Dan Kress, have they applied for the Drainage District?

DANIEL KRESS: Yes, sir. That has been taken care of.

JOHN NOWICKI: You answered that one. I would just like to say and congratulate you and the applicant for following through on the Board's wishes and for completing it as nicely as you have, and hopefully this will be a very successful project for both of us.

MR. WALL: Thank you for those comments.

JAMES MARTIN: I second John (Nowicki)'s comments. Certainly the sooner you get started to get that eyesore cleaned up, the better the Town will be, and we wish you well in your future endeavors.

DARIO MARCHIONI: I think you addressed everything. Thank you for your cooperation.

John Cross made a motion to declare the Board lead agency as far as SEQR, found this to be an unlisted action and made a determination of no significant environmental impact, and the Board all voted yes on the motion.

RAY BLEIER: They're agreeing to the previous conditions, but I want to make sure they're a part of the final.

JOHN CROSS: All prior conditions.

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

1. Pending approval of the Town Engineer.
2. All prior conditions of preliminary approval remain in effect.

The meeting ended at 10:00 p.m.

A meeting of the Chili Planning Board was held on February 11, 2003 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 John Cross.

PRESENT: Ray Bleier, John Nowicki, John Hellaby, Dario Marchioni, Karen Cox, James Martin and Chairperson John Cross.

ALSO PRESENT: Keith O'Toole, Assistant Counsel for the Town; Daniel Kress, Director of Planning, Zoning and Development; Larry Nissen, Town Engineer.

Chairperson John Cross 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.

JOHN CROSS: Tonight our meeting really is an informal meeting from the only applicant we have here, Mr. Doug Charles and his company. There will be no audience participation. We did notify many of the neighbors that are adjacent to the project. We did this as a courtesy. I don't know how many of you are here -- are here from receiving the mail notice, but we appreciate it that you did come if you received the letter.

FOR DISCUSSION:

1. Doug Charles, Global Multimodal Industries, LLC - proposed multimodal facility (warehousing & distribution) at properties located at 383 Fisher Road, 30 Airline Drive, 249, 250 and 271 Paul Road, 999 Beahan Road, 100 and 200 International Boulevard in L.I. & FPO zone.

MR. CHARLES: Well, I'm Doug Charles, and I'm the owner and sole member of two different companies. One is GMI Development, who is the company that has been formed to get total funding and put the final touches on the development of the project that Global Multimodal Industries will own and operate after built.

I will start, Mr. Chairman and distinguished members of the Board, I would like to thank you for affording me your time. I am truly grateful for this open informational setting from which I'm able to present for the very first time to you, the residents of Chili, and the world, a project which for the past 11 years or so has consumed the vast majority of the lives of myself, my wife Sandra and countless others.

To condense these many years of research and development into a relatively short presentation has been a challenging feat to say the least. However, I feel confident that we have accomplished that. Truth be told, I could stand here for three or four hours and bombard you with a plethora of the data and proof of the positive impacts this project will have in such areas as the environment, the economy and more importantly our quality of life here in Chili and Gates.

It is my belief that for this presentation Global Multimodal Industries, which I will refer to here on in as GMI, has extrapolated enough information to do justice to a project of such magnitude. In the interest of time, the Power Point recitation which GMI has prepared for you this evening has hopefully been shortened to somewhere between 30 and 40 minutes. With that said, I also ask for your patience because this is the very first Power Point presentation I have given on this project, and I'm sure there are going to be growing pains.

After the Power Point, Tom Palumbo, a fellow Churchville-Chili grad from Sear-Brown, will address the Board as to where GMI is in the preliminary planning processes and SEQR processes.

After Tom is finished, we'll be pleased to answer any questions that the Board may have. We

would also appreciate any suggestions the Board would have that would be helpful to us and the community along the way.

If it would please the -- if it pleases the Chairman, I would like to go through the Power

Point and Mr. Palumbo's few comments and then we could go to question and answer.

JOHN CROSS: I would apologize. If you would just wait a moment, I will turn the speaker system on.

MR. CHARLES: I don't know at the end of three or four hours if you will want this to work. Any ways, Mr. Chairman, if it pleases you, I would like to go through the presentation and then have Mr. Palumbo say a few words on behalf of Sear Brown, the engineering firm we have retained to do our site and engineering work, and then open up for questions from the Board, if that is okay with the Board.

Let's get started. Global Multimodal Industries, LLC, GMI, Global Reach, Local Connections.

The project overview. GMI has researched and begun development of a unique business opportunity to be located in Chili, New York which will transform Rochester and Monroe County, New York into a Multimodal International Gateway, known as "The Gateway Plan."

GMI will develop, own and operate strategically located International Multimodal Terminal or IMT facilities designed to establish and -- designed to establish an environment which will provide lower domestic and international transportation costs, total supply chain visibility, lower supply chain costs, immediate access to all modes of air and land transportation, all required supply chain and transportation related support services.

This is just to mention a few. I could spend 45 minutes on just what we're going to be doing.

The Gateway Plan's strategic location. The GMI Gateway Plan, we're going to be adjacent to the Greater Rochester International Airport, two interstate highway systems, two rail lines. The IMT will be less than ten minutes away from the Eisenhower Interstate System.

As we look at this photograph (indicating), I will go through -- I will try to describe in detail what I said. To the far left of the picture is Interstate 390. In the center, of course, is the international airport. To the bottom of the picture is Route 204, which 1.3 miles away is 65 miles an hour in a westerly direction on Interstate 490.

JOHN CROSS: I know there are some lights shining over your presentation. Maybe one of your people can go up there and just point their finger at these highlighted areas you're speaking of.

MR. CHARLES: 390 on the left side of the picture, and believe it or not, running along the side of that is the old canal -- the canal, which Rochester was responsible for building basically the Ports of New York and New Jersey with the flour that came out of this city way back when. We were responsible for New York being the port that it is today, believe it or not.

The international airport, the main runway, 4/22. Running parallel to that is Rochester & Southern Railroad. To the middle of that is their southern yard and to the north is the northern yard of Brooks Avenue. This is their northern yard (indicating). You have Brooks Avenue, the underpass, Wegmans, of course, and Wal-Mart and all of the west -- that is the old Westgate Plaza, but the Wal-Mart that is there now. Chili Avenue across, there is the 204, what was at one time going to be the airport expressway which, of course, is no longer going to be.

The Paul Road and Jetview Drive. Jet View Drive and Paul Road around the end of the runway. Then at the very top corner, right corner is what is called the CSX West Shore Line. Outside of the picture is the CSX main line way off to the left, down by Lincoln Park. If you know anything about the city, the Lincoln junction, where the old Lincoln Kodak plant is.

When I went to Washington 5 1/2 years ago and brought this area with me and I sat with the Associate Deputy Secretary of Transportation John Horsley, in his office with our accounting firm at the time, and still is, Deloitte & Touche, their senior partner and one of their transportation specialists from Washington, 15 minutes into my presentation the Associate Deputy Secretary, third from the President, at that time President Clinton, said, "Doug, stop."

And I thought for sure this little Chili-born-and-raised kid was going home. He said, "How did Rochester keep this a secret?"

And my response has always been Papa Kodak, Big Brother Xerox and Bausch & Lomb

always took care of us siblings and us children so our subcomponent vendors and everybody that needed a job always had a job, and those days are quickly leaving us.

He said, "No, no, no. I'm talking about the infrastructure. He said, "Nowhere -- I dare you to find me" -- this is the man who is second from the Secretary of Transportation -- I dare you to find me a city in the United States that they created that infrastructure by mistake. We spend millions of dollars to make that happen all over the country." He said, "I have spent more money down the rat hole in Boston," that -- he called it that because of the problems with the overruns, the cost overruns for the big dig in Boston -- and the Alameda corridor on the West Coast to make this happen, billions and billions of dollars.

Every five to seven years they reappropriate -- the first one in '93 was ISTEA, \$173 billion to do work like this. '97 was 100 and -- TEA-21, 216 billion, and T-3 coming out next year is \$273 billion to try to create what we have by mistake.

Some more of our assets. The Great Navigation Circle. What is the Great Navigation Circle? The Great Navigation Circle -- this picture (indicating) is taken above my house off Pixley Road, Valley Townhomes, where we have lived since 1989. And the Great Navigation Circle is the shortest path between two -- two distant points on the globe. Any further north you get or south you get from the equator, the closer -- the two points become closer. The equator is bigger in the middle, like most of us middle-aged guys than at the top. And so the closest point between these two points is what is called the Great Navigation Circle.

If you recall when Charles Lindberg flew over the Atlantic Ocean, he didn't go across from New York. He flew from New York, up towards Greenland over Iceland, England and down into Paris. I can assure you Charles Lindberg wasn't sight-seeing. He was taking the shortest path between the two points, which is New York City and Paris. That is the Great Navigation Circle.

Our airspace is one of the major entry points for the Great Navigation Circle. Those flights (indicating) you see as one picture, not a multitude of pictures. Those lights can be flights headed to Vancouver; in the middle Chicago; a second Chicago; St. Louis; Dallas; Los Angeles, California. Any flight coming into North America, I would say 75 to 80 percent of the time comes into our airspace.

Monroe County is centrally located within the three most populated counties north of New York City. 25 miles from our westernmost border is the easternmost border of Erie. 45 miles to our easternmost border point is the westernmost border point of Onondaga County, which is -- the second most populated County north of New York City and Westchester County.

Some more reasons. Rochester Metropolitan Statistical area, which is basically Monroe County and the nine counties -- Monroe County and eight counties surrounding, we're the largest per capita exporting community in the United States. People often say that is because of Kodak and Xerox and Bausch & Lomb. Total fallacy. Kodak, Xerox and Bausch & Lomb are only 20 percent. There are 4,000 other companies in these ten counties surrounding our company that export goods out of the United States, yet they do not have any international capability from their own county.

Our MSA provides an ideal central hub location in the most densely populated region in North America. This picture here (indicating) gives you a flavor for what we're talking about. Those numbers on the bottom are only U.S. population figures. Within a 500-mile radius of Rochester are such great cities as Chicago, New York City, Boston, Baltimore, Pittsburgh, Detroit, Toronto, Montreal, Quebec, Ottawa, Windsor Ontario. 65 to 70 percent of the population of North America is in that 500-mile radius. Next-day service by truck.

And I'm going to talk about the north/south corridor I-95 for a couple seconds. And because -- later on in the program you will see I talk about what is called the Port Inland Distribution Network that is being created by the Port Authority of New Jersey who I have been working with diligently in relationship to our project. The I-95 north/south corridor is basically how all freight coming into the East Coast ports gets up and down to those major cities.

If you have ever traveled I-95 between Boston and Maryland, you know how bad it can be, especially around the Beltway of Washington or around the New York City area. It is absolutely atrocious. And again, PIDN, or Port Inland Distribution Network is created to help alleviate that congestion. You get -- you get -- when you come inland from the East Coast, you eventually reach a

point that is -- the point we call The Inland Corridor. The Inland Corridor is basically the first corridor you can utilize not to utilize I-95 to get to major East Coast points.

This is done with PC mylar (indicating). It is a version -- it is a computer program that my wife and I and our employee used for years to load trucks in and out of the City of Rochester, and it is one that is used by most all trucking companies across the nation. When you plug in a city, 14623, Rochester, to Jacksonville, Florida, that computer tells that truck driver how he should go to get there. You notice he takes off down 390, down 15 into Pennsylvania, down into the Beltway of Washington, D.C. and onto most congested I-95 areas, all the way down to Jacksonville, Florida. Eventually you come inland to where you don't need it, and where is that dividing line? At -- that dividing line is Westgate Plaza in Rochester, New York. 14624 to Jacksonville, Florida with the same parameters in the computer program takes you out west, down The Inland Corridor, the 70s, down through Charlotte to South Carolina to where you pick up 95 past the congested areas to get to Jacksonville, Florida a half hour sooner and with 15 less miles on your tires than if you were to leave from the Henrietta Post Office.

When I told U.S.D.O.T. this, they laughed at me on the telephone until I sent them the information and the printout of the routes that these trucks would take if they were to go there. They were truly astonished to think that not only where this project is happening, or where we're trying to make this project happen, is the first point coming from East Coast ports that you can utilize The Inland Corridor or the last point from the West Coast ports, which you want to keep the containers on the railroad as long as you possibly can coming from the West Coast. They currently take them down to New Jersey and truck them back out. They would be able to start alleviating some of that 95 congestion if they were able to pick points like Rochester or other ones along the way where they could distribute the freight more efficiently.

This is the network of highways that Rochester creates. If you recall the slides from the I-95 corridor, you had one interstate system. And the interstate systems you have -- even if you're just doing Baltimore; New Haven; Boston; Portland, Maine, the only place you hit I-95 is going to Norfolk, Virginia or Portland, Maine. North of Boston or in the Baltimore or Norfolk, Virginia. Other than that you would never touch the I-95 corridor, even doing New York City.

What we're proposing with the assets that we have talked about, and there are many more, but again in the interest of time we have pared it way back. We have not talked about the Eisenhower Interstate System, the CSX water route yet.

This proposed area (indicating) shows where we want to create this International Multimodal Terminal. In 1992 they closed down -- if you show them the rail head, the long rail head there -- back up by the building, the new portion. That is what is called the intermodal rail head or van yard motor facility where you take containers and trailers and they come in by rail, as opposed to truck, and you take them off for local distribution. So you eliminate the trucks from the highways is basically what it amounts to. And your by-ways. They won't be coming up Route 63 or 5 and 20 to come into North Chili up to 259 or wherever else they may go.

I drove a truck for ten years out of the city here, so I know the back roads pretty well.

The building that is shown in the picture (indicating) is proposed to be 300,000 square feet. That will be our corporate office, and 297,000 square feet of warehousing space. I'm sorry, 270,000 square feet of warehousing space. E-commerce order fulfillment is the biggest thing we'll do in there. When you order a CD off the internet, we'll pick it, pack it, put it in the UPS trailer that then gets what we called drayed from that building over to the rail head for placement on the railroad. It never touches our highways. It goes right to the railroad. It is put on the railroad and leaves Town on the railroad.

The gray area alongside of the rail head (indicating) is the bonded and Foreign Trade Zone. We're one of the few -- being the largest exporting community per capita in the United States it amazes me and anyone else who is involved in the transportation industry that we do not have foreign trades or bonded capabilities for public warehousing scenarios at our international airport. Nothing. No international flights outside of the ones going to Toronto. No capabilities with this 15 billion dollars' worth of goods that we export. We have to truck it to New York City, truck to Boston, to Miami, Long Beach, Seattle or out to Columbus, Ohio or Buffalo and then put it on the railroad, which has cost our area well in excess of \$10 million a year since 1992 when they closed that rail head

at Goodman. That was at the whim of a CEO at Conrail who decided he would reduce costs and started crossing out redundancy even though we do more exporting than Syracuse and Buffalo combined. He figured if you're a monopoly, if you want to use the railroad, you have to come to me.

The fact of the matter is Kodak, Bausch and Xerox, 60 percent of the goods go through Canadian ports and they don't stay in the U.S. for our people, for our citizens to work that freight to get it out of the country. They truck it to Montreal, Halifax, the New Delta port pier in the Vancouver Bay.

Across from the railroad is what is known as the Gottry building, to all of us that have been born and raised here, at 999 Beahan Road. That is the Gottry building. Jeff Higgins tried to purchase the building for a couple of years to no success. It was -- it was just a tough negotiation, and we never got through it. So we basically walked away from the building and the County, Airport Authority actually ended up purchasing the building.

We are responding to an RFP. We're in the process of responding the -- which we'll submit our response on Friday this week to the County Airport Authority which would then -- it is a competitive process. We just hope that we're the best RFP in the bunch, but it is truly a competitive process that will go before the County Legislature for a vote, and we're hoping that we are again that party that has been chosen to occupy that facility.

We're going to have three infrastructure improvements I will talk about. First is the realignment of Paul Road. What we're proposing is from Jetview Drive, the realignment of Paul Road, the end of the runway with a bridge over the railroad to eliminate that grade-level crossing, the need for the train to blow its horn at midnight, the need for cars to back up because the coal train is not allowed to go more than five to ten miles an hour in that area coming into the yards, not having to sit in traffic and wait for that train to get buy.

We're going to connect to the West Shore Line the Rochester & Southern Railroad. And for that is -- has to do with the -- the majority of that is for Port Inland Distribution Network, with the Port Authorities of New York and New Jersey and the program we'll talk about in a minute, to give a train access to go in -- either east or west out of this yard unencumbered and not having to back up.

The last infrastructure improvement will be the -- the division of Fisher Road at the railroad crossing, eliminating that rail bed crossing as well as stopping Fisher Road from being what I consider to be a cut-through from anyone coming -- because now with Wal-Mart, I know people tend to use Fisher Road instead of going down to the traffic at Wal-Mart. And I use Fisher Road myself as a cut-through. My son used to live on Fisher Road. And I know from sitting there and watching vehicles go down there, that the speed limit is the last thing on their mind on Fisher Road. Not the residents, the people who are cutting through, which I believe endangers the residents.

And what that does is allows us to create the intermodal railroad with no grade-level crossings for the free movement of equipment, rail equipment. The rail tower which is at the end of Airline Drive, right at -- right -- that is where the rail tower will be. It will be identical to the airport's tower, but only shorter in appearance is what we're proposing. So those are the three infrastructure improvements.

The terminal -- we'll have new car storage capabilities in the back for the -- if we only save \$100 per car sold in this county, every year by bringing them in by rail as opposed to truck, we're going to put \$4 million a year back into our economy with the 40,000 cars a year that are sold in our region. It is has huge implications.

Plastic resins we'll bring in by bulk for user communities. Akron and Cleveland, Ohio are the closest points an extrusion company can get his resins packaged into Gaylord containers and then they truck them into Rochester. Again, they truck them into Rochester. We're going to bring them in by bulk rail, packaged into the Gaylord containers by purchasing the five silos behind Roberts Wesleyan College and Chili Plastics where my mom worked for 23 years and was hired in 1963. We'll use the old silos they will tear down and throw away -- we'll use them -- because it is Roberts Wesleyan College, they want an arts studio in the old plastics factory. We want to purchase the silos and put them up behind the Gottry building and use them for packing the resins that would come off bulk rail service. You can get three tractor-trailers into one rail car. So for every rail car coming in, we have taken three off the road.

Steel coil is the same way. Steel coil, about six, seven years ago, a friend was driving on I-190

north of Buffalo when a steel coil shot off the back of a tractor-trailer and killed him and his wife. He was on his way to lunch with a friend of mine, and it's not a pleasant -- it's not a -- steel coil should be on the railroad. They do not belong on our highways. They belong in coil cars where they can't come flying off and kill somebody.

And that is what we plan on doing here at the Gottry building, putting them back on the railroad, taking them off coil cars, into the warehouse and doing slow moving, local distribution, not 75 miles an hour around I-190 in Buffalo where it hits the median and comes off like a bullet out of a gun and decapitates a man and a woman.

This is a close-up of it (indicating). And again, you can just see the specialty services shop is going to be number one where the Gottry building is. Our hope for the Gottry building goes way beyond anything you can imagine.

Manufacturing Foreign Trade Zone. We're going to have a Manufacturing Foreign Trade Zone in that facility, and it is our hope to truly service cargo in a way from that airport that we have never dreamed possible, having heavy-lift capabilities interior with a 40-ton bridge crane above one and a 10-ton bridge crane in existence. A rail bay into the building that holds four rail cars. A siting already in existence has to be rehooked to the Rochester & Southern Railroad.

And it is my hope that some day we can have some way of getting across to the runway, whether it is a lighted intersection, whatever -- whatever it is, that's not our bailiwick. That is the County and State. We would hope that some day we could gain access to that runway. Because we do want to bring in -- for companies like Foster Wheeler who are now going under in Dansville and who could have used the Antonove flying directly into Rochester so they could load their pressure vessels out of here instead of Hamilton, Ontario, but they can't do it here. They can't truck them across the highway without exorbitant cost. They could throw it on a flat car and come up the Rochester & Southern, who services Foster Wheeler come into our building and let us put it on a plane to fly directly out of here. And if it is a domestic flight, the length of the runway is not an issue. If it is an international flight, the cargo we're dealing with we'll stop in Bangor, refuel and continue on. The largest plane in the world with six jet engines with 225 ton lift capacity can take off from a 6,000 foot grass runway.

The Rail Yard Number 1 and bonded Foreign Trade Zone areas, we have talked about those. Corporate offices, we have talked about that and the rail yard.

Even with the facility and future expansion, a purchase that we're making on Number 6 for the potential -- which we do believe we'll outgrow this. Some day we would be able to expand. At the current, there is no -- not any thought to that yet. We're just doing that for future expansion capability.

The customer benefits and cost reduction. We talked about the Foreign Trade Zone. That will provide U.S. Customs duty deferment, inversion and drawback benefits to any company within the ten-county region under the jurisdiction of the U.S. Customs Office here in the Port of Rochester. That is -- the U.S. Customs Port of Rochester is the title of the office.

Significant cost reductions in transportation related services.

And potential cost savings for our MSA, our Metropolitan Statistical Area for the shippers of up to \$10 million per year directly related to the drayage of international or domestic cargo to other cities for ocean and/or intermodal service. That is only referring to that tractor-trailer or that ocean freight container that you see going down the highway because he has to go to Syracuse or Buffalo to get on the railroad, or Columbus, Ohio, or all of the way to New York City.

Since they closed the terminal on Goodman Street on 1992 at the whim of a CEO at Conrail -- that doesn't exist there anymore -- we have spent over \$13 million a year to get our containers out of the city. People are wondering why Kodak is leaving. We don't wonder, us in the transportation business. We cannot service their needs as a community. And their days are numbered. They're here because of fresh water, because they have a pumping plant on Island Cottage that brings them fresh water for the film process. That is the only reason Kodak is still here for manufacturing. Their office will always be here; the George Eastman House is here.

A little anxious about some of the costs that are being incurred by our industry. I apologize.

Vendor costs relate to vendor-managed inventory. Forward inventory for enhanced Just-in-time supply chain capabilities. That is what vendor-managed inventory is.

Kodak has just gotten through a program trying to enhance their cost competitiveness where they

have taken Buildings 507 and 508 on Lee Road and turned them into what is called vendor-managed inventory facilities. Kodak has told all their vendors, "If you want to do business with Kodak, you have to be within a four-hour window of our production line."

So any company that is out of this country or any company that is outside of that four-hour window has to bring product into that four-hour window, store it and be ready for Kodak's order. So Kodak, the fact that they want to reduce holdings in Kodak Park -- which is very well known. I mean they would like to get a lot of the buildings off their tax rolls. It is not a big secret to anyone. They're incurring costs at Buildings 507 and 508 that they should not have to do. But we don't give them what they need. So they have to do it.

GMI will provide this region's industry the ability to expand its reach to markets currently unavailable and to search for new customers and vendors, making them more competitive in the global marketplace. If you have access to direct -- direct access to a rail yard where you can get your container from Rochester Technology Park on Elmgrove Road to the intermodal terminal within seven minutes to get it down to the Port of New York, to get it on a ship out of town, instead of having to truck it all of the way to New York, the most expensive truck lane in the country, you can expand your radius, the radius at which you -- your market is, whether it is for your vendors, to get cheaper goods, to make your end product more cost competitive or if it is to find new customers because you can now get it to them and be competitive with your competitors who were bringing it from somewhere else that have what we don't have.

Immediate and direct access to all modes of air, and land transportation for worldwide distribution.

Let me get into the operational efficiencies now.

U.S. Customs bonded status for locally accelerated U.S. Customs clearance. We have by far the most friendly Customs Office in the country. We have Charles Guinta, who is out on sales calls to teach people how to protect themselves, their goods in this city and in this country. It is an incredible blessing that we have Mr. Charles Guinta, G-u-i-n-t-a, to protect us and to go out on sales calls. He is a U.S. Treasury Department employee and he makes sales calls on some of the 4,000 exporters that we have in our region. What a gift.

Direct rail access via CSX and Rochester & Southern Railroads.

Direct rail yard access. This is the DeWitt yard in Syracuse (indicating). This is where we truck everything to to make that happen, to take our goods all over the East Coast. Costs us \$300, \$350 every time we move one of those trailers from Rochester to Syracuse, not to mention the infrastructure damage, the pollution and safety issue of those trucks being on our highways. Let's get them off the highways and get them on direct, to rail.

Supply chain efficiency for companies, their customers and their vendors.

Complete and total supply chain visibility from Ore to Door via future GMI Information Technology Solutions.

We're currently in talks with one of the largest software manufacturers in the world to create the supply chain visibility Ore to Door product. Which means you can see if the iron ore has been dug out of the ground, has been smelted into a steel ingot or has been put into widget form to come into Rochester to be put in a Xerox copier, and then you will know when your customer is making copies on it.

The IMT and GMI can be the vehicle which allows our region to participate in the Port Authority of New York and New Jersey's emerging Port Inland Distribution Network, or PIDN. We talked -- think back to the I-95 corridor photo and how the Port Authority of New York is being requested by the I-95 Corridor Coalition of States, the 13 original colonies, for -- to think of them. They have been asked by those states to get trucks off their highways. You're killing our global competitive advantage, the safety on our highways, our environment, and you're killing our global competitive advantage. It does us no good to be on the East Coast at the port of entry. We still can't get our trailers for six to eight days, our containers.

Is the Port Authority developing PIDN? Governor Pataki announced, I think it was September 18th -- I was in Albany on business regarding the project, and he announced in Albany \$3.8 million, I believe -- I believe \$3.8 million into the intermodal terminal at the Port of Albany.

Port Inland Distribution Network is going to provide express rail service to cities north and west of Albany. In other words, Syracuse, Rochester, and Buffalo. Possibly Cleveland, possibly Pittsburgh. And they're going to service Albany by barge up the Hudson River. New England by barge across Long Island Sound. They're taking the containers from the ship, direct onto the rail or the barge and take them out of the city that way instead of putting them all on the highways, which gets us our freight within 24 to 48 hours as opposed to the 6 to 8 days it takes now. Again, reducing the cycle times via the ports of New York, the cargo coming in via the ports of New York from six to eight days, which it currently is to one to two days.

Yes, you have Kodak and Xerox and some of the larger Fortune 500s that have more pull to get containers quicker but the average takes six to eight days to get to terminal across the street, to get cleared by Customs, a tractor-trailer under a chassis and then down the road, and then it leaves New York by highway, not by rail, to our area.

This is the CSX water route (indicating). If you could point to the Port of New York, and then you will see the red line which is the CSX. It goes up to Albany. And then it comes across west, Syracuse, Rochester, Buffalo, and then on west to Cleveland. They all go south to Pittsburgh. This is the CSX water route. That is what they're doing in the Port of New York, is loading those ship side destination specific express rail service directly from a ship on to the train, comes up to Syracuse, drops a block to us here at the Rochester -- drops a block in Rochester, drops a block in Buffalo, on to either Cleveland or Pittsburgh, turns around and grabs the outbound and goes back to the ships with the outbound international freight. This is in progress. This isn't a maybe. This is when. They have already spent millions of dollars creating one of the terminals in New York at the Ports of Newark and Elizabeth.

We get into the capabilities and the services a little bit.

The high-quality cost-effective local engineered warehousing.

Crating and packaging capabilities.

Packaging services provided to transform bulk products into user quantities like the plastic resins I talked about earlier.

The vendor-managed inventory capabilities I mentioned earlier.

Large scale e-commerce order fulfillment. Again, picking the CD off the rack, putting it in an envelope and throwing it in the UPS trailer.

Return goods processing center. I don't know the exact number any longer. I used to, but when you order something off the internet, a lot of times it goes back, and there needs to be a place for it to go back to, and we will be that place.

Third-party light assembly. If you -- a good example would be a pen set. The pencil comes from California or China and the pen comes from Germany. With Foreign Trade Zone capabilities, we'll bring them in, package them in the Foreign Trade Zone and not pay duty on the products until they leave the building as a different set. That is duty inversion. Pen is one duty, pencil is another and when you bring them together, duty inversion is a different rate of tax on that project.

Duty deferment. When you take a -- well, I will talk about that when we get down to the bottom.

Interior and exterior heavy-lift capabilities. Pretty self-explanatory. New car truck and equipment distribution.

The Manufacturing Foreign Trade Zone allocation capability. Manufacturing Foreign Trade Zone capabilities. The allocation is when you have a -- say it is Alstom in Hornell or Foster Wheeler in Dansville. Through our Manufacturing Foreign Trade Zone, we'll be able to take an allocation of -- say they need 10,000 square feet of allocation to build a product within a Foreign Trade Zone setting in their own building.

Currently that capability does not exist in Rochester, and we're going to bring that capability to where we take Foreign Trade Zone allocation and we go with U.S. Customs to their manufacturing facility, set up the Foreign Trade Zone in their building. While they use it, we're the managers of that Foreign Trade Zone. We'll be able to manufacture their products, deferring duty until that product is totally manufactured, they ship it out and it's sold independent, and then they collect and pay their duties -- they pay their duties electronically from that point. When they are done using it, we

take the allocation back. Total flexibility to where they have domestic manufacturing area back. That is allocation.

Duty deferment. Eber Brothers Wine brings a container of bordeaux in from France. A company over on Shepard Road off Manitou, they pay duty when it comes into New York City or the Port of Los Angeles or wherever it may come into. They pay their duty at that time. Or they bring a bonded carrier and they pay when it gets to the warehouse if they don't put it in a foreign trade warehouse somewhere along the way.

When they pay duty on that product, they cannot recoup that duty that they have paid until every last bottle is sold. And that may take six months to sell the container or three months to sell the container of wine.

If they bring it to us at the airport in our Foreign Trade Zone, when the driver goes out on the route in the morning, we give them two bottles of wine, and that is when they pay the duty. They may sell the duty that day, so now they're not floating capital for extended long periods related to duty tax.

Some of the positive public impacts. Will increase the area employment. The Gateway Project will create 250 new direct jobs at GMI. These are intended to be Union jobs. The construction is intended to be Union. We're going to Washington for a very important meeting on our senior debt on Thursday, which is Union Labor Life Insurance Company in Washington, D.C., and we're very excited about their excitement of the project. And for the Union's help in doing that, we are going to assure if we do get -- this is going to be a Union construction and Union jobs from day one. They have helped us obtain our senior debt. Truly a community project. It has been incredible the support.

Our annual payroll of \$10 million when fully staffed.

Mean annual salary of 30,000 per employer per year.

And positive environmental impacts.

Take from what I have said. Fewer trucks on the road, lower exhaust, lower fuel burn, lower infrastructure destruction. The list goes on and on. That is why there are six criteria you have to meet with the federal monies for what is called T-3, now T-21. We meet five out of the six with this project, and the environment is a very big one.

Lower on energy consumption and enhanced local/regional/national security due to the inspection of inbound international cargo that will be under the control of our Customs Office here, instead of relying on someone in New York City, Los Angeles or Miami.

Be it not misunderstood about 3 percent of the goods coming into our country typically are checked, physically checked. Whether it comes in by rail or truck, it makes no difference. It still goes through the same process in New York City, but now we'll have the capability to do it here under the control and the watchful eye of Charles Guinta.

Increased infrastructure longevity we talked about.

Improved transportation safety and efficiency. Fewer trucks, it is safer.

We'll increase the global competitive advantage in this region. We'll indirectly created thousands of new jobs in our MSA. We'll help retain existing jobs and keep companies located here. We will increase the tax base.

And proof positive is Columbus, Ohio. Columbus, Ohio is involved in what is called Columbus Inland Port Project. You will find it on the website. I took this number off the website. 35,000 plus new jobs to be created. They started the project, the old Rickenbacher Air Force Base where they brought multiple modes of transportation right together at the airport, spent hundreds of millions of dollars to create what we already have at our airport, and just at the airport and around the airport with jobs related to it, over 35,000 jobs are going to be created.

Xerox has a 150,000 square foot building on Rickenbacher Air Force Base. Couldn't do it here.

Improved transportation support services and infrastructure created to accommodate increased freight traffic and accelerate the flow of goods. Again, strengthened capabilities to handle rapidly growing international shipments into and out of the Columbus area. Faster, more frequent, more reliable lower cost transportation and supply chain services realized. 200 percent increase in overall freight volumes projected within 15 years. The Columbus project is different in scope than GMI's Gateway Project, but we truly do believe that our region holds potential -- this project will far exceed the Columbus potential.

The demographic and geographical gifts that we have. The shorings, our existing infrastructure. Myself, CEO; Carmen J. Berretta, Vice President; Ronald Steinmiller, Chief Financial Officer. The management team we have assembled to date has over 300 years of business and operation experience directly related to operating subject company.

Our letters of support include letters from the County Executive, Jack Doyle; New York State Senator James Alesi; New York State Senator Joe Robach.

The Rochester Business Alliance, formerly own as IMC; and Rochester Metro Chamber of Commerce. Chairman and CEO, Thomas Mooney; President and COO, Sandra Parker.

Charles Guinta, the Port Director and Department of the Treasury, U.S. Customs Service, Port of Rochester. Michael Ducey, the Vice President and General Manager of Worldwide Logistics, Eastman Kodak Company. Charles "Denny" Wyckoff, Vice President North American Supply Chain Logistics and Support, the Xerox Corporation.

International Business Council. There are 2500 members.

The Transportation Council and their 300 plus members.

We have one letter of support signed by 20 different companies of all shapes, sizes and form, everything down to Weckesser Brick on Traybolt Road. The entire combined estimated cost of both the private and public development portion of the Gateway Plan is \$32 million, which includes contingencies for cost overruns.

Infrastructure improvements, the three I mentioned earlier, are estimated to be at \$7 million, which include a 20 percent contingency for cost overruns.

I will summarize on the next few screens here and then turn it over to Tom (Palumbo). Basically the prime strategic location on the Eisenhower Interstate System, the CSX water route, the Great Navigation Circle, the St. Lawrence Seaway and the inland interstate corridor and unique status as the largest per capita exporting community in the U.S., by leveraging our region's geographic and demographic advantage, and benefits, our assets, "The Gateway Plan" will maximize the use of our regions existing transportation related infrastructure assets for the very first time, so as to maximize our region's global competitive advantage.

Alan Metcalf, 18th Century biographical author said, "You have to recognize when the right place and right time fuse and take advantage of that opportunity. There are plenty of opportunities out there. You can't sit back and wait.

Our plan, our gateway plan for Chili, New York, will transform the Greater Rochester Monroe County area into a Multimodal International Gateway.

Thank you very much.

JOHN CROSS: For those of you who may have come in late, we having an informal type of presentation. Again, I would remind you, there will be no audience participation tonight, but there will be an opportunity in the future when we -- when the applicant makes a formal application for preliminary approval of this project. So if you want to write down any questions, I'm sure we'll be able to hear them at a later date.

Thank you.

MR. PALUMBO: Thank you, Board members.

My name is Tom Palumbo from Sear-Brown Group. I think Doug (Charles) has done a great job at showing us all how we can leverage our strengths in the community and strengthen our community for the future. Sear-Brown has been retained to complete the physical planning, that being the land, transportation facility planning for the project, as well as the analysis of the environmental conditions, which are -- which is the standard process that we have to go through for the site approvals, and our goal is to develop a facility that meets the sponsor's needs, GMI's needs, as they see for this project, as well as minimize the environmental effects of the project to the project -- to the property surrounding the parcel.

Currently we're in the early stages of -- of the planning, of the physical planning. You can see Doug (Charles) has done a huge amount of work on the business side of it and really identifying the support we need for the project.

The -- we have had initial conversations with Town staff, the Town SEQR consultants. We're in ongoing discussions with New York State D.O.T., Monroe County D.O.T. and the Genesee

Transportation Council.

Further, we're completing, just completing assembly of constraints mapping of the project area, which you see in blue on that board there (indicating). With that, and with a detailed definition of the program we're going to be identifying a concept plan or preliminary plan of the site and the transportation plan which I will identify road alignments to a greater detail.

We're looking forward to developing a preliminary plan, preliminary site plan for submission to the Town and to initiate the SEQR process for the project.

Where we stand from the zoning standpoint, it is all Limited Industrial zoned property.

We will be looking to get an Airport Overlay District which will allow the distribution use to be -- to be provided on the parcel.

The property that you see identified in blue there (indicating) which is the project area, um, totals approximately 60 acres, not including the RG&E or the railroad right-of-ways. They -- those areas run through the core of that piece. To -- to the lower part of that drawing is -- is the Gottry parcel.

So I guess with that quick overview where we are on the project right now, um, we are going into this with our eyes wide open as far as the amount of work that we need to do and analysis of the existing property around it.

Thank you.

JOHN CROSS: I would like a better understanding of how -- how GMI would be able to use the Port of Rochester down in Charlotte when -- I understand that due to the Fast Ferry Project, that they're going to be doing many improvements to the port, and -- do you see that sometime in the future, Doug (Charles), you will be able to utilize that facility from your location?

MR. CHARLES: Most definitely, Mr. Chairman. We have already identified the commodity to do that. At the request of certain parties -- they have a lot to get out of the way. They have a lot to do in Charlotte. They have to get the ferry in the water and make more improvements. They don't need another project on their table down in Charlotte. We won't be directly in Charlotte. We would be further up the river, but yes, we are -- we have done some great, at great length some studies in the Genesee River.

JOHN CROSS: So you could foresee using the St. Lawrence Seaway to do international shipping up to the Atlantic Ocean?

MR. CHARLES: 6,000 ships a year use it now and we don't. We're the only city that can eliminate the Welland Canal in the North American Continent in the United States of America. \$124,000 in tolls and pilotage fees for a 30,000 ton vessel to go through Lake Erie and back out. We're the only one that can eliminate that. Buffalo is in Lake Erie after the 8th lock. Syracuse is not on Lake Ontario.

JOHN NOWICKI: There was article in the paper regarding a Chamber tie between New York and Ontario being urged. Maybe you're familiar with this more than I am. "A bi-national committee is recommended to form a joint chamber of commerce to promote the region and make it easy to do business," and I would assume you probably have a copy of that.

MR. CHARLES: It is called the Golden Horse Shoe. It is -- they have something in place now called Bordernet. Our County Executive does have a representative there. Harry Voss from Diamond Packaging is a representative for the County to that -- to that Board, that entity. Um, extraordinarily exciting opportunities, especially with Rochester's location.

The casinos going up on both sides of the border and the eighth wonder of the world, Niagara Falls in and of itself, it is truly going to be a tourist town. We have to do something to divert traffic off the Niagara Peninsula some day, and we're the only lake that doesn't freeze over every year, and we're the only city that has unfettered access to Toronto, Hamilton, St. Catherines, Ottawa, the 41 paper mills on the other side of the lake that bring news print media to us. Um, we're the only city that can provide it.

Oswego, you probably would have to tear down half the city, because it is a college town, to make room for what we could do. And that -- that's a very exciting opportunity we're looking at down the road, but it is down the road.

We have basically GMI -- our long-range plan is ten years' worth of work ahead of us. Not just

here, but in other places, as well.

JOHN NOWICKI: Some of these things look like connections with what is going on in the newspapers and what is going on in the area.

MR. CHARLES: They absolutely are.

RAY BLEIER: I have a few. I am very much in favor of seeing the amount of truck traffic reduced by rail transport. Quite evidently you have traveled down to Florida, like I do occasionally, and the amount of truck traffic is just overwhelming.

MR. CHARLES: You want The Inland Corridor route? My dad told me about it.

RAY BLEIER: I go down that way.

MR. CHARLES: Yes. It is shorter.

RAY BLEIER: However, all well and good, but isn't it likely that you're going to be drawing truck traffic in from a certain radius, say 25 miles in this area just to use this type of a service?

MR. CHARLES: Most definitely. That is why the interstate systems, Scottsville Road, that is why those all come in. They're so critical. To the west -- and nothing against Chili. Again, I was born and raised. I still go to Ralph Ponti's barber shop every Friday afternoon to get my hair cut.

RAY BLEIER: My concern is with this added truck traffic coming into Chili, there is not really a good solid route that doesn't impact a lot of the residents.

MR. CHARLES: But there is. There is Scottsville Road, around the end of the runway.

RAY BLEIER: If you can force those people that way. Right now, a lot of the traffic is going Paul Road, but going out the other way to Coldwater Road, and that is going through a very heavy residential area. There is an extreme amount of traffic, truck traffic now that wasn't there just a couple years ago.

MR. CHARLES: We'll reduce the amount of truck traffic coming into Chili. What I can say is that there will be factories who realize the benefit of having an intermodal terminal and who can keep their location in Bergen because we exist, who will not go out of business, who will not have to move to North Carolina to stay in business, because they can't be globally competitive because they don't have the services available to them. And we see that happening all of the time right now.

So there may be an increase in traffic. I won't lie to you. There definitely may be. We have to find a way to deal with it. I think that way is 204 to Chili Avenue to Beahan Road into our terminal. I don't think that -- again, I drove in and -- I would have never used Paul Road. First of all, I don't want to go 25 miles an hour past a Paul Road School. I would rather go to Beahan Road to Chili Avenue to 204 and out to Bergen or Leroy and hop on the interstate. Why in God's name any trucker goes down Paul Road is beyond my explanation. I was a dispatcher, I was a truck driver; I never would have gone that way.

RAY BLEIER: It is closer to Buffalo to go that way.

MR. CHARLES: 500 feet maybe. I mean, when you think about it, it is not that much. When you look at the aerial, it is not that much closer, and you have slower traffic. You have the inability to -- you have to go all of the way to 490 on either Coldwater Road, or you have to go to 490 in -- on Union Street. And if you can leave the terminal, go around Beahan Road, take a left-hand turn and a half mile to three-quarters of a mile and hop on 204, in less than two miles it's 65 miles an hour, it is much quicker, and much safer, much more wide open for a 53 foot trailer and the bigger that eventually will be coming. Paul Road is not conducive to truck traffic, and all I can tell you is that I know that if I were dispatching, they wouldn't be going down Paul Road. That is only my opinion. Will it be there, chances are it will be. There will be.

I mean CSX -- I don't know how many of their trucks go down Paul Road from their terminal and RICC, but basically the same thing. C & M, I see a lot of their trailers up Beahan Road out to 204 and not coming up Paul Road as much as I do coming down to -- I live at the 204 in Hidden Valley. I see it all of the time. We live on the other side of the pond there.

And C & M Freight Forwarding Company on Jetview Drive, they get off 204, come up Chili Ave. to Beahan and up to the terminal on Jetview Drive. That is the preferred way. But, evidently some guys just don't know that way or why you're experiencing truck traffic on Paul Road, I don't, for the life of me, I can't explain that. And all the south and westbound and eastbound traffic will be going out Scottsville Road.

RAY BLEIER: In the rail yards, what are we going to see? Will you have like the containers, the truck container storage type thing that typically we would see at a port, for example?

MR. CHARLES: At the Port of New York, yes. Nothing even remotely similar. There will be storage area, but primarily with the freight that comes into -- will come in, but it will be put on chassis delivered to the factory or warehouse and the container will be resent and put back.

The Ports of New York and New Jersey, it is congestion. You see the mountains of containers. Galleria Mall in Buffalo, look at the rail yard off to the right, the Bison Yard. You don't see them stacked all over the place there. And that is where the majority of ours come in, from the west. They not only have Buffalo's, but Rochester's as well, sitting there if they were to be sitting there. It is more of a terminal for movement, in and out, in and out.

There will be containers stored there. This -- especially in the international side if they want to put it in a Foreign Trade Zone. But the thing you have to remember, the longer you hang onto a container, you pay demurrage. You have to pay to the container owner. Basically if you keep it in there for a month, you have probably defeated the whole purpose of bringing it to Rochester, so you want it emptied and out of town as fast as you can and back to the steamship lines so you're not paying demurrage or the cost of rental on that container.

At the ports, yes, a lot of them are empty, waiting for use. Atlas Container is a big company. I used to use them in my international days. We used to send freight down by the truckload. They would take the container out and put it up to the steamship line. That is what you see down there. They're getting ready for use, the vast majority of them. But it is -- you won't see that here. I know exactly what you're saying, and it would be a nice problem to have to be that busy, but I don't think we'll ever, ever, ever experience that, no. Good question.

RAY BLEIER: Another question, and that is in part of the documentation here, you're indicating that 7 million is needed for public funds. And you know where -- what public fund are you getting \$7 million?

MR. CHARLES: Why did I know somebody was going to ask that tonight. The public funding -- all I can say at this point is we're extremely confident. Infrastructure monies that exist, exist for many years. This is not a pot that has to come out of this past year's budget. These are from -- like the T-21 programs, the T-3 programs, that pass through the New York State government every single year from the federal government that are appropriated for seven-year blocks. If that money is not used up, um -- and I can't -- at this point in time I don't think it would be prudent to get into some of the particulars because the elected officials will have to get the monies for us, and I think it's up to them to announce it if and when they do, if they do that. But we're fairly confident from our lobby in Albany and Washington that we are going to have what we need to have when we need to have it, because of the magnitude and the positive impact that this will have on the Upstate economy.

RAY BLEIER: It seems like that is a very critical piece of the pie here, in that -- and if you can't get that funding, it is probably not going to be a go.

MR. CHARLES: The intermodal railroad head would not be a go until we have the money because we want the West Shore Line to be available, and you would need a bridge for double-stacked containers. We won't want a grade-level crossing at the intermodal rail head. As far as multipurpose warehousing just with access to the Rochester & Southern, we're going to have more business than we can handle. We're going to create the jobs that -- not as many -- there won't be the 40 rail head jobs, not the 10 yard jobs. There will be 200, instead of 250 if we weren't to get that money right away, but we truly do anticipate having that money available to us.

RAY BLEIER: One more question, and that is, again, with truck traffic movements, did you, by chance, look into the 204 extension, that -- at one time as a consideration, you know, to continue it past --

MR. CHARLES: You mean the airport expressway?

RAY BLEIER: Yes.

MR. CHARLES: Seven years ago, and I only mentioned it once and never mentioned it again. The residents in the Town of Gates just would not allow the expressway to go through there evidently. That is the only reason that -- the airport expressway. That's -- and that wasn't critical for me. That was just an overall -- at that time my project was \$325 million. I mean it had -- everything was

involved at that time. It was all encompassing. It was a true overhaul of our entire infrastructure, transportation infrastructure, \$325 million project and the airport expressway was part of that. A bridge over the railroad at Brooks Avenue instead of underneath it. There were all sorts of thing, but you have to realize the environment we're in. We just couldn't cope with anything so large, and that was a guy from Chili's dream, but that is all it was.

Basically we had to get it down to where people could get their arms around it and truly have the resources to be able to get paid to make it happen. But no, yes, I did at one time, but I haven't in a good seven years.

KAREN COX: I was going to ask about the funding issue. I assume this will be a 24 hour, 24/7 type operation.

MR. CHARLES: It is. The only thing that you have -- the -- the rail head -- CSX would still have their Goodman Street yard and still doing their work at Goodman Street. What we're having coming into us is coming into us, outside of the PIND program. That will be a scheduled train every day. So we're not going to be like Goodman Street yard where it is the constant 24 hours a day bumping and going and bumping and clinking cars. That is not what this is all about. It is a 24-hour operation, but primarily in the warehouse. The e-commerce order fulfillment, when somebody is up at midnight ordering something off the West Coast to buy their cousin in Buffalo and we pick it and put it in the UPS trailer at 3 o'clock in the morning here, we have to be a 24-hour operation for the purpose of that. The rail head will be open 24 hours, but there won't be 24-hour constant activity.

KAREN COX: You had talked, and this is more a curiosity question more than anything, because this is new stuff to me. You talked about needing to go to manufacturing plants and set aside --

MR. CHARLES: Manufacturing Foreign Trade Zone.

KAREN COX: Why do you need to do that?

MR. CHARLES: What you can do is afford them the opportunity to manufacture within a Foreign Trade Zone -- any company just cannot go to the -- to the entity that monitors the Foreign Trade Zone for a community. You just can't go -- well, the Chamber of Commerce, Charlie Goodwin at the International Business Council. I forget the initials that are slipping me right now. An entity that manages the Foreign Trade Zone allocation in our area. We had six allocations. Um, Xerox, Kodak, Gleasons, Bausch & Lomb, they had allocations, and then there was the Monroe Foreign Trade Zone. There was one left, never used.

But companies just can't go up and say, "I want 25,000 feet for a month because we're going to build a product and we have to bring products in from China and we don't want to have to pay the duty until it is done, and then when we put it out the door, pay the tax on the inbound international goods."

There are experts out there in Foreign Trade Zone that are much more adept at explaining this than I, but I will do the best I can. If we had a -- one -- a Manufacturing Foreign Trade Zone allocation of a million square feet that was provided to GMI from the U.S. Treasury Department and Customs Department and the County, the entity that controls the Foreign Trade Zone issue here in Monroe County, if we were allowed that allocation, and we were sitting in the Gottry building and in our corporate offices on Jet View Drive and a good -- Gates Albert wants to set up for three months, they want to be able to manufacture in their facility within a Foreign Trade Zone setting some widgets that have to go into a Xerox copier for some reason, it is a short job, which happens all of the time. Nobody has a long running, forever job. But yet they can't get the Foreign Trade Zone in their building, so they have to come to us to lease space, or they have to pay the duty when it comes into the country at the port of entry and float that capital until they manipulate, manufacture and sell that product.

So what we'll do is take part of our million square feet and go out to Gates Albert, and we'll set up 10,000 square feet with a fence around it, inside their plant -- literally put a fence around it so no one can get product in and out of it without going through our with our management system. They can manufacture it right in their own plants with their own employees, the product that they need to sell to Xerox.

And the parts are coming from China. They will not have to pay duty on those parts until they have sold that product to Xerox. So they don't have to float -- it is a matter of floating capital. They don't have to do that any longer, and we don't currently have that capability here in Rochester, and that is what we're going to provide.

It is pretty intense. Again, there are people that do this full-time, 12 hours a day. Kodak has one of the most extraordinary Foreign Trade Zone operations. They make use of it like no one. Call Mike Ducey and ask him to hook you up with their Foreign Trade Zone people to explain more about it. I am sure Mike Ducey would be glad to do that.

JOHN HELLABY: Just to clarify some of the numbers that you mentioned a little earlier. 60 percent of the America's population is --

MR. CHARLES: Air mile radius, correct. And that is -- that is taken from U.S. Census Bureau Data a few years ago. That is not the new census. That could be off. That could be plus or minus a few percent.

JOHN HELLABY: 4,000 companies in the ten surrounding companies that are exporting.

MR. CHARLES: Charles Guinta, Port of Rochester Director, yes.

JOHN HELLABY: Your plan is speculating on the Gottry building.

MR. CHARLES: If we don't, we'll continue on. We're hoping that we're the successful proposal.

JOHN HELLABY: When will that be finalized?

MR. CHARLES: Has to be in by February 17th. The meeting date is May 13th, that Legislature meeting, the final vote would be taken on. That is what is stated in the RFP.

JOHN HELLABY: What is Rochester & Southern's role in this whole thing?

MR. CHARLES: Rochester & Southern is going to be one of our service providers, and hopefully we'll keep them very busy.

JOHN HELLABY: I guess that that is my question, is they're going to service your rail yard, correct, your spurs. They have been one of the biggest outfits around. I think one of the only things that kept that alive was Retsof.

MR. CHARLES: Rochester & Southern is one of -- a division of probably one of the most profitable short-line railroad companies in the world, Genesee & Wyoming. They own rail in Bolivia, Australia, Mexico, Canada and the United States. And the Fullers, Mortimore Fuller, and now great grandfather, who was then -- started this company with 14 miles of rail track at the Retsof salt mine. It is an extraordinary company, actually the parent company, and Rochester & Southern is very viable.

He lost a coal contract recently for Kodak which was an unfortunate occurrence for them because they're a viable entity, and I believe they will be here for many years to come. The beauty of this location again is the fact that they're less than 2800 foot away to the entrance to our yard with their locomotives, so we could have service 365 days a year. Where if we were on the main line, even out at the old Rochester storage building on Pixley Road, you to have wait for somebody to get from the Goodman yard to you, and it is not like you fire up your Volkswagen in the driveway. Firing up a locomotive is a lot of fuel and energy from Gates, as opposed to 2,800 feet with no grade-level crossing.

JOHN HELLABY: The point about truck traffic was brought up, and I'm concerned as well, but there is no mention of increased rail track. And I'm sure you're aware of the Gates crossing at Scottsville Road at grade.

MR. CHARLES: They won't be coming in there. They will come Lincoln Park, off the main line. They will come into our terminal and out the West Shore Line at the connection that we make, going west from there, getting on the main line back out west of Chili. The West Shore Line, we would have to back in, if we came in on the West Shore Line, and I know exactly what you're saying. The only thing is, is that the same amount of trains will be coming into Rochester as they are now, except maybe one more a day, that will be going through all of the cities, whether we're here or not, the PIDN rail service.

Basically 60 trains a day go through our community, and that's not going to go up or down really. That will just stay the same, except for that one rail express service out of the Port of New York which will take 75,000 trucks a year off our highways in Rochester, into and out of our city. And that's only with 37 percent response to go a questionnaire that the Genesee Transportation Council put out in 1993.

JOHN HELLABY: The only increase in north/south traffic would be to somebody like Foster Wheeler.

MR. CHARLES: Or the Norfolk/Southern. If Norfolk/Southern could have a transfleet terminal like us in Rochester, it would behoove them to give service to Rochester, to get a part of that 116 extrusion companies that we have in this city, in our MSA. 116 that currently have to get their resins, short-run plastics from Akron; Cleveland; Erie, Pennsylvania. That is the closest they can get it. They truck them up in Gaylord containers and when they empty them out, they put them in the recycle bin or throw them away. It's triple corrugated material that will take 300 years to biodegrade in landfills, and they're 22 bucks a piece, and they throw them away. They're too expensive to ship back to Ohio empty to get them refilled again. It is insanity.

How we have remained the international beacon, and the only reason we have, has to be Kodak, Xerox and Bausch & Lomb and all of the companies that have spun off them, these 4,000 companies that not only supply them, but now supply Fuji in Japan and other companies around the world.

It is an extraordinary time that we're at that we -- Charles Guinta says at best, "You're staring the silver bullet in the eye." He said, "And the one that is going to kill this community is the fact you have no international capability in a global economy. No international capabilities in a global economy. It makes absolutely no sense for our economy here."

JOHN HELLABY: One other, I guess, last question is -- or you have kicked around a 10-year window. And again, I'm not asking, but can you chronologically give me what transpires over that ten years. Is parts of this on-line, operational, or is it all or nothing? Do you --

MR. CHARLES: We definitely left the August or nothing, seven years ago. The \$325, we left that a long time ago. It was just too big, and it wasn't possible. It was not possible.

What we're hoping is that -- what I see, in the perfect world, is that Sear-Brown and Ron Brand get through the SEQR process and show that we can -- what is -- negative declaration, I believe it is, or -- I'm not an environmentalist -- not an environment person. Bad choice of words.

The -- perfect world, the SEQR and everything is finished, that we could start breaking ground either in the fall of 2003 or spring of 2004. Design/build of 18 months. Up in operation within three years. With this project.

After that, we'll let the market determine what we do. That is the beauty of doing it in stages, is you let your market say we have a demand for more dry goods warehousing. We have a need for more Foreign Trade Zone activities. We have the need for heavy-lift capabilities, more freezer storage. Whether we need to put up a freezer warehouse, whatever their demand is, they are going to come.

We have turned business down over the last three weeks and this is the first time this project has gone public, is tonight. We have turned down a half dozen customers who would have filled up 150,000 square feet of warehouse in the last three weeks. We are -- we are going to let the market demand dictate to us what we build so that we are a viable entity long after I am gone, and those jobs are still there, we're still providing the service that these companies in our area need when I'm pushing up daisies hopefully 70 years from now.

JOHN CROSS: I think maybe Tom (Palumbo) can do this better. Would you explain to the people in the audience what a SEQR process is, and your role in it, and the fact that RLB Associates, Ron Brand, what his role would be.

MR. PALUMBO: The SEQR process is the State Environmental Quality Review process. It is an act dictated by the State. What its basic role is is to analyze projects, write a proposal and assure that to all extent practical, the environmental effects have been mitigated with the project. It also weighs the negative versus positive effects and it offers a full disclosure of the project and those impacts it may have.

What Ron Brand will do, he will basically be working with Town staff to work them through the process, work through the process, and we will be his counterpart, kind of providing all of the data, working for the sponsor, developing any environmental reports that need to be prepared. Should the project go to an Environmental Impact Statement, there would be scoping for what that statement would say. Typically we would do the long form environmental form first. That would give anyone a chance to look at the project in its entirety from an outline or skeleton, so to speak, and from there, the Town would move forward as far as establishing a lead agent, and then establishing a declaration of impact, positive or negative declaration.

We would expect because of the rezoning or the overlay that is required that more than likely the

Town Board would be the lead agent on this property, on this project; however, that is something that we'll need to confirm with the staff and the Boards. Naturally that would --

JOHN CROSS: I believe that is correct. Town Board would have to be the lead agency. Good. Okay.

KAREN COX: Do you have any feelings as to whether this is going to go EIS yet?

MR. PALUMBO: I think our initial discussions with Ron (Brand) was it would probably go that way.

JOHN NOWICKI: You addressed the SEQR. I just want to make a couple points. Tom (Palumbo), maybe -- under our rules and regulations here for the preliminary site plan process, um, that is where I will be looking for a lot of detail, not only in addition to the SEQR process, because in there -- there are a lot of requirements that will bring out the corporate structure, the financial disclosures and things like that that we'll be looking for, so pay really good attention to the site plan check list, because there is a lot of detail required there. I know you're familiar with that.

Also, the effects on our comprehensive plan that is in place. I want you to take a good look at that.

Also, if -- Al Hellaby mentioned it before, but also if you could present us with a critical path of dates and times of all of the events so we can have some kind of idea when these things might happen. Also, the peripheral around this area, there are a couple things going on tonight. There is a public hearing going on at RIT in regard to the Jefferson Road construction and also the Major Road Investment Study that I think is completed and will have impact on how those might play out here.

Other than that, I think most of the other issues that I have will be brought out during the process, and I think you guys will do a good job on that, because I'm ready for you.

MR. PALUMBO: You know, it is important that people realize we're really -- we're just at the beginning of this. There are going to be many public information meetings and everyone will have a chance to talk, but really we need to have enough information down so people can respond to it and comment.

JOHN NOWICKI: Before I turn it over to Jim, I want to congratulate you on your first Power Point presentation ever without too many hitches to it. You guys, the gentlemen you are working with are very high class people, so we should see something good coming forward.

Thank you.

JAMES MARTIN: I would like to just go back again to a couple of things. You know, if I look at the aerial, okay, it looks awfully tempting to find a route over to that 204 dead-end at Chili Avenue to the Wegmans complex, or, you -- however that might be orchestrated. I don't know if you have had any discussions with Wegmans about the ability to do something along that line.

MR. CHARLES: Yes, I have. And the answer is they're -- I can understand Bob(Wegman)'s concern about splitting the property. I -- again, I'm not an engineer. I don't know -- I know that -- I just -- I'm not someone who can say which way or how it should go, but I always thought going down through the middle was nice, but Bob -- Mr. Wegman, I should say, has made it perfectly clear and he is understandable, especially post 911 it is food he is dealing in, security issues you can't split up his property like that. I can totally understand, and I agree with him, and back him up 100 percent not to go down the middle. If there is another alternative spot, that would be great. I mean a fewer miles, but we're going to find via Beahan Road and Chili Avenue, Route 204 whether they do that or not.

MR. PALUMBO: Our initial intent, there is no link there. There is no link through Jet View, and that is how we're going to analyze it. We'll see how that analysis comes together. That will tell the story really from the traffic side.

MR. CHARLES: It is Bob's -- Mr. Wegmans' property.

JAMES MARTIN: No, I understand. I understand the difficulty you face there. I understand what you're saying there.

You look at the aerial. It looks like there might be room, not for an expressway, but a two-lane road with trucks going in and out, that would keep a lot of trucks off the local roads.

MR. CHARLES: You're absolutely right.

JAMES MARTIN: I'm sure again as you move forward in planning your project, that you will do everything you possibly can to minimize impact on the Jacklyn and McNair area where your

property will back up to. Certainly that will be a major concern. I'm sure the neighborhoods will raise concerns about that, and hopefully you will have a well thought-out mitigating plan when you come back before us for site plan approval activities.

MR. CHARLES: Absolutely. It has been as -- it has been my concern, as well. My son used to live on Fisher Road for a short period of time, right across from McNair. And we truly do -- again, I was born on Arnett Boulevard and six months old moved to Sunnyside Lane in North Chili. I am a neighbor, always have been, always will be. And it is my intent that these people are some of my best friends and their children work for me. And I want them to be glad when they wake up in the morning and open their dining room shades, that they got me as a neighbor. Absolutely, positively. And I will let Tom (Palumbo) speak to the --

MR. PALUMBO: I think, Jim (Martin), you know, you stated that -- details together, as we put the site plan together, there -- there are buffer requirements, landscaping requirements that have to be met, and I think you will find that we can meet those needs and still provide for the needs.

RAY BLEIER: In that regard I want to add one thing which you might do prior to coming into preliminary, is perhaps have neighborhood discussions with some of the people and go over some of your concepts and get their inputs as well just so they're not hit with it at the formal hearing.

MR. PALUMBO: That sounds like a good idea.

DARIO MARCHIONI: Doug (Charles), thank you for your presentation. I understand what you're doing. One of the questions, I wonder if you could go over the aspect of what kind of products are coming through here. Is there -- the reason I am saying, are there going to be any chemicals for safety or for security purposes?

MR. CHARLES: We're going to be a non-hazardous materials warehouse. There are hazardous materials -- you know, fingernail polish is a hazardous material. When it is used in lesser quantities, is it no longer considered a hazardous material. So if I were to say we're never going to have a hazardous material in our warehouse, that is not true. Because finger nail polish has -- is a hazardous material.

MR. CHARLES: But as far as chemical cars, of that nature, is that what you're speaking to? Absolutely no. We are not -- we are not getting into that. We have too much -- we have the ability to do too well without that to get involved with that. Let somebody else who does that on a regular daily, every-day basis do that. That is not my business, never has been. I have never what they called, yanked a tank, as a driver, and I don't intend to start doing that now.

JOHN CROSS: If I could interrupt you, I am sure you probably know these gentlemen, but I see in our front row tonight, the Gates Fire Chief, Mr. Gillette and down the second row, the gray-haired man, way down below, is Jim Christian, our Chili Fire Marshal, and I think you're going to need to work very closely with both of these gentlemen and their departments to assure the neighbors that we'll have good fire coverage.

MR. CHARLES: Absolutely. Because of the project I had to resign, but I was on the Gates-Chili Board -- Gates-Chili Council Board of Directors, which I was fortunate enough to have served with John. My CFO is the current President of the Gates-Chili Chamber, Ron Steinmiller, and I have served with Bill. We have been talking about this for some time. I was glad to see him here tonight. We have already addressed the fact that we want access to all four sides of the building for EMT. We have gone to that degree. Even though they're preliminary, there is a lot of thought into the aesthetics and functionality with regard to EMT.

MR. CHARLES: So I would be more than happy to get together with both of them. I have already told Bill we'll bring the presentation over to the firehouse if he wants.

DARIO MARCHIONI: Just in general, you said the benefits to our community were -- the taxpayers. Can you just give us an idea what you're talking about, because we're always interested, with the budgets and everything?

MR. CHARLES: Like I said in Columbus, Ohio they are in the process of creating 35,000 jobs for a similar project. In a city that used to be the demographic equal to Rochester. It used to be you compared the two cities when you were looking at a new soccer stadium. You used to compare Columbus and Rochester marketplace as similar. Um, today we don't do that any longer. Columbus has far surpassed us. When I talked about the drayage issue, just that one issue alone is \$13 million.

Since 1992 that -- every year that our companies pay to dray their products to other cities to get them to the railroad. That means jobs. That is cost. That is uncompetitive. When it comes to the waterfront, the \$124,000. Rochester is in a very unique situation, very unique place to -- Dave Wallace said it best from Rochester Technology Park. He was the Executive Vice President over there for a while. He said, "Doug, you're going to put me within several minutes of the Port of New York, yet I'm going to be able to work and live with a quality of life in Rochester, New York." He said, "Where else do you get that?" Syracuse, Rochester and Buffalo. Upstate could absolutely explode with potential. And there is -- it is very difficult to put a final number to it.

But we're talking hundreds of millions of dollars of impact and just \$4 million a year for new cars if we take them off the highway.

DARIO MARCHIONI: More specifically, how about Chili? What benefit does Chili get?

MR. CHARLES: The tax assessment. We are going to be in an Empire Zone, is what we have been told. We're going to be working within an Empire Zone. But that will come to an end, and we will be on the tax rolls in the Town of Chili. The school taxes will be Gates. The jobs. 250 in the first three to four years, we'll have 250 new employees earning Union wages in our building.

MR. PALUMBO: And I think, Dario (Marchioni), also, you have to look at there are -- there are other lands that have already been approved and identified for industrial development that would benefit by having this type of a facility nearby. RICC has been fully approved and designed and developed and there's property there that owners could go in, buy land and develop a manufacturing facility, bring jobs and more jobs. It is really -- it is a snowball effect as it starts to occur. Not only does it strengthen our existing base for existing companies, but it helps to bring more companies into the community.

JOHN NOWICKI: Don't you have a connection to the Larry Crozier Bausch & Lomb property on --

MR. CHARLES: He has been turning down business. We have met with Larry to maybe sometime lease that facility. We met with him last week on the property, toured the property. It is absolutely perfect. It is 1.3 miles away from the terminal, and it would be a matter of a local yard move basically to get to Paul Road. B & L.

DANIEL KRESS: Just a brief comment to clarify something. At the risk of repeating ourselves, maybe for the benefit of a few people in the audience, since there is no formal application in front of the Board tonight, that is why we're not having any public hearing tonight. But, of course, there will be ample opportunity for public hearings and public comments in the months to come.

Doug (Charles), you mentioned hoping to commence construction possibly this fall or early spring of next year.

MR. CHARLES: In a perfect world.

DANIEL KRESS: Is it safe to say probably also once you got a better sense what is going on with the Gottry building, that you will likely in that several months be coming back to the Board with an actual site plan application?

MR. CHARLES: Absolutely.

DANIEL KRESS: Just so these folks have a little context.

MR. CHARLES: If we're the successful proposer to the RFP, if GMI is, we're hoping that we can be in the building by May. Again, by the end of May. That is our hope. We want to start working there. We want to start -- we have some remodeling to do in there. We have some work to do before we go in and make it functional, but we're working on that. That is part of the RFP, is putting together everything we're going to do.

And I do have, too, if I may -- this is the rendering of the big building, the corporate office. This is the Gottry (indicating). This is what we want to do to the Gottry building, if we're the successful proposers, is to -- that is what it would look like. In the top, it is the smaller picture, but -- the current building, as you all know it, is what we want it to look like when we're done. We want to have the same appearance as other buildings around the airport. We want to be considered eventually part of the airport. We want to supply air service from this facility, heavy lift or airlines who don't have a -- terminals -- not airlines, cargo carriers, Panalpina, the different carriers across the world, they don't have the capabilities here.

We want to use Anthony Costello to be our ground handling crew, work the freight and get it to our building and be part of the airport.

So that is why we have taken the appearance of the -- very clean. It is something that we like. Be part of that airport environment.

MR. PALUMBO: You know, the Gottry building is an allowed -- there is an allowed function going in there right now. I think it is just a matter of having a new operator there. And it will give people the way to see how GMI operates, and it will become an operating entity in the Town.

JOHN NOWICKI: Wouldn't that just be a separate application on that, on the Gottry building?

MR. PALUMBO: If we need to do modifications to the site, it may not require --

DANIEL KRESS: It would really depend on the extent of exterior work going on. Interior of the building, maybe little or nothing.

MR. PALUMBO: It is currently operating as a distribution facility.

MR. CHARLES: It is perfect for the stage of the project. In 1997 when I found out it was for sale, an explosion of possibilities went off in my mind because it was perfect for the initiation stage of this entire effort. Rail and truck, and you're right next to the airport. Absolutely perfect. It is a blessing.

LARRY NISSEN: Since we saw you a few weeks ago, I'm wondering if you could give us a -- an update of the status of the renegotiations with the State D.O.T., the County and even perhaps the Town concerning the realignment of Paul Road, and the effects on Beahan Road and the severing of the Fisher Road, the rear parcel.

MR. PALUMBO: Larry (Nissen), we continue to meet with them and keep them up to date where we are. We're developing some alignment for the original Paul Road. We have a couple put together. We have to talk to both -- it is County D.O.T., and State D.O.T. and also with the Genesee Transportation Council.

LARRY NISSEN: Beahan Road is a County road?

MR. PALUMBO: Paul Road is a State road. Beahan Road is a County road. So they're all involved. We're -- a lot of it is -- is -- as Doug (Charles) said, the funding is coming together now. It is going to kind of gel everything up.

LARRY NISSEN: Realignment of Paul Road, does that depend on your receiving the funding, your public funding?

MR. CHARLES: The public infrastructure money, yes.

LARRY NISSEN: That would cover the bridge over the railway.

MR. CHARLES: Yes. And the connection to the West Shore Line and the division. It is 7 million -- there is a 20 percent contingency cost overrun built into that \$7 million, so that does include actually 20 percent less than that was the original estimate on the work to be done. It was also -- it -- I can't remember the word. It is an engineering term. Magnitude, something --

MR. PALUMBO: On the order of magnitude cost estimates.

MR. CHARLES: Thank you. Like I said, I'm not an engineer.

JOHN CROSS: I would like to thank you for your presentation. We'll look forward to seeing you -- a formal application shortly, and again, the public will be able to ask questions at our next get-together.

MR. CHARLES: We want them to. Thank you very much.

The first item for discussion ended at 9:35 p.m.

The Board then entered a workshop session to discuss possible design criteria and zoning revisions.

A meeting of the Chili Planning Board was held on March 11, 2003 at the Chili Town Hall, 3333 Chili Avenue, Rochester, New York 14624 at 7:00 p.m.

PRESENT: John Hellaby, Dario Marchioni, Karen Cox, James Martin and
Acting Chairperson John Nowicki.

ALSO PRESENT: Keith O'Toole, Assistant Counsel for the Town; Daniel Kress, Director of
Planning, Zoning and Development; Larry Nissen, Town Engineer.

RESOLUTION RE: ACTING PLANNING BOARD CHAIRPERSON

Offered by: James Martin

Seconded by: John Hellaby

WHEREAS, Chili Planning Board Chairperson John O. Cross passed away on February 24, 2003;
and

WHEREAS, an acting Chairperson is required so the Planning Board may continue to conduct
business in the manner required by law.

NOW, THEREFORE, BE IT RESOLVED that Planning Board member John Nowicki is
designated to serve as Acting Chairperson of the Town of Chili Planning Board with full authority to
chair the proceedings of this Board, execute all maps, execute all documents, and to perform all acts
consistent with the office of the Planning Board Chairperson until further notice.

UNANIMOUSLY APPROVED

The meeting was called to order by Acting Chairperson John Nowicki. Acting Chairperson John
Nowicki 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.

JOHN NOWICKI: John Cross, our Chairman, passed away February 24th. If you didn't know
him, he was a very kind and gentle person, very knowledgeable man and very capable Chairman of the
Planning Board. I have known him for a lot of years and certainly had many, many good moments with
John (Cross) and his family. We're going to miss him very much. So if you wouldn't mind, I would like
to have a moment of silence for John (Cross) in remembering him.
A moment of silence was observed.

JOHN NOWICKI: Also an announcement, in regards to that also, the Town employees and
members of various Boards put together \$500 and that money was divided between two charities, one
was the National Kidney Foundation at the Highland Hospital Self-Care Dialysis, the other went to the
Cure Childhood Cancer Center. We're happy to see that money went in that direction.

PUBLIC HEARINGS:

1. Application of Mr. & Mrs. Bill Carleton, 3948 Union Street, North Chili, New York 14514,
property owner: Chili Plaza Associates; for preliminary site plan approval for a change of
use in portion of building to allow a floral and gift shop at property located at 3240 Chili
Avenue in G.B. zone.

Mr. and Mrs. Bill Carleton and Bruce Smith were present to represent the application.

MR. CARLETON: Good evening, and thank you very much for remembering John (Cross) for us. I knew him just briefly, but he was a man of great credibility, a huge help to us the few times I had to work with him, and just a positive, friendly spirit. So thank you for that.

My name is Bill Carleton of Carleton Floral and Gifts, C-a-r-l-e-t-o-n. We are requesting approval of our application to move Carleton Floral and Gifts from 3187 Chili Avenue to the Chili Paul Plaza in space B8. I believe you have the documentation in front of you that shows the layout and the particulars about it.

We also would like to request at this time that we're allowed to repost the sign that was at our old facility. I did make a mistake on that document. I said it was a 2 by 4. It is a 2 x 6 sign, but the space in Chili Paul Plaza is 17 feet wide, and I do believe that the sign still meets the requirements, but it is the same sign that was approved before.

And I guess I would also like to request at this time, assuming we get through the preliminary, that we waive final.

I will certainly be happy to answer any questions on behalf of Carleton Floral and Gifts, but Mr. Bruce Smith of Chili Plaza Associates is here if there are any questions pertaining to the plaza that we are a part of.

JOHN NOWICKI: You're requesting to waive final also?

MR. CARLETON: Right.

KAREN COX: You said something about a layout?

MR. CARLETON: In your package should be a layout.

KAREN COX: I didn't get one of those.

JOHN NOWICKI: Anybody else missing that?

JAMES MARTIN: I didn't.

JOHN NOWICKI: We'll get copies made.

MR. CARLETON: I did make 22 two-sided copies.

JOHN NOWICKI: Don't you wonder where they went to?

MR. CARLETON: As a matter of fact, I made them twice. Bruce (Smith) helped me with the second set personally.

JOHN HELLABY: Somebody ended up with two floor plans, because we got two applications.

JAMES MARTIN: Likewise, two applications.

MR. CARLETON: We took them apart and put them back together again in the office.

JOHN HELLABY: I have a question for Dan (Kress) when he gets back in here. One of the questions, on his list, there is something about a proposed shed. Ask the applicant to confirm what will be in the proposed storage shed.

MR. CARLETON: You must have gotten an earlier copy because we took that off.

KAREN COX: Any storage that you're going to need will be right there in the shop?

MR. CARLETON: In the facility, yes.

KAREN COX: Usually you don't store stuff long because it is fresh?

MR. CARLETON: Right. There are vases and things like that, but we'll be able to fit in the space.

JOHN HELLABY: Where is space 8B?

MR. CARLETON: Between Thoughtful Gifts and Pontillo's Pizza.

DARIO MARCHIONI: We use their services.

MR. CARLETON: Thank you.

JAMES MARTIN: Just assuming your sign currently meets code specifications for size, I don't imagine there are any issues with that, although, we just passed a new sign law or code for the Town of Chili, so it might just be worth checking to be sure there are no glitches. The Town Board approved a new sign law about a week ago, I guess it was.

MR. CARLETON: Dan (Kress) and I talked about that briefly, and he actually saw the sign and all that sort of stuff, and I think at that time we fully expected that it will meet the code, but we can reconfirm that.

KAREN COX: That is the one you used to have hanging?

MR. CARLETON: The exact same size.

JOHN NOWICKI: Will it be mounted on the sign in the front of the plaza or on the front of the building?

MR. CARLETON: On the front.

JOHN NOWICKI: Will you get signage on the front freestanding sign?

MR. CARLETON: I know that there are a number of things we need to deal with the plaza on -- and oh, by the way, they have been extremely helpful. We just haven't gotten to that.

JOHN NOWICKI: I have a question for you. You have a rear door to get to your dumpster?

MR. CARLETON: We do.

JOHN NOWICKI: Thank goodness.

JOHN HELLABY: Hours of operation?

MR. CARLETON: From 9 in the morning until 5:30 in the afternoon, five days a week, and then Saturday from 9 to 2.

KAREN COX: Just out of curiosity, how is the space size in relation to your old place?

MR. CARLETON: Almost exactly the same amount of space. The nice part about it is this is a nice open rectangle as opposed to several different rooms, and it takes an engineer like myself to get excited when a layout starts to work, and I was just thrilled with how it was working.

JOHN HELLABY: The only other question I had was for Dan (Kress). If memory serves me right, there was a letter I recall reading, was it a month or so ago maybe, in regards to this application. I thought I had it, but I couldn't come up with it. Have all those issues been addressed?

DANIEL KRESS: Yes, sir. Basically the understanding was, although there really weren't any exterior changes that were going to require any lengthy sort of review from the Board, that Mr. Carleton was basically going to simply come in and confirm that point. And, of course, at that point there was also question as to whether this was going to be a temporary arrangement or permanent move and that has changed since the original understanding so the need for a subsequent permanent and/or review doesn't apply any longer. We're talking about one move to one location, and that's the first and final place we're going to.

JAMES MARTIN: The cooler and 220 outlet, any other mechanical outlet changes to the structure?

MR. CARLETON: None.

JOHN NOWICKI: Do you feel comfortable getting your deliveries of the fresh flowers in the back?

MR. CARLETON: Yes.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

John Nowicki made a motion to declare the Board lead agency as far as SEQR, found this to be an unlisted action and made a determination of no significant environmental impact and the Board all voted yes on the motion.

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

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

2. Application of New Creation Fellowship, 692 Paul Road, Rochester, New York 14624, property owner: V. Zuber; for preliminary site plan approval to expand parking lot across the street from church to allow additional parking spaces at property located at 177 Archer Road in R-1-15 & L.I. zone.

Robert Peterson and Gordon Wingheart were present to represent the application.

MR. PETERSON: Hello, my name is Robert Peterson. I'm on the church board at the church.

MR. WINGHEART: I'm Gordon Wingheart, the Administrator.

MR. PETERSON: What we would like to do is expand the parking lot. We have had to go to three services because of -- it's a good problem. We have 200 more parishioners coming to church now, and the problem is between the services. The transition, we -- people like to -- from one service stay and talk and drink coffee, and communicate and, you know, get to see their friends, and with the new people coming in to the next service, they're starting to park on the road, and we have shared with them, you know, this is not something we want to do, but the problem is that, you know, inadequate parking area for the amount of people and the flow of the traffic that is coming in.

If they would -- which they don't do, of course, and we don't want them to -- we want them to stick around and share with one another, but it would work if the people attending the first service would go and give room for the second, but that doesn't happen. So what we would like to do is expand it so that on each side of -- as you see in the drawing that hopefully you have before you there, this would allow extra space so that during that transition we wouldn't have the bottleneck that we're having right now.

KAREN COX: Have you seen the comments from the Town Engineer about the plan?

MR. PETERSON: Yes. I can address that. Where we're at with that right now is the engineer received that on the 6th, which was last Thursday. He was out of town. He was on vacation. Sunday, we got this. He said all he had was Monday to do the changes and it was impossible for him because on Monday evening he was heading to Albany for two days for work and that he would be able to get right back to it in -- we're just hoping that tonight, you know, that -- down on Number 5 it says here the final Planning Board approval is -- if it is granted, we would request that it would be contingent upon the engineer's approval.

And what we were hoping for is that we could present -- if this is all approved, according to the four or -- I mean the five items here, along with the print, and if you agree with it, that we would work with the engineer, this -- our engineer through the Town's engineer to make sure all these things are taken care of and it would be put on the final print in all -- and individuals -- you know, Planning Board Chairman, Town Engineer and so on could sign off on that.

But that is, of course, up to you people to make that decision.

LARRY NISSEN: I have no problem with that.

JOHN NOWICKI: Would you want them as conditions or just under engineering approval?

LARRY NISSEN: I think it would fall under just generally engineer's approval.

JOHN NOWICKI: Okay.

KAREN COX: Are there any plans to put in some plantings along the front of the parking lot to kind of dress it up a little bit?

MR. PETERSON: The front is already taken care of. Because of the 75-foot setback on the front, we're not actually -- that area, that is untouchable, unless you go before the Zoning Board, we really wouldn't need that area to park in any way.

As you see on the print in front of you, it is called the untouched virgin ground area. All we would like to do in that area is just mow it. Like right now, I don't know if you have driven by there -- well, it is hard now because of the snow and everything, but the owner of the land wanted us to keep a 5-foot area on each side of it, of the existing parking lot mowed, nice grass and mowed, and we hire a company that comes and mows the church lawn and that over there.

Also, one of the things that was on this list -- I believe it was Number 3, item Number 3, wanted to know what we were doing with the topsoil, if it was going to be trucked away or if it was going to be kept on the property. Victor Zuber wants that topsoil. Of course, they need -- it is also valuable to whoever buys -- this property is also up for sale, which I forgot to mention in the beginning. The old existing parking lot, that soil is -- is stockpiled on the southern part, and it is a very low berm that Victor Zuber wanted us to keep it very low and to plant it also, so it is just a low gradual mound that you can use a riding lawn mower to ride up and mow it, and that is the thing we would like to continue with, the little area which is a 70-foot expansion to the right and to the left on both sides.

KAREN COX: He would prefer that you don't put trees in or any plantings that might --

MR. PETERSON: No. Actually, he farms right up to that. But now I just heard from somebody in the audience here that his equipment is being auctioned off, but his nephew still farms it, and they wanted this grass area, gave him a demarcation so they wouldn't plow too close to the actual

parking lot. And also with that grassed mound in the back, he wanted that done in such a way that he could go right up to it and still be able to plant his -- sometimes he does corn, and sometimes he does hay.

JOHN HELLABY: Expansion and growth is good, but I guess you got me wondering, because I am sort of curious what your lease agreement might be with Mr. Zuber. You stated, and that sign has been on the corner for some time, about this property being for sale. He will auction all his equipment this coming weekend. I would venture to say sooner or later there will be another housing tract on that whole plot of land, and then what?

MR. PETERSON: We're out of a place to park. Hopefully -- well, right now we're looking for another location to move to, because --

JOHN HELLABY: The whole church?

MR. PETERSON: Yes.

KAREN COX: Wow.

MR. PETERSON: That is something that is, you know, hopefully in the near future. Of course, a lot has to do with the finances and so on. But we still have an option on that property, and we have been talking with Victor Zuber and his sister who also owns -- she is half owner of it. And we have talked about price and so on.

It is something -- we may be the ones buying it. We may not. You know how that works. But if that property is sold, we're out of it. We're out of the location. All the investment, like, for instance, putting in this parking lot, is roughly -- could be like \$16,000. We're out of it.

JOHN HELLABY: As far as your lease agreement goes, is that something he can terminate immediately or is there a definite time period?

MR. WINGHEART: Once it is sold, they would give us like 90 days or something like that. But it would take -- if a new person came in and bought the property, it would take time to get it ready for development.

JOHN HELLABY: I am not looking to put you on the spot, but what sort of alternative plan do you have in place?

MR. WINGHEART: We're going to try to purchase some of that land. We're working on that now, but nothing formal. It is possible we could get 2 or 3 or 5 or maybe so acres in the front.

JOHN NOWICKI: Do you have an option on the property?

MR. WINGHEART: Not really.

JOHN NOWICKI: First right of refusal on the property?

MR. PETERSON: No.

JOHN NOWICKI: Do we have a copy of the lease agreement that you presently have with him, in the Town?

MR. WINGHEART: We just signed that, in fact, last week, so I could get a copy to you if you would like.

MR. PETERSON: That was signed based on the new addition here. We had to come up with something with an agreement between us.

MR. WINGHEART: He increased the rent and things.

MR. PETERSON: But hopefully the other thing is, if somebody was to buy that, you know, probably better than us, it takes time to develop and to do the things there, and for a segment of time, we would hope to be able to make an agreement with them, a temporary one that would help, you know, prolong our, you know, situation that we're being involved with there.

JOHN NOWICKI: Are you currently looking for other property?

MR. PETERSON: Yes.

JOHN NOWICKI: Outside the area?

MR. WINGHEART: Yes.

MR. PETERSON: What do you mean "outside of the area"? Outside of the Chili area?

JOHN NOWICKI: Yes. You own the building. Obviously you own the church right now?

MR. PETERSON: Yes.

JOHN NOWICKI: What would you do with that later?

MR. WINGHEART: We would probably have to sell it.

MR. PETERSON: In all honesty, we would really like to keep the facility and, you know, doing

something across the road there, but you know, a lot of it is cost, price, and what he is asking per acre and so on. He has a real estate agent involved in it, and they tend to like to push the price up higher than it should be, and, you know, it's all part of, you know, the negotiation I think every one of you have done at one time or another in your life.

JOHN HELLABY: I would like to commend you guys on your effort. I know there has been talk about all of the traffic up there on the weekend and Sunday services, but you're one of the few people I know that actually have crossing guards with orange vests on that actually watch out for the people and you're doing an excellent job of it. I just wanted to tell you that.

MR. PETERSON: Thank you.

MR. WINGHEART: Thank you.

JAMES MARTIN: You know, you talked about with the grass buffers around the parking area, and the discussions with Mr. Zuber. Is that all in writing in your lease agreement with him, or is that just a verbal agreement at this point in time as to how that is to be orchestrated?

MR. PETERSON: That was kind of an agreement we had. We just shook hands on it. We did exactly what he wanted, and it has been that way now for, gosh, at least 15 years.

MR. WINGHEART: I'm pretty sure there is a statement in there that addresses the topsoil not being removed from the site, but as far as how you mound it or berm it, that --

MR. PETERSON: You see, going way back when we first began this, I was actually here, then, too, but not in this building, and it was over at the other place, and nothing was ever said about any of that, and, you know, the things progress and times change. What we did was we went to Victor and his brother when he was alive, and we just said, "How would you like this to be," you know? I mean the Town stipulated how they wanted it addressed along the road, but in the back and along the sides, they said nothing at the time. And they said, "Well, we really would like," you know -- "we want to be able to grow crops and continue farming, but we would appreciate it if you give us a buffer there," because when you're on a tractor and turning with a large plow, it is swinging, because he has to make his turns there, so we pretty much agreed how they wanted it and we sketched something up to him, and that is how we, you know, came up with the mowed area and what to do with the topsoil.

JAMES MARTIN: According to the application, you will basically be using crushed stone as your surface material?

MR. PETERSON: Yes. That would be put on the print. Like the engineer here wanted it. Our engineer, he said he would like to see 6 inches of number 2 crusher run as a base and 2 inches of number 1 crusher one and dust on top of that. And I went, took the liberty of taking a shovel and digging out there to see what is just there, and that is what was there, so he did his homework.

JAMES MARTIN: Will you be doing anything about dust control on the surface material, the crushed stone? Anything at all to control dusting?

MR. PETERSON: We haven't --

JAMES MARTIN: They do create dust. Will you oil the surface or anything of that nature?

MR. PETERSON: No. Actually I think it is illegal to put any oil on the surface now. But what we do do from -- we used to do it in the beginning every year, but it got to where we didn't have to do it until like every three years, we come and back blade it and roll it, so we don't seem to have the problem with the dust at all. You know, people -- you know, especially ladies with their high heels and so on walking out there, we just don't see them having a problem. We have no complaints at least from them, you know, having situations with their heels sinking in. So what were you thinking along the lines?

JAMES MARTIN: I know sometimes, you know, stone driveways and parking lots that are coated with crusher run type stone can develop a dust issue after a while. They do get ground down and you have wind, cars driving in and out, there could be dust created into the neighborhood nearby, and that was a concern. If you're saying you control that by doing the operations --

MR. WINGHEART: We do a lot of maintenance on it, filling holes and rerolling.

KAREN COX: You would have to if there are people walking with high heels. I can relate to that.

MR. WINGHEART: Yes.

MR. PETERSON: It just takes one complaint and you can lose them as a parishioner, so -- you know, it is all about serving people.

DARIO MARCHIONI: I don't know if you have mentioned before, how many more cars

would be parked in here versus what is there right now?

MR. PETERSON: The existing parking lot holds about 125 comfortably. Lately we have been parking bumper to bumper. Some of us are there all day long that don't have to leave -- if it was an emergency, we have people we know we could use their car and they could take us, so we have been cramming them in way at the back.

But this isn't quite twice the size, because of the 75 foot in the front. So I would say you probably could park -- if you did the whole thing, maybe 75 or 80.

DARIO MARCHIONI: More?

MR. PETERSON: Yes.

JOHN NOWICKI: I just wanted to discuss and explore a couple of areas.

The original approval on this project, I believe -- I have a letter dated October 1st, 1993; is that correct? And in that particular letter -- and again, my question here is, the application is New Creation Fellowship, but the property owner is Zuber, and we have a lease agreement here, and I'm just wondering who we should be doing business with here.

KEITH O'TOOLE: We can certainly do business with the applicant so long as the applicant at some point evidences the authority to proceed from the property owner. So a simple letter from Zuber would be sufficient.

JOHN NOWICKI: I think we would need that. And a copy of the lease.

MR. PETERSON: Would you like that as Number 6? We could get you a copy of the lease.

KEITH O'TOOLE: The lease would do it.

MR. WINGHEART: Will that suffice?

KEITH O'TOOLE: Yes.

JOHN NOWICKI: In this original approval, the Planning Board back then called for hedge planting of not to exceed 4 feet in height. Are you aware of that?

MR. PETERSON: Yes. There is actually another one since that, we also had to have a -- it was a permit that we had from year to year to renew, and that is no longer in -- the last time that we were here, that was negated.

But the hedge planting and so on, we actually in the very beginning, we were forced to plant shrubbery all of the way across and every year we had to replace it because of the salt spray from the plows in the wintertime would kill the shrubs. So all of that was on -- negated, and it was --

JOHN NOWICKI: How could that have been negated?

MR. PETERSON: It should show -- because I believe it was -- it was when we -- it was the year that we remodeled the side of the church, raised the roof and put the high peaks on it. Which should -- I think it was in 1993.

JOHN NOWICKI: Well --

MR. PETERSON: What you're saying on that --

JOHN NOWICKI: Somewhere along the line, something has to happen here. I'm looking for guidance from legal counsel or the Planning Department. Because if you just continue going on this way and we don't start to enforce or apply some kind of creativity here with landscaping so we have a decent looking corner there, you know, some kind of a stipulation or agreement, it is going to end somewhere -- we just can't keep going on like this.

MR. PETERSON: What we did is we have a little bit of a berm that is -- we have got bark on it. We have shrubs on it. But this is the first time that you're bringing it to my attention.

JOHN NOWICKI: So you're saying that you do have some areas now with low, low shrubs and pine bark and stuff like that.

MR. PETERSON: Yes. But that wasn't a rule as far as I knew. I could be corrected here, but that -- all we -- we didn't need to keep planting them shrubs from year to year. What we did was we found -- you see, they were evergreens that they actually stipulated to us in the beginning. What we have done is found a plant that would take the salt spray and so on, and that is what we have got planted there. In between that we plant just yearly flowers that die off.

JOHN NOWICKI: Now, are you just doing that on the sides or all of the way around?

MR. PETERSON: Just the fronts. The sides are mowed.

KAREN COX: That is what the letter said, something about a hedge in the front.

JOHN NOWICKI: Which letter?

KAREN COX: The one you just read. 4-foot hedge.

DARIO MARCHIONI: Do you have a copy of the conditions?

MR. PETERSON: Not that he is talking about, no.

JOHN NOWICKI: I would like to explore that with some of the Board members, how they feel about that. It doesn't sound like you're going to be going any place too soon. If you're investing the money in the parking lot, it sounds like you don't want to leave.

MR. PETERSON: If they sell it, we have to go.

JOHN NOWICKI: But you say you are talking to them about buying 4 or 5 acres.

MR. WINGHEART: We would like to be able to do that, but the odds of that are probably --

MR. PETERSON: There is nothing on paper right now.

MR. WINGHEART: It is a wish at this point.

JOHN NOWICKI: How is the lease structured? It is a month-to-month, six-month --

MR. WINGHEART: Annual lease.

JOHN NOWICKI: It is an annual lease.

MR. PETERSON: Yes. But at the sell of the property, though, we have to vacate. I think we have 30 days.

MR. WINGHEART: I think it is 30 days.

KEITH O'TOOLE: You certainly have the authority to require landscaping just as you would on any other site plan. Nothing further.

DANIEL KRESS: The only other comment I had is that it did come to our attention in the course of the review of the application that the property is not in the Drainage District, and we would ordinarily make that a condition of any approval.

JOHN NOWICKI: Okay.

DANIEL KRESS: That that petition be made to the Town Board.

JOHN HELLABY: Is that Zuber's property or the church property?

KAREN COX: Zuber owns it.

DANIEL KRESS: Mr. Zuber is the property owner. He is the one that has to make the petition.

JOHN NOWICKI: I bet he doesn't do it.

JOHN HELLABY: Not if he is going to sell it.

KAREN COX: Well, there again, you get into with the plantings, if he is the owner.

JOHN NOWICKI: That is why I brought it up.

KAREN COX: If he doesn't want major plantings on farmland, how can we make the applicant plant any trees if the actual owner of the property says, "I don't want them."

KEITH O'TOOLE: Then the applicant's problem is that he doesn't have sufficient legal authority to create the site plan.

JOHN NOWICKI: That is why I brought it up. Because I'm sitting here looking at who owns this land, and these people keep expanding, and where are we going with this. Somewhere along the line we have a code and we have a Conservation Board that says we like plantings like everybody else has to do in this Town, come in with a landscaping plan, do the right thing architecturally and so on and so forth. Well, if we don't do it here, where are we going? So we have to take a look at this thing.

With Zuber owning the land and you folks with the lease here, it puts a little bit of a kink in it. We could go ahead and put the conditions on it here. I think we have to, that you do some landscaping or go visit our Conservation Board and see if you could talk to them about low plantings and maybe just doing what you're doing and maybe a little expanded area and get Zuber to petition the Town Board to get in the Drainage District.

MR. WINGHEART: Are you suggesting we go around the perimeters?

JOHN NOWICKI: I think just in the front corners.

MR. PETERSON: But to make sure I'm on the same page here, have there been any complaints?

JOHN NOWICKI: That is not the point, whether there are complaints. It is a question of -- no, in fact, he gave you a compliment in regards to your safety tactics, but beautification is important.

MR. PETERSON: But that is what I am saying. I'm wondering if there have been

complaints that what we have done has not been adequate enough. We hoped that wouldn't happen.

MR. WINGHEART: We thought we met the original criteria.

JOHN NOWICKI: I don't have anything that proves otherwise. If something is negated, I don't have that evidence. All I have is an approval letter that says there were supposed to be 4-foot tall plantings.

MR. PETERSON: Not to exceed 4 foot so people pulling out of there could see. And actually cars are a little lower. That would probably be a little too high.

JOHN NOWICKI: So maybe what you should do is give ourselves or the Conservation Board a plan of what you intend to plant there.

KAREN COX: What is there now and what you intend to put there.

MR. PETERSON: Sure.

MR. WINGHEART: We can do that. As long as we understand what you're looking for.

DARIO MARCHIONI: Did you go before the Conservation Board at all? They meet once a month. It is something you could really deal with there.

MR. WINGHEART: Our thought was we were not affecting the front of the lot. We're actually starting this expansion back 70 feet from where we are, so we didn't see that --

DARIO MARCHIONI: They do have concerns about that.

MR. WINGHEART: I'm not saying I was right. It is just the way we were thinking.

JAMES MARTIN: It would seem logical once the snow melts, the Conservation Board can maybe do a site review with you, to determine what is there, how appropriate it is and what else should be needed, and I think that should be a condition that we impose at this point.

KAREN COX: Also, will the Conservation Board be reasonable as far as what they're asking for, since it is a leased arrangement and may be temporary?

JOHN NOWICKI: I will read what the Conservation Board is saying to the Planning Board. They reviewed -- the Conservation Board would like some more information on this project. It is a parking lot for temporary use. We know it probably is. If so, for how long. The Board would like to see some landscaping plans, preferably trees -- they're talking about trees -- for borders of parking lot to improve visual impact of this area. Again, they're requesting that. Representatives of the New Christian Fellowship are welcome to attend our next meeting to discuss this project. I think you should go. You can certainly tell them the same thing you told us.

You're going for a low profile planting. Take your plan in, show it to them and see if they will accept it.

KAREN COX: Salt tolerant. Tell them it is a temporary situation at best until you buy the land or do something else. If it continues on and you keep growing, one day along the lines, one of these boards will say stop.

MR. PETERSON: You understand, though, how we approached this was that section -- we have no -- we'll do whatever we have to, because we're at the mercy of the Board here. The existing was already taken care of. That is why I had said are there any complaints, because we wouldn't want that. We would do whatever we had to to -- so that all of the --

JOHN NOWICKI: We'll just make it a condition you go before the Conservation Board. We'll forward the comments that we have heard tonight.

MR. WINGHEART: When does that Board meet?

JOHN NOWICKI: You can set it up through Mr. Kress' office -- look at the date for the next Conservation Board and attend that on our agenda. It is usually April, the normal meeting.

MR. WINGHEART: Will that delay us from going forward? We're concerned about the safety issue, you know, with the people on the street. If we wait -- I'm not sure when the Planning Board meets.

MR. PETERSON: But you're not saying --

MR. WINGHEART: Are you saying we can't?

JOHN NOWICKI: I am not saying it.

MR. WINGHEART: I guess I'm asking a question for clarity.

JOHN NOWICKI: I will ask the other gentlemen and lady how they feel about it.

MR. WINGHEART: We're between a rock and a hard place.

JOHN NOWICKI: If you make the commitment to see the Board and bring us the other

information, lease agreement, Town engineering letter of approval, letter from Zuber, petition the Town Board for Drainage District and attend Conservation Board -- those are the conditions.

DARIO MARCHIONI: I would like another condition, if I may. Just in case -- well, we wish you luck, that you would buy this property. I wish this would come back in front of us so we could really look at this as a more permanent application. Do you see what I am trying to get at? Let's say you buy this property. We would really like to look at it.

MR. WINGHEART: If we bought it, it would be a different issue. We understand.

DARIO MARCHIONI: We would like a chance to review this again so you would have something more adaptable to the location.

MR. WINGHEART: But you're not suggesting we do that unless we buy the property?

DARIO MARCHIONI: Yes. As a condition, if you do buy it, we would like to look at it.

JOHN NOWICKI: What is your condition, then?

MR. WINGHEART: I understand.

MR. PETERSON: I got it, too.

KAREN COX: Can we do that, or is that a request?

JOHN HELLABY: If they were to buy the property, they would have to come back for subdivision anyhow. That would be one way to look at it there.

DARIO MARCHIONI: Okay. That is fine.

JAMES MARTIN: Just one more question. When you do the cut for the parking lot expansion and remove the topsoil, the topsoil will remain on Zuber's property. How far away from the existing parking lot area is that topsoil going to be trucked or carried or whatever. Will it end up on a pile very visible from the road, or will it go back on the farther end of Zuber's property?

MR. PETERSON: It will be put on the final print. But your question, to answer, on your print that you have in front of you, it is at the north -- north is at the top. So it is along the bottom here of the parking lot, on your print.

MR. WINGHEART: Right across the back.

MR. PETERSON: That is the furthest away from the road, so it doesn't have anything you would be able to see.

JOHN NOWICKI: Spread there.

MR. PETERSON: Spread there -- right now it is there.

MR. WINGHEART: On both sides.

JAMES MARTIN: You will not make a big pile there?

MR. PETERSON: I'm sorry. You probably didn't hear me in the beginning. Victor Zuber wants us to be able to mow that with a riding lawn mower, so it can't --

KAREN COX: It has to be one on three or flatter.

MR. PETERSON: The company that we hire that keeps the grass mowed, they mow that every week, and sometimes, you know, during the wet season, it is twice a week.

JOHN NOWICKI: You have seen the engineer's letter, Mr. Larry Nissen's letter?

MR. WINGHEART: Yes.

JOHN NOWICKI: Those are the things that have to be taken care of.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

SAM POLIZZI

MR. POLIZZI: Sam Polizzi. I live right next door to the church. My concern is the noise on Sunday morning. It is like incredible. I mean as far as car doors slamming. You can hear people walking and whatever and it gets pretty loud at times. Obviously if there are going to be more cars in front of our house -- part of the parking lot will be directly in front of the house. There will be a lot of noise. If there is something we can do with that, I don't have a problem with the parking lot being there. It is better than being on the street, but the noise is pretty tough.

JOHN NOWICKI: No boom boxes, though, right?

MR. POLIZZI: No. No. But it gets loud. And they do have their functions, and, you know -- and that is all fine. But the noise is a little much. I'm kind of concerned with that.

JOHN NOWICKI: Okay. Thank you.

DARIO MARCHIONI: Any chance we can post some sort of a sign saying keep the noise down? How could you handle something like that?

MR. WINGHEART: We could do a general announcement type thing.

DARIO MARCHIONI: I would appreciate that.

MR. PETERSON: You know, I never realized. I'm really sorry, Sam (Polizzi). I mean, I thought our doors were open and you could come over and let us know. I'm sorry that it came to this.

MR. POLIZZI: It is not a problem. I don't have a problem with the parking lot going there. It is a great idea. Just the noise gets -- the car doors slamming. I mean it just echoes.

MR. PETERSON: I had no idea. I'm sorry.

MR. POLIZZI: It is all right. It is not a problem. We'll work it out.

JOHN NOWICKI: Generally it is one day a week, on Sunday?

MR. POLIZZI: Yes, pretty much Sunday morning is pretty much the tough time.

DARIO MARCHIONI: You can communicate with each other --

MR. WINGHEART: We'll address that. Not a problem. We're here to make things better, not worse.

John Nowicki made a motion to declare the Board lead agency as far as SEQR, found this to be an unlisted action and made a determination of no significant environmental impact, and the Board all voted yes on the motion.

John Nowicki asked how the Board felt about waiving final. The Board indicated they had no problems with that.

John Nowicki reviewed the proposed conditions with the Planning Board.

MR. PETERSON: The lease agreement and letter of approval, is that one in the same?

JOHN NOWICKI: The lease agreement and the letter from Zuber --

KEITH O'TOOLE: We don't need the letter, as long as we have the lease.

JOHN NOWICKI: Okay. We'll take the letter out.

DECISION: Unanimously approved by a vote of 5 yes with the following conditions:

1. Provide the Planning Board with a copy of the lease agreement.
2. Pending approval of the Town Engineer.
3. Petition the Town Board, through the Town Clerk's Office, to include this parcel in the Chili Consolidated Drainage District. This is to be done within 30 days of the date of this letter.
4. Appear before the Chili Conservation Board to discuss landscaping issues.

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

INFORMAL:

1. Providence Housing Development Corp., 1150 Buffalo Road, Rochester, New York 14624 for revised final site plan and resubdivision approval previously granted on January 14, 2003 for a 50-unit senior apartment building at property located at 49 Union Square Boulevard in R.M. zone.

Gary Smith was present to represent the application along with Roger Brandt.

MR. BRANDT: My name is Roger Brandt. Good evening, everyone.

JOHN NOWICKI: Good evening, Mr. Brandt.

MR. BRANDT: This project has become like an old friend.

DARIO MARCHIONI: We just like to see you every month.

MR. BRANDT: That's great. Nice to be here.

JOHN NOWICKI: Well, we like your money, too.

MR. BRANDT: I tell you what, in January we received renewal of final site plan and resubdivision, thought that everything was all set. Subsequent to that meeting for this project, we have been approached by a real estate developer who is very interested in some of the lands adjacent to this property. He is very interested in a residential project, residential housing project. So we started discussions and turned out that the parcel he is very interested is immediately adjacent to Union Park, where Union Park is planned, which is right there (indicating), right across from Westwood Commons, but he would only be interested if he could get 500 feet of width between where the nursing home owns their site and the edge of Union Park.

So we said, "Oh, we just came back from Planning Board and are all set to go." So we started discussions and working with our engineers, Parrone -- with me tonight is Gary Smith from D.J. Parrone Associates.

We have gone through several iterations, and we have finally came up with something that is very acceptable to him. He is working on it. He will be in to see the Town shortly, I believe, and the reason I'm here tonight is because our site has changed ever so slightly. What we have done is shrunk the site just a little bit. We are at 3.6 acres roughly and now we're at 3.4.

Gary (Smith), why don't you show them how we changed a little bit.

MR. SMITH: Basically what we end up doing is shifting this property line (indicating) over in this direction (indicating) and shifting this property line out here (indicating), and the building was more or less moved about 10 feet. The building is the same size, the same orientation basically as the last approval.

MR. BRANDT: This is how it was originally, like this (indicating). And then in January we moved it like this (indicating) a little bit and started shifting around, trying to make it work so at least we would have the potential for working with this other developer to develop some housing.

JOHN NOWICKI: This change here is impacting Maggie Bringewatt's project there.

MR. BRANDT: Yes.

JOHN NOWICKI: She is aware of that.

MR. BRANDT: Yes, I'm sorry. Maggie (Bringewatt) had to be in another Town tonight, so I'm being the mouthpiece for her.

JOHN NOWICKI: Okay. Thank you.

MR. BRANDT: So really the only thing, it is really a slight shift in the project, property lines, but there is really no other change to report on. The project will be submitted next Friday for its last go-around with the State, and we have taken some steps, making it more efficient. We're at 50 units, versus we were at 61. It was almost 5 acres; now it is 3.4. We have tried to make it as efficient as possible. And previously approved plans work for this project; however, this provides us another opportunity perhaps for a project at Union Square.

Just a quick update with regard to the Union Street connection. Our engineers have been meeting with the State. They have submitted some plans to the State to show how our project -- I say "our project." The Union Street improvements will mesh with their planned improvements. As you know, there is a plan for spring of 2004. Our plan is to do this before then. We would like to get these -- as soon as we can get some approval and our funding sources appear to be in line, but we're waiting for final confirmation.

So I would be happy to answer any questions you may have on this modification.

KAREN COX: Do you mind if I ask who the new -- the builder is that you have been working with?

MR. BRANDT: I asked him, and he said he'd rather not yet, just because -- it's a reputable builder who is a recognizable name. I think he has been in to talk to a couple people here in the Town, but he asked that I not announce it in a public forum, otherwise I would.

DARIO MARCHIONI: We'll find out anyways.

MR. BRANDT: Hopefully, he will be here very shortly.

KAREN COX: I don't know if the Board has figured out what I am fishing for, but it is more just a concern about what has happened in at least two other subdivisions where the developer came in and then sold the property to Ryan Homes. So that was more why I was fishing for that. I will just have to be patient.

That was all I had.

JOHN HELLABY: Parking layout and everything else is the same, lighting?

MR. BRANDT: Right.

JOHN HELLABY: Still can get around all four sides without too much trouble?

MR. BRANDT: Correct.

JOHN HELLABY: Keeping the print shops in business?

MR. BRANDT: Yes, we are.

JAMES MARTIN: When you were in here a short time ago with the revisions, there were several conditions that were applied that night, and I just want to be sure that all those conditions are continued to be met, particularly the Fire Marshal and access and those accesses off Union Street. Those are the only types of things I had.

DARIO MARCHIONI: Roger (Brandt), you said the reason you do this is so you could lay out a subdivision for single-family homes you said?

MR. BRANDT: Multi-family.

DARIO MARCHIONI: Multi-family, meaning -- okay.

MR. BRANDT: Not single-family.

DARIO MARCHIONI: Okay.

JAMES MARTIN: You said residential.

MR. BRANDT: Right.

JAMES MARTIN: Multi-family. He said residential before. I didn't hear multi-family.

KAREN COX: I didn't either.

MR. BRANDT: I may not have said multi-family. It won't be single-family homes. It won't be, if everything falls in place. If this person, this development company goes away, that is all right, because it is probably laid out better for something in the future, for what we're doing here with changing the shape of this.

DARIO MARCHIONI: You need the width there. That is basically it.

MR. BRANDT: Right.

JOHN NOWICKI: Are you familiar, or are you aware of the letter from Larry Nissen, our Town Engineer? You were able to address those concerns, are you?

MR. SMITH: Yes.

JOHN NOWICKI: Mr. Nissen, just a question on your letter. Is this something new, Number 2, in the area of disturbed surfaces exceeding one area in acre?

LARRY NISSEN: Yes.

JOHN NOWICKI: When did this pop up?

LARRY NISSEN: New Phase 2, storm water regulations went into effect January 8th of this year.

JOHN NOWICKI: Can you give us an overview what this means, or what are we getting ourselves into here? It is a storm water permit application, another step for them?

LARRY NISSEN: It is kind of complicated. There are two new permits. GP-201 is for construction practices. The Town is required to insure that for development of certain sizes, that erosion control and sediment control devices are installed per -- and there are new guidelines.

Also, there are also new storm water requirements with regard to discharges and water quality, those sorts of things.

JOHN NOWICKI: So far, what you have said, it all sounds good. Better for the environment, better for the community.

LARRY NISSEN: The State has picked up on Federal Clean Water Act.

MR. BRANDT: This has taken a lot of the existing regulation and just made them a little tighter.

LARRY NISSEN: Yes. Actually, we were under GP09306, which was the old state SPEDIES permit. And these are a little more rigorous.

Basically -- previously a developer was required to file a Notice of Intent if the area in

disturbance was greater than 5 acres in size, and now it is 1 acre.

KAREN COX: It will affect quite a few of our applications. I can put some information in everybody's mailbox because I'm dealing with it on two of my projects right now.

LARRY NISSEN: In addition to this, the Town is in the regulated MS-4, which means they regulate and maintain their own storm sewer system and there are additional requirements there, by the Town.

KAREN COX: But they have until 2000 --

LARRY NISSEN: 2008 to implement everything fully.

JOHN NOWICKI: I assume there is a dollar value attached to these changes, or improvements, or upgrades, whatever we have to do?

LARRY NISSEN: I think there will be some additional effort that will need to be made, yes.

JOHN NOWICKI: We're not calling these another mandate, are we? Only kidding. Only kidding.

KAREN COX: Not only do the developers and the municipalities doing construction have to install the erosion control measures, but they have to be inspected on a weekly basis and there has to be documentation that they were inspected. So theoretically, you should no longer see silt fence lying down on the ground and -- with silt flowing over it into Black Creek.

JAMES MARTIN: They're subject to fines.

DARIO MARCHIONI: Does this mean single lots, too? Like if you have a 5-acre residential home?

LARRY NISSEN: Yes, it could be affected. Actually any disturbance greater than 1 acre.

JOHN NOWICKI: That is why when I saw that, I said it would be interesting to watch this one come down the pike.

KAREN COX: There will be some unhappy people, but there will be some happy people, too.

MR. SMITH: Engineers.

KAREN COX: Chi-ching. Chi-ching.

JOHN NOWICKI: The only condition I can see at this point is the letter -- Town Engineer. Want condition on that?

LARRY NISSEN: Engineer's approval would be fine.

DARIO MARCHIONI: I wonder who lobbied for this.

KAREN COX: It has been in the Clean Water Act for a long time.

JOHN NOWICKI: I don't think we have to do SEQR on this one, do we, Mr. O'Toole?

KEITH O'TOOLE: No.

JOHN NOWICKI: No. It is a major modification. I will go to the audience quickly. I don't think we need to open this up, but if there is a question.

STEVE GINOVSKY, 19 Hubbard Drive

MR. GINOVSKY: We were just here a month ago on or about January, and I'm still quite concerned about this Union Street situation.

JOHN NOWICKI: Let's not get off the subject.

MR. GINOVSKY: I'm not off the subject.

JOHN NOWICKI: Just the application, sir.

MR. GINOVSKY: On the application with the 50 unit. Part of the consideration was for the other entrance off Union Street, and I'm still --

JOHN NOWICKI: It has been discussed. It is on the record what is going to happen. If you have nothing new to add, I will ask you to sit down.

MR. GINOVSKY: I didn't finish, sir.

DARIO MARCHIONI: It is actually informal.

MR. GINOVSKY: That is correct, it is for final approval.

JOHN NOWICKI: It is just modification to the property lines.

MR. GINOVSKY: For the 50 unit, and the consideration that was put on it the last time. Also, it has been brought out again, that property is going to be sold possibly -- possibly sold for a multi-residential property.

JOHN NOWICKI: It has nothing to do with the application, Mr. Ginovsky.

MR. GINOVSKY: Presently at Churchville-Chili we happen to be \$1.4 million in the hole and that is being discussed this evening at the school, and this is falling right through on the same thing.

JOHN NOWICKI: You can take that up with the School District. That is all of the questions we'll take. Thank you very much.

I would like to present this to the Board.

I will not take any more questions. It is an informal application. It has already been discussed. I will not get into a nightmare on this thing. I'm sorry.

MR. RETTIG: I'm not intending to do that. He brought a point up and I would like to ask a question.

JOHN NOWICKI: I will take the question, and then I will see what the question is. I will let you go that far.

MR. RETTIG: Okay. Mr. Brandt brought up the point.

JOHN NOWICKI: Your name and address, please.

CHARLES RETTIG, 1032 Coldwater Road

MR. RETTIG: Charles Rettig, 1032 Coldwater Road. Mr. Brandt brought up the question -- made the comment that the Union Square connection with Union Street was being discussed with New York State D.O.T. with -- meeting. Can he expound on how he is coordinating that and how it would be coordinated?

JOHN NOWICKI: He can talk to you after this meeting, if you would prefer. I would rather have him talk to you after the meeting on that. Would you do that?

MR. BRANDT: Sure.

JOHN NOWICKI: Would you be willing to stick around?

MR. RETTIG: Sure.

JOHN NOWICKI: We'll go to the Board now --

MRS. BRIXNER: Excuse me. I just wanted to ask a simple question.

JOHN NOWICKI: Okay.

IRENE BRIXNER, 14 Hartom Road

MS. BRIXNER: How many acres of land is this going to be on?

MR. BRANDT: 3.4 acres.

MS. BRIXNER: It was changed from?

MR. BRANDT: Actually, the last one was 3.6.

JOHN NOWICKI: 3.6 to 3.4.

MS. BRIXNER: Okay.

JOHN NOWICKI: Like two-tenths.

MS. BRIXNER: Okay. Thank you.

DECISION: Unanimously approved by a vote of 5 yes with the following condition:

1. Pending approval of the Town Engineer.

OLD BUSINESS:

1. Application of Omni Point Communications, 1425 Jefferson Road, Rochester, New York 14623 for conditional use permit and preliminary site plan approval to co-locate telecommunications system on existing tower at property located at 60 Golden Road in R-1-20 zone.

Robert Huggard with OmniPoint Communications was present to represent the application.

MR. HUGGARD: Good evening. Back on.

JOHN NOWICKI: Excuse me, Bob?

MR. HUGGARD: Huggard, yes. H-u-g-g-a-r-d.

Back in December 10th we came in front of the Planning Board for preliminary site plan approval and exemption of final. Several issues were brought up in regard to the compliance of the Sprint tower and the landscaping and the propane tank enclosures. Since then the issues that were brought up with the non-compliance points brought up I believe have been met to the Town's approval thus far. And we were brought back here on the agenda to go over those issues and to make sure that they were complied and met to the Planning Board's approval.

If you would go through them one at a time, the first issue that was brought up was the landscaping and the -- I guess the mitigation of the landscaping that was installed by Sprint at the location. What was asked of us was to do a full survey of the compound area and what landscaping was there. In your plans, the revised plans, on page C-1 is that survey, which depicts all of the pine trees that were installed. A meeting at the site noticed that there were two trees that had since died and it has been agreed by Sprint and ourselves to be replaced when the thaw comes in the spring.

Probably the most important issue that was brought up was the propane tank enclosures for bullet-proofing.

JOHN NOWICKI: I will ask you to hold up for a second. The letter -- Dan Kress. In regards to that landscaping, he mentioned the Golden Road site.

MR. HUGGARD: Correct.

JOHN NOWICKI: There were dead trees there?

MR. HUGGARD: Yes. Two, if I'm not mistaken, at that location.

JOHN NOWICKI: Something about the Union Station Subdivision.

MR. HUGGARD: No, no.

JOHN NOWICKI: Just the Golden Road site?

DANIEL KRESS: Well, obviously the application in front of us tonight has to do with Golden Road. I did actually make a survey of all of the various Sprint cellular sites in the Town, mainly for purposes of confirming the propane tank shielding was finally in place, which it is, but also to survey landscaping issues. There are in addition to some dead vegetation at -- dead trees at Golden Road. There are also four or five dead trees at the Union Station tower site that need to be taken care of at some point.

JOHN NOWICKI: Okay. I assume that is something that we're going to be directing to Sprint?

DANIEL KRESS: That would be correct.

JOHN NOWICKI: We're going to call them in here so I get a shot at them next month.

DANIEL KRESS: Well, I can't compel them to appear. I can certainly make it clear to them that every time we have an application for collocation, this is going to be an issue.

JOHN NOWICKI: Well, we better find some way to get these guys to straighten up and pay attention. It is getting a little tiresome to hear all this stuff. Every time we get together with the folks, we're having problems getting the maintenance done on these projects. I'm not taking it out on you.

MR. HUGGARD: This was brought up in December. Since then I gave you the direct number to Wendy Wainmar (phonetic), who is the dispatcher for landscaping and maintenance for the sites. If you call Wendy enough, she will --

KAREN COX: I mean, it is not fair for the applicants who come in to collocate because we're hammering them for transgressions that, you know, they have nothing to do with, really.

JOHN NOWICKI: Okay. I'm sorry.

MR. HUGGARD: That is quite all right.

The third major issue happened to be the gate installation, and we have agreed to install a locked gate at the beginning of the access road to the Sprint site and that is reflective on page C-3 of the revised plans.

JOHN NOWICKI: Our Town Engineer has these drawings; have you taken a look at those, Larry (Nissen)?

LARRY NISSEN: Yes.

MR. HUGGARD: Bottom left.

KAREN COX: That hasn't happened, yet.

MR. HUGGARD: No. We don't have a building permit yet.

JOHN NOWICKI: You have that letter dated December 11th, '02 with the conditions from the

Planning Board?

MR. HUGGARD: Yes.

JOHN NOWICKI: Would you just go through those six and just verify the activity that has gone on to negate those and taken care of them, one way or another?

MR. HUGGARD: Yes. Well, applicant to illustrate as-built on plans. I was kind of confused what that was actually for. These are all proposed with any modifications that you would supply us. I think that had more to do with the propane enclosures that have been installed at all of the Chili sites.

JOHN NOWICKI: Have we resolved that issue on the propane tanks on these sites for enclosure?

DANIEL KRESS: There is now shielding in place at all of the sites.

JOHN NOWICKI: Correct. Thank you. That is good. Thank you.

MR. HUGGARD: The proposed plans were lacking in detail the site modifications. That was related to the survey with the landscaping, more detail of the landscaping brush around the area, what was there, what is not there.

JOHN NOWICKI: So we have that on the new drawings. We're all set there. Okay. Thank you.

MR. HUGGARD: The gate access, Number 3, that is reflective on C-3.

The screening of the propane tanks.

JOHN NOWICKI: That is done.

MR. HUGGARD: Previous landscaping, again, that was the survey and was done on the field site by Mr. Kress. And it will be dealt with through Mike Jones and Wendy Wainmar (phonetic) of Sprint.

JOHN NOWICKI: Mr. Kress, are you comfortable with that?

DANIEL KRESS: Yes, sir.

MR. HUGGARD: The last one, "Applicant provide copies of correspondences with Sprint." While the installations were being done and provoking Sprint to get them done, they have been submitted. I gave that as a package.

JOHN NOWICKI: So what you're saying is you have done your homework?

MR. HUGGARD: I try to.

JOHN NOWICKI: Can I say that in all honesty they have done their homework?

DANIEL KRESS: I believe a good faith effort to comply has been made, yes.

MR. HUGGARD: If there are any other problems -- there are cases we work with from Sprint on a daily basis. If you or Mr. Kress find trouble getting a hold of them, you can call me and I will see what I can do.

KAREN COX: You have done your homework on this. That is nice.

JOHN HELLABY: The only question I have is for Counsel. I got a little sidetracked before the meeting. I meant to ask you earlier, I had been abstaining from all these applications. Should I continue to do so?

KEITH O'TOOLE: Yes.

JOHN NOWICKI: You can stay there. You can sit there.

JAMES MARTIN: I don't have anything too exciting. As far as the plantings go, you know, I'm sure that Dan (Kress) or somebody will go back out and inspect. Is there any timeline when that will actually happen?

JOHN NOWICKI: Can I just -- we had Mr. Charles Robinson from the Conservation Board was here earlier this evening, but he had to leave because his wife was ill. He did request that the Board consider somehow getting a Conservation Board review to be part of our approval. They would like to see -- I will read this.

"Before any collocations are allowed at site, the Conservation Board requests that the site be cleaned and all dead plantings be replaced. Again, this type of maintenance should be done twice a year. Present condition of property is extremely poor."

MR. HUGGARD: This is not our property to maintain.

JOHN NOWICKI: Conservation Board is still not happy with the condition of that site.

KEITH O'TOOLE: The general rule, Mr. Chairman, is before you ask for a new permit, you have to comply with your old permits. So, in fact, it is the tenant's misfortune that the property owner

hasn't done what they're supposed to do. Until the property owner does, we should not be moving forward on this permit or, in alternative, make those conditions conditions of this permit, double stack them.

JOHN NOWICKI: We'll have to do that.

KEITH O'TOOLE: It is all part of the same site. This is really an amended site plan.

JOHN NOWICKI: So we'll just stack them. We'll give approval on that basis. We'll have pressure from two sides --

KEITH O'TOOLE: Yes.

JOHN NOWICKI: -- to get it done. Okay. Thank you very much.

DARIO MARCHIONI: I don't have very much, but isn't there a system like these conditions are not met, then, an appearance ticket could be issued to the property owners for compliance?

KEITH O'TOOLE: It has been known to happen.

DARIO MARCHIONI: Just a question. I mean, you know, this battle back and forth, rather than just an easier way to --

DANIEL KRESS: Ordinarily we prefer to try to find less adversarial approaches first. If those fail, yes, we can certainly go the appearance and Town Court route.

DARIO MARCHIONI: Because that has been effective, I have heard.

JOHN NOWICKI: Poor Bob (Huggard) says, "I'm getting beat up again tonight."

DANIEL KRESS: But that would not be the case here.

JAMES MARTIN: Can we send the CEO of Sprint to jail?

(Laughter.)

MR. HUGGARD: All we have to do is look at a second set of books and that will happen anyway.

(Laughter.)

MR. HUGGARD: We'll be seeking a certificate of compliance once our obligation is compliant. If Sprint hasn't met their compliance issues with the Conservation Board or Planning Board or to Mr. Kress' satisfaction, we can't get a certificate of compliance and that is a requirement for all of our installation. So again, we can then come back to Sprint and scream bloody murder, you know, as we move along.

KAREN COX: I think the applicant has made a real good faith effort considering the laundry list we gave him in December.

JOHN NOWICKI: Well, I think that in stacking -- we'll look for some guidance on the stacking theory so we get these conditions on there correctly, on this approval. Is that fair enough?

KEITH O'TOOLE: Yes.

JOHN NOWICKI: The conditional use permit, there are two votes here. One on the conditional use permit, for this, and then for preliminary site plan. I assume you want to waive final subject to conditions?

MR. HUGGARD: Correct.

JOHN NOWICKI: The conditional use permit, what length of time --

DARIO MARCHIONI: Two years.

JOHN NOWICKI: Two years. Okay. So we'll vote for two years on the conditional use.

KAREN COX: We'll take --

JOHN NOWICKI: The same conditions will apply on conditional use as on the final site plan approval, too?

MR. HUGGARD: I'm sorry.

JOHN NOWICKI: The conditions that we'll impose on it will be on both cases, correct?

KEITH O'TOOLE: Yes.

JOHN NOWICKI: So on the conditional use, with the previous conditions and the stacked conditions with regard to maintenance and landscaping.

KEITH O'TOOLE: To clarify, we're saying they have to comply with the old conditions that pertain to the site as it was supposed to be built, and along with the new conditions, incorporating these modifications. So they have to clean up the old violations and then comply with the current ones.

JOHN NOWICKI: Okay. You got that, Mr. Kress?

DANIEL KRESS: Yes, sir. And the only thing I might also suggest is perhaps it would be a

good idea to establish some specific deadline in the spring by which the replacement of all dead vegetation can be taken place. I would like to think by May or June we may finally see the end of winter.

JOHN NOWICKI: June 1st.

MR. HUGGARD: This is part of the stacking, because we can control or have something to say about this site. There are three other sites that are out of my hands.

KEITH O'TOOLE: We're just talking about this one.

MR. HUGGARD: All right.

JOHN NOWICKI: June 1st. Got to be done.

MR. HUGGARD: What can I relate to Mike Jones or Larry Calendar (phonetic), their director, as far as what they need to do in dealing with the Town?

JOHN NOWICKI: On their other sites?

MR. HUGGARD: They have to come in and get themselves on the agenda to be --

JOHN NOWICKI: As quickly as possible before our Director of Planning takes other action.

DARIO MARCHIONI: We talked about the appearance ticket. We talked about it.

JOHN NOWICKI: Because we're getting a little tired of it, to be honest.

MR. HUGGARD: You're tired.

JOHN NOWICKI: So on the conditional use, we'll vote for that, two years.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

KAREN AND FRED TROTT, 101 Golden Road

MRS. TROTT: Our concerns aren't with the landscaping; ours are with the safety gate.

JOHN NOWICKI: Out by the road?

MRS. TROTT: Yes.

JOHN NOWICKI: Have you seen the drawing?

MRS. TROTT: I did see the bar up there. We did see it up there. But I have a couple of questions.

One, I just want to confirm that it -- that Omni would be responsible for installing the gate; is that correct?

MR. HUGGARD: No. Our plans, our modifications and our agreement to put the gate in.

MRS. TROTT: When will the gate be installed?

MR. HUGGARD: The same time as we start construction. We'll be submitting for the building permit. Then we get general contractors out. We bid it out. Award the bid. So it is still a few months down the road.

MRS. TROTT: It is possible -- I will ask this to the Board if I can. I'm just going to express our concern. Again, this falls back to Sprint because the cell tower was installed in 1997, and unfortunately, we weren't contacted or anything by Sprint. We were unable to attend the meetings because we had serious medical issues we were dealing with with our son, but regardless of that, our concern that we have been dealing with -- that I just want to share over the last couple of years are kids, people driving in and partying there. We have called 911 I don't know how many times. There have been drug arrests there. I have been out bike riding with my kids in October, and cars are, you know -- as a matter of fact, there were three cars that pulled out with young girls in them, I don't know what they were doing, but there are safety concerns all over with our young children riding bikes, with kids who are partying and doing what have you there.

We even had an incident today when my husband got home from work at quarter to 4, there was a car that was parked there. A young couple that was hanging out.

JOHN NOWICKI: Are they driving right up into the road?

MR. TROTT: Right to the back of the cell tower.

MRS. TROTT: As a matter of fact, I had a sheriff's deputy come to our house last year in December asking me questions, if I heard anything, because there was a Sprint person who went there and there was damage done. Apparently they were trying to cut through the barbed wire. Tons of beer cans all over the place. Asking me when I thought it happened. We don't hear as much because our windows are closed in the summer. I let him know we had made numerous requests to 911, please

check the police reports.

And again, I expressed my concern to him. Over the years we have spoken with Sprint, and oh, yes, you know, we'll get the gate. We realize now with the cell towers now it is required that they have the gate.

JOHN NOWICKI: There is no gate there now?

MRS. TROTT: No gate.

JOHN NOWICKI: Just a second. Mr. Nissen, on the drawings we have before us, in your opinion, is this gate going to prevent people from getting into that site or can they get around this gate?

LARRY NISSEN: I was just going to ask that same question. This gate that is proposed is 12 feet wide, as well.

MR. HUGGARD: Correct. The width of the access road.

JOHN NOWICKI: What is on either side of the posts?

MR. TROTT: How far back is it?

JOHN NOWICKI: Let me finish here a second. Is it two columns in the ground, concreted in with a bar?

LARRY NISSEN: It looks like a pretty substantial gate.

MR. HUGGARD: Cattle gate. You won't drive over it.

JOHN NOWICKI: Can you drive around the posts that are anchored in the ground? Can they drive cars around it?

MR. HUGGARD: I could not answer that question for you.

KAREN COX: If that is the case --

LARRY NISSEN: It is difficult to tell from the map whether or not that is possible.

MR. CUTRI: Russ Cutri, with T Mobile, or OmniPoint. I can answer a lot of these questions.

MR. TROTT: Fred Trott, 101 Golden Road.

How far set back are you going to be? They can't get from our side of the road, which is the north side of the road. They won't be able to access it. But on the south side of the drive, there is a chance if they have it set back too far, they could drive around it. And I'm trying to figure out if you have it marked there as 35 feet?

JOHN NOWICKI: Take a look at it and make sure --

DARIO MARCHIONI: Why don't we make it a condition subject to engineer's approval regarding these issues that came out.

JAMES MARTIN: Total ingress and egress not be permitted.

MR. TROTT: If it is less than a car length back, let me put it that way, you would be all right, but any more, they could drive around it.

MRS. TROTT: Then we would be defeating the whole purpose.

MR. TROTT: My thing is if you have it within, you know, the right-of-way, just at the right-of-way, I think you would be all right, because there is a berm there. There is a small berm there where the farmer's lot is. If you had to go back any further, it is an open field.

KAREN COX: If it were closer to Golden Road, say within the Town highway right-of-way.

MR. TROTT: Yes. I don't know what that exact measurement is. Like 17 1/2 feet or something.

JOHN NOWICKI: Dario Marchioni might have a good point. Installation of the gate subject to engineer's approval by going out in the field and actually establishing where that gate is going to go to protect anybody from getting into that site.

JAMES MARTIN: Any unauthorized vehicles.

JOHN NOWICKI: Unauthorized. You need a key to get to the --

MR. HUGGARD: It is a combination lock.

LARRY NISSEN: I'm hesitant to take on that responsibility. It is the responsibility of the applicant and their engineer to provide us with something that meets --

DARIO MARCHIONI: We'll make it that they have to provide you --

LARRY NISSEN: If somebody can for some reason in the future can get around it, it will be our responsibility.

DARIO MARCHIONI: Well, engineer's approval on the site plan.

JOHN NOWICKI: On the drawing, to make sure that --

LARRY NISSEN: Oh, absolutely I would do that.

DARIO MARCHIONI: We don't want you to bear the shovel.

LARRY NISSEN: I'm saying that we should require the applicant and their engineer to provide us with a mechanism that allows people access to the site, vehicular to the site.

KAREN COX: That disallows unauthorized vehicle access.

LARRY NISSEN: I'm sorry.

KAREN COX: They need to provide --

LARRY NISSEN: That does not allow vehicular --

KAREN COX: Most of the people drive in there?

MRS. TROTT: Yes, yes, yes.

MR. TROTT: The main problem, we have young children -- my house is an old farm house. There is an existing AKA, used to be turkey farm, turkey coop. My kids are playing within 25 feet of this roadway. So my concern is that you have kids that are partying there, let's be frank, they're partying, well, hey, let's throw a bomb over here or a Molotov cocktail, let's burn that place down.

KAREN COX: Break in.

MRS. TROTT: Or whatever.

MR. TROTT: It is too much. It is very violent once they're down there. They are down at the cell tower.

MRS. TROTT: They're drinking. There is evidence.

MR. TROTT: That was my questioning about the landscaping, will they pick up the beer bottles?

JOHN NOWICKI: What we'll do is we'll establish the gate location. The applicant will give our engineer a design that will prevent entry and prevent getting around that gate based on the topography and what is there.

MR. HUGGARD: Our engineers will go out there, again, minor little survey, and we'll see how far off the street into the access road that the gate can go to prevent people coming off Golden Road into the access there.

LARRY NISSEN: That would be helpful.

MR. HUGGARD: It would just be a change to what is shown on the plans, how far back to scale it is going, and it will be done -- if it is a certified letter, but the engineer, describing how far off Golden Road.

MR. NISSEN: It can be certified on the plans. I don't need a separate certified letter.

MR. HUGGARD: Just a separate page showing?

LARRY NISSEN: Actually they can revise --

MR. HUGGARD: Just changing it. They have to bring it in 10 feet, 5 feet, just change that sheet?

LARRY NISSEN: Yes. The gate may need to be a little wider. Not sure. We'll ask your engineer to determine that for us.

MR. HUGGARD: We'll get that done this week, hopefully.

MRS. TROTT: I'm sorry. One more quick question. Is it possible to ask for a completion date on the gate? I know you mention --

JOHN NOWICKI: I will address that now. What I would like to have happen, in your critical path of the project, the number one priority is on the gate. So that the gate is the first thing to be built on the site.

MR. HUGGARD: It would be the first thing to be built as they start the trenching for the utilities. One, we have very valuable equipment at the site.

JOHN NOWICKI: So that would be the priority. We want to see a critical path that outlines gate will be the first object to be installed.

MR. HUGGARD: It will be done as a matter of course.

MR. TROTT: Another question. When you say that you're going to have conditional use permit to be renewed every two years, how does that go? Do they have to come to the Planning Board?

JOHN NOWICKI: They have to come back before the Board at the end of two years to review all of the conditions placed on these projects and they have to verify to us, and our people expect it, too, that all of this has been complied with and it is being maintained and upgraded.

KAREN COX: They will know that.

JOHN NOWICKI: They live next-door to the place.

MRS. TROTT: Tonight, there wasn't a sign posted for today's meeting.

JOHN NOWICKI: This is old business. It is under old business.

MR. TROTT: So?

MRS. TROTT: Oh, there wouldn't be a sign posted at the site.

JOHN NOWICKI: This is already approved --

MR. TROTT: Well, my question is if Sprint has been on a conditional use permit every two years, how come they haven't been to the Board in two years?

JOHN NOWICKI: I don't know what the conditions were on Sprint.

DARIO MARCHIONI: He is correct.

MR. TROTT: I thought I was, because I thought when they went to put the generators in --

JOHN NOWICKI: The new guy on the block, Dan Kress -- how long you been here, what, six months? He is catching the brunt of everything. Be a little gentle on him. We had situations before where we didn't have quite the handle on the thing, but we have a handle now.

MR. TROTT: Sprint will also have to come to the Planning Board?

JOHN NOWICKI: Absolutely.

MR. TROTT: We would be notified by mail?

MR. HUGGARD: They will like that.

JOHN NOWICKI: Just a phone call to, you know, say hey -- just like calling your Congressman and Senator.

MR. TROTT: I'm just wondering now, are you going to be able to force them to come to your Planning Board to address these issues?

JOHN NOWICKI: Yes.

MR. TROTT: Okay.

JOHN NOWICKI: That is why we have legal counsel.

MR. TROTT: Okay.

KAREN COX: And appearance tickets.

JOHN NOWICKI: Right, Mr. O'Toole?

KEITH O'TOOLE: Yes, sir.

WILLIAM WILCOX, Stuart Road

MR. WILCOX: Now -- I don't know about this tower, but the tower there at -- by the Town park, on the Town park by Union Street, there is an awful roar coming from that building. Isn't there some way that --

JOHN NOWICKI: A roar?

MR. WILCOX: Yes. You can hear it from -- well, from this wall, to you. You get that close to it, you can start hearing it. Is there some way they can put it around the outside to stop that roar?

JOHN NOWICKI: I never -- I don't know. What roar?

MR. WILCOX: It is a buzz.

MR. CUTRI: It could be -- I don't know what is out there. If it is Verizon or Nextel --

MR. WILCOX: I don't know if it is Sprint.

MR. HUGGARD: Some carrier's equipment requires full enclosure in a shelter and it needs to be air conditioned, so there are air-conditioning units. I don't know. Our equipment is exterior, self-contained and we don't require any air-conditioning units, so we're good on that end.

JOHN NOWICKI: What we'll do is refer your comment to the Building Department, and they will investigate it for you.

MR. WILCOX: This was in the summertime. I haven't been there in the wintertime.

JOHN NOWICKI: Okay. Appreciate everybody's comments tonight. We'll move on the application now.

John Nowicki made a motion to declare the Board lead agency as far as SEQR, made a determination of no significant environmental impact and found this to be an unlisted action. All Board members were

in favor of the motion.

DECISION: Unanimously approved by a vote of 4 yes with 1 abstention (John Hellaby) with the following conditions:

1. All vegetation to be maintained. Any dead vegetation is to be replaced by June 1, 2003.
2. Applicant's engineer is required to verify that the gate will be located in such a way that it will completely prevent unauthorized vehicular access to the site. Gate must be installed immediately after approval.
3. All other conditions as stated on Addendum "A" - Co-location.

ADDENDUM "A"--- CO-LOCATION

CONDITIONS OF APPROVAL FOR: SITE PLAN & CONDITIONAL USE PERMIT

1. Modifications. The improvements shall not hereafter be moved, reconstructed, changed or altered except after approval of modifications to this Permit. No "additional equipment" (ie: equipment not contained in the application which lead to the issuance of this Permit) shall be added to the Tower without an approved modification to the Permit by the Town.
2. General Site Aesthetics. At all times, the site shall be maintained free of litter and debris. No overnight parking is permitted. No storage of equipment or materials not appearing on the approved site plan is permitted.
3. Annual Engineering Inspection. Applicant shall be required to inspect the structural integrity and grounding of the free standing lattice work tower and its cellular facility at least once a year.
4. Lighting. No lighting is permitted on the tower, its accessory structures and/or the site unless mandated by the FAA.
5. Finish. The tower, all attachments, antennae, equipment, and their related man made site improvements shall be a galvanized finish or painted gray above the surrounding treeline and painted gray, green, black or similar colors designed to blend into the natural surroundings below the surrounding treeline unless other standards are mandated by the FAA.

All man made site improvements shall be maintained free of rust or other forms of corrosion. All finishes shall be maintained free of chips, cracks, peeling, chalking or other surface deficiencies, including graffiti.

6. Design of Tower.-- Existing tower to be used.

7. Existing Vegetation - Existing on-site vegetation shall be preserved to the maximum extent possible particularly with regard to trees exceeding four (4) inches in diameter (measured at a height of four (4) feet off the ground). Clear cutting of all trees in a single contiguous area beyond what is actually necessary to install the site improvements, construction cost notwithstanding, shall be prohibited.

8. Safety. The site shall at all times be maintained in a safe and secure manner. Except when authorized personnel are on the site, all equipment cabinets, structures and the gate and related fencing shall be locked; all perimeter fencing and barbed wire shall be well maintained and immediately repaired

in a workmanlike manner when damaged.

The Applicant shall actively and continually take all reasonable precautions to deter children and/or vandals from entering upon, climbing in, through, over or under any and all site improvements. Except when authorized personnel are on the site, no vehicles, ladders, or any gear or device adaptable to climbing purposes shall be stored or otherwise left on (or near) the site or attached to its improvements.

9. Landscaping shall be provided in a manner subject to Conservation Board approval. All landscaping shall be maintained in a good workmanlike manner.

10. Signs - Signs are prohibited on the Tower, its site or accessory structures.

11. Utility Connections. All utility connections to the site, shall, to the greatest extent practical, be buried. This requirement may be waived, in whole or in part, by the Town Engineer, if, in his sole opinion, such burial would be impractical due to natural conditions.

12. Engineers Approval. Subject to Engineers approval.

13. Radio Emissions. The Applicant shall comply with Federal Communication Commission (FCC) regulations. Any determination by the FCC that Radio Emissions exceed permitted FCC thresholds shall immediately terminate this Permit.

14. Notice. At all times the Applicant shall forward the following up to date information (and any amendments thereto) with the Town of Chili Building Inspector:

a. Name, address and phone number of an authorized person which the Town Building Inspector may contact in the event there are violations of the terms or conditions of this Permit, other violations of the Code of the Town of Chili or other issues relating to the site.

b. Copy of the Applicant's current lease for the site, as such may be amended from time to time.

15. Monroe County Emergency Equipment:

a) Grant of Space: Landlord and Lessee agree to permit Monroe County to co-locate emergency telecommunications equipment that the County deems necessary in its responsibility for "911" and other public safety or emergency telecommunications purposes on its tower. The permit shall include the use of the tower space, equipment building space, rights-of-way and utility easements.

b) Town capacity & Interference: Installation of the County's Equipment shall not cause the Tower to exceed its permitted weight or cause interference with the radio frequency transmission of any existing equipment on the tower.

c) No cost to County: There shall be no charge to the County for its use of the Lessee's facilities or space

d) Access: The County shall have access to the Tower and building at any time.

16. At this time, applicant is approved for

preliminary site plan only; or.
 preliminary and final site plan

17. Barbed Wire on perimeter fence shall be angled outward from the site.

18. Equipment Building. As per §115-95(G)(3) of the Town Code, the equipment building shall be constructed with red clay brick facing on all walls, steel security doors and a gabled raised seam roof with verdigris finish.

Equipment Buildings/Cabinets shall match existing installation.

19. Flush Mounted Antennae: Proposed antennae array shall be flush mounted on the monopole.
20. The Conditional Use Permit shall expire in TWO years.
21. All dead trees shall be removed and replaced with new stock per the approved plan for the site.

The meeting ended at 8:40 p.m.

A meeting of the Chili Planning Board was held on April 8, 2003 at the Chili Town Hall, 3333 Chili Avenue, Rochester, New York 14624 at 7:00 p.m. The meeting was called to order by Acting Chairperson John Nowicki.

PRESENT: John Hellaby, Dario Marchioni, Karen Cox, James Martin and
Acting Chairperson John Nowicki.

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

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

JOHN NOWICKI: I have some announcements I would like to make. We have a new gentleman here tonight with us. This is -- a resolution was passed, and it is, be it resolved that Chris Fish is hereby appointed to be the Chili Fire Department liaison for the Traffic Safety Committee with Pat Quinn as alternate.

When it comes to Planning Board, be it further resolved Bill Arnold, sitting to my side, is hereby appointed from the Chili Fire Department to be the liaison to the Planning Board. His alternate is a fellow named Dave Sauer. We welcome you here.

BILL ARNOLD: Thank you.

John Nowicki introduced the Board and front table. He announced the fire safety exits.

JOHN NOWICKI: The annual National Day of Prayer -- this has -- this is for Planning Board members and audience -- well, on Thursday evening, May 1st, 2003, it has been set aside and recognized by our nation as a National Day of Prayer. "We, the clergy of many of the churches of Chili, have planned an outdoor community service at Chili Town Hall for 7 p.m. that evening. God's mandate in the bible is to pray for those in leadership over us. Our part as pastors is to give community, to gather and do just that. We would like to personally invite your group for this service as we support you in prayer. The service will last approximately 45 minutes to an hour and we appreciate your presence there."

That is from the clergy of the Town of Chili.

PUBLIC HEARINGS:

1. Application of Wegmans Food Markets, owner; P.O. Box 30844, Rochester, New York 14603 for preliminary site plan approval for possible future private road improvements (break in access to NYS right-of-way) at property located at 249 Fisher Road in G.I. zone.

JOHN HELLABY: Mr. Chairman, before you proceed, I would like to ask to be allowed to step down as I am employed by Wegmans.

JOHN NOWICKI: Absolutely.

Art Pires and Tom Greiner were present to represent the application.

JOHN NOWICKI: Councilman Jim Powers is with us this evening.

MR. PIRES: Mr. Chairman, thank you. Mr. Chairman, members of the Board, so it's noted, Art

Pires with Wegmans Food Markets, and also with me tonight is Mr. Tom Greiner.

Very simple application actually. We're seeking a minor site plan modification to allow -- or seeking approval for access onto State lands, a break in access to the right-of-way. I would

like to step over, and I believe you will be able to hear me -- if not, I will come back to podium.

Once again, this is our complex here (indicating). Chili Avenue, Market Street Way. We're seeking along our northern property line a break in access on our northerly lines onto State right-of-way. The purpose of which will allow us to seek a private driveway at some future date, connecting the intersection of Route 204, Chili Avenue and our internal driveway. So the exact route is not known, so that is why we're asking for approximately 500 -- 550 foot length of break in access along the northerly property line, so that when we literally connect the dots from Route 204, Chili Avenue intersection and our internal driveway, that 550-foot stretch would allow adjustment in the geometry. We're not seeking any particular geometry tonight or specific roadway alignment tonight. It is to allow the break-in access so we can proceed with the next step in the State in granting the break-in access on to State lands. It is that simple.

We're seeking preliminary, asking for waiver of final as well as a neg dec on the SEQR.

With it being as simple as that, that is the presentation, but I would certainly be glad to address any questions of the Board.

KAREN COX: If the time comes for you to continue with the private drive aspect, would you then close off the access at Market Street, the access you have now?

MR. PIRES: That is a point of discussion we'll be having with the State and the Town. There are considerations, number one, because of the existing commercial development up at that intersection that you would have to keep that driveway at least up to that point. So there has been preliminary discussions with the State about -- and the traffic report, as a general discussion, have considered leaving that open.

So the point here is we're -- that particular design feature would be addressed at the time we had the actual road alignment. This is strictly for saying we approve of this minor modification, allowing for that break for a possible future connection up there, but nothing has been defined as far as whether or not this would remain open or closed or one way. None of that has been formally proposed or discussed.

KAREN COX: Obviously the State has seen these plans?

MR. PIRES: Yes. In fact, the local Office of Department of Transportation has seen this. They're aware of this. They are the ones that have told us we have to come to the Town seeking approval and a SEQR determination in order for us to take the next step with them.

KAREN COX: What effect does this have -- I know at some point years ago, obviously by the name on the right-of-way there was going to be a connection to the airport, and is the State taking into account the effect of this opening on future plans for that right-of-way, or do they even have any?

MR. PIRES: I don't know their specific plans. I know there have been discussions about that in the Airport Corridor Study, the MIS there, but as far as final determination, they're aware just by the mere fact that they're willing to, or up to this point willing to grant that access. They're well aware of incorporating that into any future plans, but there are no specific plans on our part, nor are we aware of any plans on the State's part to revive that 204 extension easterly.

JAMES MARTIN: Back on the Planning Board meeting of February 11th of this year, we had a presentation by Mr. Doug Charles from GMI Development concerning the projected development of a multi-modal transportation facility between Jetview Drive and the west side of the airport, which everybody agreed would probably be a very significant improvement to the area's commercial and financial area. I asked him that night if there had been any discussion about the possibility of truck routing over to the 204 corridor vis-a-vis the current Wegmans property. He had indicated to us that night that he had had some discussions with Wegmans and that at this point in time, or at least at this point in time, it was not being looked upon favorably to route truck traffic from a multi-modal transportation facility through there to make a connection to 204 for traffic going west. And the primary reason he cited was obviously security, that Wegmans felt they did not want to have their property opened up to trucks or other things that were not going to be part of the Wegmans facility.

I guess at this point in time, with the future option here that you may open up a direct route to 204, I was wondering if there has been any further consideration given to that. I had a discussion with Terry Riley here from the County D.O.T., the training session I was at about three or four weeks ago. He indicated that GMI had indicated to him that they felt there would be somewhere in the neighborhood of 15, 20, 25 trucks a day moving out of that facility perhaps westbound that would be traveling over, you know, Beahan Road, for instance, Chili Avenue to get to the 204 entrance to 490. It would seem like for safety reasons and other considerations that having a much more direct route from that Jetview Drive facility to 204 would certainly be a benefit to both Chili and Gates from the standpoint of getting that heavy truck traffic off local roads.

So at this point in time I was wondering if there has been any further consideration of allowing access to that site through the Wegmans property, or whether that is still something that is not being looked at very favorably by the Wegmans organization.

MR. PIRES: First thing, number one, this is strictly for private drive connection from 204 to our internal road network. There has been no consideration whatsoever of taking the existing end point of this private road internally and any intention to take it south to Jetview Drive. This is strictly for internal connection from point A to point B here (indicating). Yes, there has been ongoing discussions for years, if you will, about the possibility of a Jet View connection. I know both the Town, citizens have been concerned about different paths coming along here. Our position, and we have conveyed that both to the Town and the citizens, we have not and have no current plans for any such roadway coming through our property.

JAMES MARTIN: Thank you. I just wanted to clarify that.

DARIO MARCHIONI: Any access to Chili Avenue, that would have to go to the Gates Planning Board?

MR. PIRES: That's correct.

DARIO MARCHIONI: That would be for their consideration. So all we're actually considering is the access to that right-of-way.

MR. PIRES: That is exactly correct. This is strictly -- say you approve of the concept, if you will -- even though it is a formal approval of this break in access, that would allow for consideration of a possible future private driveway, which would necessitate, number one, approval by the Planning Board; number two, approval by the Town of Gates, as well as obviously the D.O.T. since it would be connecting to their right-of-way, crossing and onto their right-of-way and Chili Avenue.

JOHN NOWICKI: Mr. Marchioni, good point to bring up. I would introduce the letter from the Town of Gates, to whom it -- "The Town of Gates has been advised that Wegmans is seeking to modify their Market Street complex side in order to allow break in access in the New York State right-of-way along the section of the complex's northern property line. Gates supports the application since we believe the break in access is important for future plans. We would expect to be an active participant in discussions that will determine the exact location of any roadway within the break in access. If you have any questions concerning this matter, please contact me, Ralph Esposito."

MR. PIRES: A little technical. I mentioned 550 feet I think at the width of the access. It is approximately 500 feet. To give a tie dimension -- I know that was informative discussions with staff, they ask that I provide, and I think all of the Board members have the sketch, the distance from Chili Avenue right-of-way, to the start, the westerly end of the access is approximately 755 feet, so that gives a clarification as well as the clarification on the width of the proposed break in access.

DANIEL KRESS: One clarification. Do we understand correctly that when the final geometry of the private road access is determined, at that point you would expect to return for further discussion before the Board?

MR. PIRES: Definitely.

JOHN NOWICKI: Mr. Nissen, I know we have a letter here. Could you just briefly -- any concerns on this, just engineering approval?

LARRY NISSEN: I requested that the approximate location of the length of the break be illustrated on the plans, and our -- Art (Pires) responded very quickly to that, and I'm satisfied with what he has shown here.

JOHN NOWICKI: Here is another gentleman that showed up a little late, Mr. Charlie Robinson. He is representing our Conservation Board.

Welcome, Charlie (Robinson).

CHARLES ROBINSON: My apologies to the Board for my tardiness.

In regards concerning the Conservation Board's interest, I would like the applicant to address it with the Conservation Board, subject to the Planning Board's approval. Again, based on the fact of my tardiness.

JOHN NOWICKI: You will not be penalized. We won't take anything out of your paycheck. (Laughter.)

JOHN NOWICKI: Thank you, Charlie (Robinson).

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

MARLENE KRETSER, 56 Lexington Parkway

MS. KRETSER: Just a couple of questions. On that exit, running into 204, will that work with the signal light? I mean, you know --

MR. PIRES: Yes. Definitely. And that is one of the reasons to come to that point.

MS. KRETSER: And will it be just for the trucks, or all vehicles?

MR. PIRES: It would be for Wegmans vehicles and autos.

MS. KRETSER: And it will be used as an entrance and an exit?

MR. PIRES: Yes. That is the proposal. We have not finalized anything, but that is the intent. It would be a full access to the private driveway.

MS. KRETSER: Okay. Thank you.

BEVERLY NEDER, 82 Attridge Road

MS. NEDER: I noticed on the application here, it says "possible private road improvements," and then it mentions 249 Fisher Road. I'm confused.

MR. PIRES: Yes. That is a technicality because this property actually has an address on Fisher Road, but this --

MS. NEDER: It wouldn't come out on Fisher Road?

MR. PIRES: No. That is just a peculiarity of the parcel itself. This address, is this triangle, thus this -- the two tie angles comprise the parcel, but the official address is Fisher Road. It is just strictly connecting the signalized intersection on Chili Avenue with our internal road.

MS. NEDER: All the improvements would be internal?

MR. PIRES: Yes, internal and then across State lands.

JOHN NOWICKI: Mr. Pires, one question for you. You received a copy of the development review and response form from the County?

MR. PIRES: Yes.

JOHN NOWICKI: Do you see any problems in dealing with the stated conditions they put in there?

MR. PIRES: Absolutely not. Very comfortable.

JOHN NOWICKI: Thank you.

BOB AUSTIN, 334 Fisher Road

MR. AUSTIN: When Wegmans first moved in there years ago, I think what you're insinuating now is within its limits, but I can't help but believe you will be back here trying to extend that road right onto State land, back through the Town of Gates and over Fisher Road or through Fisher Road, and when Wegmans first moved in there, there was not supposed to be an access road leading into Fisher Road at all. You do have one for automobiles. They were basically talking about a truck access road into Fisher Road. Does that even mean crossing Fisher Road?

MR. PIRES: Once again, we do have access from Fisher for our ball fields, our recreation facilities there.

MR. AUSTIN: You also have another access there, too, that you don't use yet.

JOHN NOWICKI: Where are you talking about?

MR. AUSTIN: They have another access.

JOHN NOWICKI: On Fisher Road?

MR. AUSTIN: In and out -- is not in use yet, but they own it.

JOHN NOWICKI: I beg your pardon, sir. I'm not aware of that.

MR. AUSTIN: Drive between 315 and -- 311 and 315.

JOHN NOWICKI: It does not appear on any drawing or document we have in our possession.

MR. AUSTIN: Do you not --

MR. PIRES: As a point of clarification of land ownership.

MR. AUSTIN: They own 45 feet between 311 and 315 Fisher Road.

MR. PIRES: That is down in this locale? I don't know the addresses myself. This shows here,
we --

MR. AUSTIN: Right across from the church.

MR. PIRES: I apologize.

JOHN NOWICKI: That must be it down there (indicating).

MR. PIRES: We do have land that fronts Fisher Road there.

MR. AUSTIN: Would it be down further?

JOHN NOWICKI: It has to be right there where he is pointing to.

MR. AUSTIN: You have not got the bend in Fisher Road that is supposed to be there. Where
are the tracks?

MR. PIRES: This is Fisher Road (indicating).

MR. AUSTIN: You don't even show the tracks. That is because I hear this Zoning Board is
going to close off Fisher Road and make it a dead end, make it inconvenient for anybody that wants to
get through here.

MR. PIRES: I'm not sure of the specific question, but if I could try to interpret it. First of all,
there is an existing roadway for the rec areas.

You mentioned earlier 204 coming easterly, so I think you were probably referring to this
(indicating)?

MR. AUSTIN: I know the loop you want to put in to get on and off the expressway.

MR. PIRES: That is at this locale (indicating).

MR. AUSTIN: That is all we are doing tonight. I think you will be back to continue through
everybody's backyard to get over to the expressway. That is what I think.

JOHN NOWICKI: We're not working on that tonight.

MR. AUSTIN: I know. But we know it is coming. It is going to hit us.

JOHN NOWICKI: We'll deal -- if it ever should, we'll deal with it then.

MR. AUSTIN: Usually, sir, without any notice to the public.

JOHN NOWICKI: I don't think that is true. That is not true.

MS. KRETZER: To help a little bit, the last thing that I know about the airport expressway going
through that area, when we -- at the meeting April 24th with the -- last year with the County for the
airport improvements, that road they talked about it, about going, and Ralph Esposito said definitely not,
never going through Gates. He was very mouthy saying, anything with Wegmans, even their road that
they proposed at one time he said will not go through Gates. The people don't want it and I will not
allow it. So as far as the expressway going over, it is not even in the capital improvement, and I doubt it
would probably be in there in the next 20 years.

JOHN NOWICKI: We'll cut it off there, because we're not going in that direction tonight.

MS. KRETZER: That is not going there.

CHARLES ROBINSON: Before you adjourn, I would like to get the Conservation Board's
comments into the meeting notes.

JOHN NOWICKI: Let me ask you this question before you put those comments in there.
I would like an explanation of those comments as you go through it, what they mean.

CHARLES ROBINSON: Okay. We can do that. I will read them. "This applicant is not
applicable to the Conservation Board. It is the understanding of the Planning Board that this site plan
approval is a precursor to the installation of a new road. The Conservation Board requests that a
formal presentation be made in consideration of homeowners and businesses in that area. Presentation
should include proposals to eliminate adverse visual and sound conditions that will arise due to heavy
traffic on this road. The Conservation Board would also like to discuss landscaping projects that have
been deferred in anticipation of new projects."

JOHN NOWICKI: Could you explain that last sentence for me?

CHARLES ROBINSON: That dates back to several times in the Fisher Road, or the Wegmans site plans -- in the past, in anticipation of them going to do things, the Conservation Board has deferred them doing anything up front until they come back to us.

JOHN NOWICKI: I'm not going to argue on that point. I will let it stay on the record, but that last sentence, I want the Conservation Board to support that with evidence and documentation. I want you to go back to the Board and get evidence and documentation to support that statement.

Thank you very much.

MR. ADAMS: I wasn't able to understand the last sentence you're referring to in asking for --

JOHN NOWICKI: I will not get into it tonight because it is referring back to very old things on this application that go back a long time ago. That is why I am asking the Conservation Board to support it with documentation. I am just not going to let a statement like that be read into the record without documentation. I want to hear more evidence because people in the audience are expecting an answer, like I am, and I want to see that. So if they ever come back, and they go before the Conservation Board, I want documentation from them.

MR. ADAMS: But what I am saying is I didn't understand.

JOHN NOWICKI: I don't understand.

MR. ADAMS: I don't -- I don't understand the words that he used. I couldn't hear what he said.

JOHN NOWICKI: I will tell you what -- I'll give you a copy of it. We'll give you a copy of the statement.

CHARLES ROBINSON: Basically what it is saying is that Wegmans, in addition, has deferred landscaping plans based on whatever they were developing at the time they were going to do it, they would present landscaping plans, bottom line. As they develop landscape plans, come to the Conservation Board.

JOHN NOWICKI: Okay. We'll take it on a next step level when we get to that point.

John Nowicki made a motion to declare the Board lead agency as far as SEQR, found this to be an unlisted action and made a determination of no significant environmental impact, and the Board all voted yes on the motion.

The Board discussed any proposed conditions of approval.

DECISION: Unanimously approved by a vote of 4 yes with 1 abstention (John Hellaby) with no conditions.

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

The meeting ended at 7:30 p.m.

A meeting of the Chili Planning Board was held on May 13, 2003 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 Don Faso

PRESENT: Ray Bleier, John Hellaby, Dario Marchioni, James Martin, John Nowicki and Chairperson Don Faso.

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

Chairperson Don Faso 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.

OLD BUSINESS:

1. Application of Mr./Mrs. John Murphy, owner; 851 Morgan Road, North Chili, New York 14514 for preliminary subdivision approval of two lots with site plan on one lot to be known as Morgan-Murphy Subdivision at property located at 869 Morgan Road in A.C. zone.

Rob Fitzgerald was present to represent the application.

MR. FITZGERALD: Good evening. My name is Rob Fitzgerald. I'm a Project Engineer with Avery Engineering. I am representing the Murphys tonight. What they're proposing is a -- I would call it a one-lot subdivision. We are carving out one parcel. It is approximately three-quarters of an acre on the south side of Morgan Road, just west of Union Street. The site will be serviced by standard in-ground septic system as well as public water. This application was tabled, I think, some six months ago due to drainage concerns. Since then, I think those have been taken care of mostly by Joe Carr and County DPW. I believe the Board members should have letters from those people.

Since this is a tabled application, I will just leave it with that and answer any questions the Board may have.

JOHN NOWICKI: The way it is listed under old business, it is preliminary, looking for final?

MR. FITZGERALD: We would ask for waiver of final tonight, if that is possible.

DON FASO: Does the Board have copies of the Town Engineer's letter?

LARRY NISSEN: I believe they do.

JOHN HELLABY: The only question I had is the letter from Joe Carr in regards to the drainage issue. I know there was an awful lot of concerns about a couple of the lots down there, if I recall, actually being under water. The one statement that -- I guess I have a question for you. It says if it is determined if an additional culvert is needed, the County will pay to have that installed. I guess at what point do we find out if this additional culvert is actually required?

Any comments, Larry (Nissen), on that statement?

LARRY NISSEN: I do not.

JOHN HELLABY: I guess how far along do you get in this thing to find out we need another culvert?

LARRY NISSEN: An agreement has been worked out between the County DPW and the Town to work out drainage on the site and I'm not privy of the details.

JOHN HELLABY: I just wanted to make sure everybody was aware of this. The way I read this, they will try to utilize part of the system after it is cleaned out, and if there is still then a problem, they will work it out.

DON FASO: That is my understanding.

JOHN NOWICKI: We'll make it subject to engineer's approval, right?

JOHN HELLABY: There you go.

RAY BLEIER: I presume this work is going to be done this summer. I think we should be in good shape once that work is done.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

DON FASO: Is this in a Drainage District?

DANIEL KRESS: Yes, this property is already in a Drainage District.

Don Faso made a motion to declare the Board lead agency as far as SEQR, found this to be an unlisted action and made a determination of no significant environmental impact, and the Board all voted yes on the motion.

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

1. Pending approval of the Town Engineer.

PUBLIC HEARINGS:

1. Application of Linda Nicolosi, owner; 291 Chili Scottsville Road, Churchville, New York 14428 for preliminary subdivision approval with site plan on one lot to be known as Nicolosi-Chili Scottsville Subdivision at property located at 301 Chili Scottsville Road in PRD & FPO zone.

Rob Fitzgerald and Phil Nicolosi were present to represent the application.

MR. FITZGERALD: I'm up again. Once again, my name is Rob Fitzgerald with Avery Engineering representing Mr. Phil Nicolosi tonight, who is with me. This is an existing parcel. He is looking to build his own home on this parcel. We have done percolation tests out there. We had marginal results that will require a modified raised-fill system. There is public water.

One of the reasons why this requires a public hearing is because there is a 100-year flood plain.

If I can approach the map, the 100-year flood plain elevation is approximately a 532 contour line, and we're putting our finished basement 3 feet above that. I believe the Town requires it to be 2 feet above that elevation.

There is adequate sight distance both to the north and to the south. Once again, it is pretty simple as far as engineering work goes. It is a one-lot site plan, so with that, I will take any questions.

RAY BLEIER: One thing I noticed, apparently this parcel is not in a Drainage District. Has application been made?

DON FASO: I have a note that it has.

MR. FITZGERALD: Application has been made to join the Drainage District, correct.

If I can just double check with my client. Was that paperwork submitted for the Drainage District?

MR. NICOLOSI: I believe so.

MR. FITZGERALD: Maybe I can ask Mr. Kress.

DANIEL KRESS: As of the beginning of the month, it had not. I believe it has actually been turned in in the last several days, though, yes.

MR. FITZGERALD: I know we forward the information on to our client and hopefully it gets taken care of.

JOHN NOWICKI: Is that a positive statement? They have made application?

DANIEL KRESS: Yes.

DARIO MARCHIONI: We could make it a condition any ways.

JOHN HELLABY: All the variances have been acquired already?

MR. FITZGERALD: Yes.

JOHN HELLABY: Setbacks?

MR. FITZGERALD: Correct, they have been obtained. Those variances would be -- we ask for, I think, 5 feet of relief to the northern property line for side setback. We're proposing 45. 50 is required. The minimum lot width, we had to get a variance for that, too, because it is an existing parcel, and as well for the existing area, which 5 is required, and we're at around 3 1/2 acres.

JOHN NOWICKI: Will you ask for final?

MR. FITZGERALD: We would certainly make that request.

JAMES MARTIN: The intention of this building on this property is residential only at this point?

MR. FITZGERALD: Residential only, yes.

JAMES MARTIN: That is all I have.

DARIO MARCHIONI: I will wait for the Engineer's comments he has here (indicating).

JOHN NOWICKI: Just a quick question, if I can. Who just raised that question about what the property will be used for?

JAMES MARTIN: I did.

JOHN NOWICKI: Is there something in the area adjoining the property that has an in-house business or customary home occupation business?

MR. FITZGERALD: Adjoining this parcel? I know there is a barn and --

JOHN NOWICKI: Is there a tax preparation business involved in this parcel?

MR. FITZGERALD: No. This parcel is vacant.

DON FASO: I saw the sign in front of 291.

MR. FITZGERALD: Phil Nicolosi, Sr., lives at the other parcel.

JOHN NOWICKI: Will that business have anything to do with this parcel here?

MR. NICOLOSI: The tax business is on 291.

JOHN NOWICKI: You do not have a business out of this residence here?

MR. NICOLOSI: Absolutely not.

JOHN NOWICKI: Do you have any problems now with parking or excessive parking on the road because of that business?

MR. NICOLOSI: No.

DARIO MARCHIONI: There are comments here from the Town Engineer, but I will wait for his explanation.

LARRY NISSEN: I had made a comment about the possible need for a SPEDIES permit for this parcel, depending on the area of disturbance. Dario (Marchioni) showed me a publication that seems to provide a waiver for a single-family residence on any given parcel. I would like to double check that.

DON FASO: A SPEDIES permit?

LARRY NISSEN: There were regulations last --

DON FASO: I know what a SPEDIES permit is, but on single-family?

LARRY NISSEN: My reading was erosion control for any parcel. I was aware of a waiver for a residence on a one five-acre plot, for detention purposes -- or, I'm sorry, for the preparation of a storm water management plan. But I wasn't aware of a blanket waiver for single-family residences. So I want to double check that.

DON FASO: Publication is from State DEC?

LARRY NISSEN: Yes.

DON FASO: Do you have an extra copy of that?

DARIO MARCHIONI: Yes.

DON FASO: You don't have to do it now. I would like to see that.

MR. FITZGERALD: If I could respond to that one question. The area being disturbed is .8 acres, so it is less than 1 acre, so we wouldn't have to go through the Type II SPEDIES.

DON FASO: One acre is the threshold?

MR. FITZGERALD: Even if it is a one-lot side setback. If it is 1.1 acres, you have to go through the SPEDIES process. I guess I'm in agreement with Mr. Nissen.

JOHN NOWICKI: Even on residential?

MR. FITZGERALD: Even on residential. But on this parcel, we're under the 1 acre so -- it is pretty strict.

LARRY NISSEN: No other questions.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

Don Faso made a motion to declare the Board lead agency as far as SEQR, found this to be an unlisted action and made a determination of no significant environmental impact, and the Board all voted yes on the motion.

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

1. Pending approval of the Town Engineer.
2. Petition the Town Board (through the Town Clerk's Office) to include this subdivision in the Chili Consolidated Drainage District. This is to be done within 30 days of the date of this letter.

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

2. Application of Eldon Simmons, Blair Supply Corp., owner; 785 Beahan Road, Rochester, New York 14624 for preliminary site plan approval to erect a 54' x 99' storage building at property located at 301 Chili Scottsville Road in PRD & FPO zone.

Rob Fitzgerald, Felix Valentino, Eldon Simmons and Mrs. Simmons were present to represent the application.

MR. FITZGERALD: This is a good project. Once again, Rob Fitzgerald with Avery Engineering representing Blair Supplies. That is pretty hard to read for the audience. I don't know -- it is up to the Board if you want them to take a look at it closer. They have an existing -- two out buildings, an oil tank, a storage building that is towards the end of its years. They're looking to remove all of that and replace it with a new metal-clad building. The metal-clad building will be on slab and it will be a blue, dark blue exterior with a white roof.

There will be no utilities besides electric. And basically, they need to replace an existing building and the material that is in there has to be stored indoors and it is -- they can't just tear it down because they need a place to store it, so they will erect this building, just to the east -- to the north a little bit, move all of the supplies and then they will be tearing down the other structures once they empty them out.

DON FASO: One of the things that the Fire Marshal picked up on was the fuel oil tank. Will that be removed or relocated?

MR. VALENTINO: Removed.

DON FASO: Is it in use now?

RAY BLEIER: Was that "yes" or "no"?

DON FASO: That was -- it is going to be removed.

DON FASO: Any storage of any materials that the Fire Department should be aware of?

MR. VALENTINO: Most of it is for pipe -- it would be fitting for pipes. That is what is going to go in this building, just the fitting parts and cast iron. You know, nothing that is going to burn up.

DON FASO: You're Eldon?

MR. VALENTINO: No. This is Eldon. I'm the Vice President with them. I'm Felix Valentino.

DARIO MARCHIONI: There are concerns from the Conservation Board. We have a landscape plan here from a licensed landscape architect?

MR. FITZGERALD: No. Another person that is involved in this project is Kevin Murphy. He runs the business. He wasn't able to be with us tonight. I have had the conversation with him. The cost of this building -- actually I have a quote with me. I believe it is around \$72,000. So if we do the 1

percent of that, which is 700 bucks, threw in a few pines, that might get you four or five pine trees. He is willing to do some pines or just something to break up the site, but I would like to stay away from the landscape architect because you would eat up a lot of the budget with that. He would rather put the money into landscaping. So I guess what I'm asking for is a waiver from that requirement.

DON FASO: I wouldn't have a problem with that if the plans went before the Conservation Board.

MR. FITZGERALD: Still willing to go before the Conservation Board.

DON FASO: You would need their approval.

CHARLES ROBINSON: If the plans come forth, they still have to be at a minimum, professionally drawn with a licensed landscaper. Whether or not the Conservation Board decides to waive the stamp is up to the Board's consideration. So at a minimum, you know -- we're just not -- you have to have a map and plan. You have to have tree plantings, and --

DON FASO: They can go to any nursery and any nurseryman can make a set of plans. It wouldn't be licensed, but you would have a plan and planting list to review and approve.

CHARLES ROBINSON: We'll do follow-up on this type of thing for compliance, and so therefore, we require and actually we demand that they be professionally drawn.

JOHN NOWICKI: Can I ask a question here? Only because of the nature of this business, and the nature of the area that it is in, would landscaping enhance this area at all? You would have to do extensive landscaping for this whole area, so would it be better for these people to make a fairly generous contribution to the Town's Tree Planting Program rather than getting into a landscaping plan that is not going to do a heck of a lot for the area?

DON FASO: Not for the amount of money that's involved, nor the cost of the building.

CHARLES ROBINSON: In response to that, in all due respect to the Conservation Board, without seeing something they're proposing, for the Board to make that consideration -- you know, that is what we're talking about. We have to see what it is really all about.

DON FASO: 700 bucks on a lot this size will not amount to much.

JOHN NOWICKI: It won't do a lot for you.

CHARLES ROBINSON: By all means, the Conservation Board would defer to the pleasure of the Planning Board.

DON FASO: As I stated earlier, the property is well maintained. Considering the nature of the business, it is a well-maintained operation.

JOHN NOWICKI: That is spread out all over on the property. It will not do much with the landscaping.

DON FASO: The property looks nice. It is not Helter Skelter.

MR. FITZGERALD: We have almost 1200 feet of frontage, so we won't do staggered pines 15 feet on center or something like that, but he was willing to do some. You know, 15 maybe, just spreading them out, to kind of break it up a little bit. I don't see any foundation plantings or anything like that. That doesn't make sense.

DON FASO: No, not around --

CHARLES ROBINSON: Can I ask this question? If the Planning Board chooses to waive the Conservation Board's request, can we have some type of guarantee that they would, in fact, contribute to the Tree Planting Fund?

DON FASO: Oh, the check will be at the Town Clerk's Office before the Planning Board Chairperson signs off.

JOHN NOWICKI: We would make that a condition.

CHARLES ROBINSON: Okay. If the Planning Board so wishes.

DON FASO: Charlie (Robinson), the leverage is with the Town.

CHARLES ROBINSON: We just want to see it come forth.

DON FASO: I understand.

DARIO MARCHIONI: This property is not in a Drainage District.

MR. FITZGERALD: This is not in a Drainage District. That paperwork has been submitted to the client, Kevin Murphy. With the paperwork, we submit it to the client, they have to bring it to the Town and have it notarized on the spot so we don't really track it. We lose track of it. That is why I refer to Dan (Kress).

DANIEL KRESS: To my knowledge, we have not seen --

JOHN NOWICKI: I don't want to see anything move on the parcels. Every time we get these things in here, we just soft-shoe this thing. I will not vote on this thing. If we don't get a condition here that says we have to have it in a Drainage District, we'll make it a --

DARIO MARCHIONI: We'll make it a condition.

JOHN NOWICKI: I don't want to see it get by anybody. We have had numbers of applicants get back before the Planning Board where we asked them to be in a Drainage District, they come back and they're not in there. I'm just fed up with it.

DON FASO: Then I promise you before the plan gets signed, that I will check with the Town Clerk.

JOHN NOWICKI: Nothing against you. We have just had too many of these things. For all of the years I have been here, we see these things --

DON FASO: And I will take care of it.

JOHN NOWICKI: I hope so.

DON FASO: No problem.

DARIO MARCHIONI: Town Engineer has disclosure of plans for treatment of area where building is to be removed. How are we going --

MR. FITZGERALD: It is my understanding that the area will be gravel. It will be a -- part of the gravel existing storage area, if you will. Everything will be removed off site and replaced with gravel. We can indicate that all buildings, as with the oil tank, will be removed in a timely order which the Town would probably like to put a condition on that, as far as how long -- they do need time to get the new building erected, move the supplies over, and then they will establish gravel, where there isn't gravel already.

DON FASO: Would 30 days from final inspection on the new building be adequate? 60 days?

MRS. SIMMONS: I would think so.

DON FASO: We'll make that a condition.

MRS. SIMMONS: We're really going to demolish all of the old buildings, find a dump.

MR. FITZGERALD: Would 30 days give you time to get what is in that building into the other one? That was the question?

MRS. SIMMONS: I think so.

MR. FITZGERALD: I just don't want to set an unrealistic time frame.

MR. VALENTINO: It will be close.

DON FASO: We can do 60.

MRS. SIMMONS: Let's go for 60.

MR. VALENTINO: Let's go for 60.

DARIO MARCHIONI: The building will be totally removed completely right off site?

MRS. SIMMONS: Demolished, yes.

MR. VALENTINO: It will be gone. The only building that will be standing is this new one.

DARIO MARCHIONI: Does the building have any foundations there that will also be removed, covered up or --

MR. VALENTINO: Well, there is only one that has a concrete floor in it. If possible, we might save that to store our pipe on. It is easier to handle. Or we could -- or we could remove it if you so desire.

DARIO MARCHIONI: Do you have any elevations at all that we can show this new building you will put up, what it looks like?

MRS. SIMMONS: Do you, Robert (Fitzgerald)?

MR. FITZGERALD: No, we don't have any renderings.

DON FASO: Will it be like a Morton building?

MR. FITZGERALD: It is -- Finger Lakes Construction was the -- puts a building up similar to a Morton building.

DARIO MARCHIONI: The height, any electrical outside?

MR. FITZGERALD: There will be some lights shown on the plan, external lights. There is some office space that will have lights. Besides that, it will be cold storage.

DARIO MARCHIONI: What color?

MR. FITZGERALD: Dark blue, navy blue with a white roof, metal clad. I do have dimensions as far as the height and the eaves.

DARIO MARCHIONI: Right at the ground, will it be metal? Or will it will be split blocks?

MR. FITZGERALD: Completely metal clad.

DARIO MARCHIONI: It will look like a sea?

MR. FITZGERALD: Very simple and plain.

JOHN NOWICKI: Nice try, Dario (Marchioni).

DARIO MARCHIONI: We would like to see a nice-looking building.

MRS. SIMMONS: Why would anybody be interested? We have no neighbors.

DARIO MARCHIONI: Well, people do drive by. They do look there. I drive by there many times.

MRS. SIMMONS: Pretty good-looking yard.

DARIO MARCHIONI: But a nice-looking building would be more -- will there be any windows in the front, overhead doors?

As shown -- the overhead doors I believe are on the sides. No, I'm -- there are -- there is an overhead door to the south on the side. There is a man door. There are two overhead doors on the front, 12 by 14 feet. Then there is a 12 -- or 18 by 14 foot on the northern side of the building. So there are some overhead doors which will help to break it up.

DARIO MARCHIONI: Blue or white, those doors?

MRS. SIMMONS: I want it blue.

DARIO MARCHIONI: I'm done.

JAMES MARTIN: A question about the fuel oil tank and diesel tank on the drawing that will be removed. Have they been active in any way in the recent past? That is one question. Obviously once they're removed, will there be any soil testing for possible fuel contamination for leakage, and is there a remediation plan if anything is found on analysis?

MR. FITZGERALD: Let's start with when was the last time the tanks were used.

MRS. SIMMONS: A long time.

MR. VALENTINO: They have not been used --

MRS. SIMMONS: We have been leasing all of our trucks and equipment and they keep it maintained. We haven't fueled our own delivery trucks in quite a while.

JAMES MARTIN: I guess it is still a concern I have. If there was an active fuel position there at one time, it is possible there could be soil contamination. With the proximity to Black Creek, it would seem it would be reasonable to have oil testing done to be sure there is no soil contamination that needs to be addressed from an environmental standpoint.

So I think, you know, as a condition, maybe we should have that -- at least have that looked at.

JOHN NOWICKI: The Engineer's letter here, Larry (Nissen)'s letter, the FPO Zone is not indicated on the maps. He wants it indicated.

MR. FITZGERALD: Yes. As far as the flood plain elevation? Yes. And I believe Mr. Avery and Dan Kress did some research on that. Dan (Kress) can correct me if I am wrong, but we were positioning the building approximately 8 feet above that flood plain.

JOHN NOWICKI: Okay. Did you get a chance to review the County Comments?

MR. FITZGERALD: I did not receive the County Comments.

JOHN NOWICKI: They talk in the County Comments about -- you're close to the airport, and the decibel limit, and -- I would suggest that that office space that is indicated in there -- I would assume people will be working in there all day. They're talking certain decibel limits and the type of construction you're indicating here, and you will want to pay a little attention to that, in the County Comments.

The other question I have for you is why wasn't the Planning Board provided architectural elevations?

MR. FITZGERALD: I was not supplied with them to pass them on to the Planning Board.

JOHN NOWICKI: You have been before the Planning Board a number of times. You know what the Planning Board requires. I am a little disappointed on this one that we did not see those architectural drawings. I would hope that our Building Department over here will not allow that to happen again. That is all I have.

JOHN HELLABY: Just a quick clarification on the building removal. The larger building is

noted as being removed, but what about the frame garage and the two sheds and whatnot?

MR. FITZGERALD: They will all be removed.

JOHN HELLABY: That is all I have.

RAY BLEIER: Will you do any vehicle repair or maintenance inside the new building?

MR. FITZGERALD: I would like the client to answer that.

MRS. SIMMONS: We lease all of our equipment, and they maintain it.

MR. VALENTINO: I --

RAY BLEIER: I did see a couple vehicles on your property, a truck and some other pieces of equipment. I was wondering if they were going to be moved over into the new building where perhaps you would do maintenance also.

MRS. SIMMONS: We don't do any of our maintenance. All of our trucks --

RAY BLEIER: Not on site?

MRS. SIMMONS: No. We lease them all from De Carolis. Smartest move we ever made.

RAY BLEIER: One observation I just made when I drove past the facility was on the -- I guess it would be on the easterly side there, along Beahan Road, by the chain gate there seems to be some wooden pallets that are either dumped there or are part of your operation or what, but they're there. I think the place does need a little bit more attention than what it is getting.

MRS. SIMMONS: That is something that we can quit doing. We have certain people that come by at night and pick them up for nothing. They need the pallets, so we set them outside of our gate so when we close up, we can lock up the place. They carry them away usually within --

RAY BLEIER: Those pallets are there for anybody that wants them?

MRS. SIMMONS: Anybody.

MR. FITZGERALD: The supplies are delivered on the pallets and for them to get rid of them, they're there for the taking by the public.

RAY BLEIER: Well, I didn't think it was very attractive looking, and I think it degrades the overall look of the property myself. I'm not in favor of it. I personally think that, you know, we should make it a condition that that is not allowed. I don't know what it will lead to. I saw pallets. Maybe there will be other things out there in the future. I don't want it to look like a dump yard.

DON FASO: I didn't see pallets when I was out there.

MRS. SIMMONS: They don't last long. Once they're put out there, they don't last long. We have certain people that look for them.

DON FASO: What is the insulated shop going to be used for?

MRS. SIMMONS: Probably the drivers to warm up in. Or the yard men.

DON FASO: Okay.

MRS. SIMMONS: We don't really have any office over there. No offices. It is the yard men and the truck drivers that would be using it.

DON FASO: So it is not a workshop per se then?

MRS. SIMMONS: No.

LARRY NISSEN: Nothing other than my letter.

CHARLES ROBINSON: For clarification, the applicant is going to donate 1 percent to the Tree Planting Fund?

DON FASO: It will be up to the Board when we get to the conditions.

BILL ARNOLD: No hazardous materials the Fire Department needs to be aware of?

MRS. SIMMONS: No.

DON FASO: I do have a question for Larry (Nissen) or Dan (Kress). Jim (Martin)'s comment about the soil testing, does the County do that? Upon request, who would do that?

LARRY NISSEN: Generally it is done -- my understanding is generally it is done -- if the property were to change hands, then a Phase 1 audit oftentimes is required.

DON FASO: We're not changing hands --

LARRY NISSEN: -- a mortgage or -- I'm not aware of any provision within the Town code.

DON FASO: How could we address Jim (Martin)'s concern? Any ideas?

KEITH O'TOOLE: Do it as part of SEQR.

DON FASO: As a condition for a neg dec?

KEITH O'TOOLE: Actually, we could hold off on approving anything until they submit their

report. If that is the Board's pleasure.

JOHN NOWICKI: The concern is what now, the soil --

JAMES MARTIN: Is there contamination due to the storage of fuel, diesel fuel and fuel products in that area that are going to be removed? It would be an ideal time to be sure there is no fuel contamination. With proximity to Black Creek, from an environmental standpoint, it would be worth having at least a result of the soil analysis to be sure that that is not the case.

JOHN HELLABY: Are they above-ground storage tanks, or are they actually buried tanks?

MR. FITZGERALD: All of the tanks are above ground?

MR. VALENTINO: All of the tanks are above ground. The tanks underground were taken out about five years ago.

JOHN HELLABY: So they're a skid tank?

MR. VALENTINO: Yes. One of them is for fuels for the -- we have a furnace, so the men can warm up in the wintertime. The other was used for fuel for the machines, but -- or the trucks, but we don't -- we have to buy all our fuel out of De Carolis.

JOHN NOWICKI: How will you heat the new insulated shop? Will there be another fuel tank outside?

MR. VALENTINO: Probably propane.

JOHN NOWICKI: Propane tank.

JOHN NOWICKI: So we'll have drippings from the diesel fuel, if anything. So it is not an underground situation.

DON FASO: Dan (Kress) or Larry (Nissen), would a visual inspection on the condition of the tanks --

DANIEL KRESS: The Fire Marshal should be notified upon removal of the tanks and I think that would be an opportune time to at least make a visual inspection.

DON FASO: And if it is suspicious --

DANIEL KRESS: If there are signs of difficulty, at that point we could decide on the appropriate way to handle that.

JAMES MARTIN: That would satisfy me.

JOHN NOWICKI: That's good.

KEITH O'TOOLE: With the understanding that the Town is not certifying environmental compliance. We're only investigating it for our own purposes.

DARIO MARCHIONI: In the past, when I was on the Drainage Committee, we used to ask for an easement -- for some sort of an easement for the Town on the main tributaries such as Black Creek for clean-up purposes. I don't see any comments from the Drainage Committee at all or -- or the DPW, so I was wondering if it is something that we should look at at this particular time, or should we just leave it alone?

DON FASO: As a -- probably a numbered blue line stream, the Town would have automatic access to that in any type of emergency. Am I right or wrong on that?

KEITH O'TOOLE: I'm not aware of that.

DARIO MARCHIONI: If we add an easement, then we have access to it any time there was clean-up required. I know in the past we did clean this up, this Little Black Creek extension here, but I don't know if we should have a permanent easement on it.

JOHN NOWICKI: Well, if you cleaned it up the last time, how did they get in there? Did they let you in?

DARIO MARCHIONI: I don't know how it really happened, but I know there was some cleaning up in it. It was so far back. But usually we have always asked for an easement on main tributaries in the Town so we would have no difficulties or no obstructions in the future. If we have to clean it up, we would have a right to clean it. We have had problems, some of these tributaries in certain areas where the people that owned the property will not let us go on their property to clean up these main tributaries, so we had to -- we had a lot of problems in the past. We have always asked, you know, for an easement, which -- it is not a big deal, but on the other hand -- I think you remember that, Don (Faso), we have --

DON FASO: Not on main tributaries like this, Dario (Marchioni).

JOHN NOWICKI: The other problems, you would have to cross Southern Railroad, and you

only have a small piece of situation here where you would have to do that. You would have to go on the other side of the creek and I don't think you will get it from Rochester Southern Railroad.

DARIO MARCHIONI: I just want to make sure we would have an --

JOHN NOWICKI: I think the owners could make a statement for the record.

DARIO MARCHIONI: That would suffice.

JOHN NOWICKI: They would give you access to the creek if it needed to be cleaned up. They would want it cleaned up.

DON FASO: Would you have a problem with that?

MRS. SIMMONS: I didn't have a -- I can't hear everything you're saying. Didn't some organization just recently go up the creek and clear out all of the old dead trees and all of the old dead bushes? They asked my permission to do it and I said, "Well, we don't own that creek, but yes, help yourself."

DARIO MARCHIONI: That is what we're --

MRS. SIMMONS: I think they have already done it, haven't they?

DON FASO: I think they're talking about in the future.

MRS. SIMMONS: I don't own that creek. Sure, they can clean it up any time they want to.

DARIO MARCHIONI: You own the property on either side of it. So access --

MRS. SIMMONS: Yes.

MR. VALENTINO: I don't think you can get any flack on that. If somebody comes in there and wants to go in there, I don't think they will say no.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS - 31 Stuart Road

MS. BORGUS: With regard to the pallets, I understand that these people are glad to get rid of their pallets and somebody is obviously glad to have them, but I think that is a dangerous precedent if you allow that to continue. If it were allowed to continue, any business could put out what they construed as something valuable or semi valuable, and to everybody else it is junk, and you could have every business in town putting their stuff out at the side of the road. I think that is a dangerous precedent that should be stopped.

There is another question I have. Is it because of this type of business that we have to have front storage?

DON FASO: The type of business?

MRS. SIMMONS: What kind of storage?

MS. BORGUS: Front storage, along Beahan Road. All those storage piles are remaining?

JOHN NOWICKI: The valves and pipes? That has been there for years.

MS. BORGUS: Oh, I know that.

JOHN NOWICKI: I wouldn't guess how many years they have been there.

MS. BORGUS: But we don't usually let people have their materials stored so close to the road, in such --

JOHN NOWICKI: If you go on Buffalo Road, there was one on Buffalo Road, the same way. When you get into the utility-type equipment like that, they have to have a large area to spread it out to maintain the inventory. In an area like that, I don't find it offensive at all because it is in such an industrial area, and the equipment itself is low profile. It is not high profile. It is not like Lyell Metals where we had to restrict the height of the piles. It is all low profile stuff.

RAY BLEIER: It is not stored very high, either.

JOHN NOWICKI: That is what I am saying.

RAY BLEIER: It is close to the ground.

MS. BORGUS: I tend to agree with the representative from the Conservation Board. I think there could be some plantings done along there to make it look a little better. Paul Road and the businesses that have sprung up along that area are really nice looking. It is such a big improvement. They're all great. They're great because we keep a handle on it. And I really think that you're going to create a problem if you allow one business not to have any shrubs, evergreens or landscaping along a road as heavily traveled as Beahan Road. I think that the same rule has got to apply. Maybe not as

strictly, but it certainly should apply somewhat to every application. For all of the money that is donated to this Tree Planting Fund that the Town has, where it sounds very good on paper, I don't see too many trees being planted around Chili out of it. So I really don't see any good to it. It certainly isn't visible to the normal every-day citizen in Chili that we're getting any benefit. So in every case that is possible, I think we should have landscaping on site. That is the purpose of our law.

And as far as the landscaping -- the licensed landscaper's plan, I don't think that should be waived by that Board because everybody else will want to be in here wanting a waiver. It should be stuck to. If it is a formality, so be it. The Conservation Board should have the same plans and rules for this application as any other.

DON FASO: Keith (O'Toole), SEQR, how do we word that? On the visual inspection of the tanks; which may require some remedial action?

KEITH O'TOOLE: Based on what you have said, since my comments, I think what you can do is make it a condition of the plan itself rather than SEQR.

DON FASO: Okay. So there is no problem with neg dec'ing SEQR?

KEITH O'TOOLE: I don't think so. Or if you want to make it conditioned on if new information comes to our attention, we'll ship it back to reopen SEQR. We could do that, too.

DON FASO: All right.

Don Faso made a motion to declare the Board lead agency as far as SEQR, found this to be an unlisted action, and made a determination of no significant environmental impact and that the storage tanks will require visual inspection by the Fire Marshal.

DON FASO: If upon determination of the Fire Marshal additional inspection would be needed, we'll have to reconsider the negative declaration. Sound good?

KEITH O'TOOLE: Yes.

The Board all voted yes on the motion.

LARRY NISSEN: We would like to have the flood plain overlay and basic elevation added to the plan.

DON FASO: I think that can be covered under the Engineer's approval.

What do you want to do with the pallets?

JOHN NOWICKI: Move them inside.

DON FASO: Could be a scheduled pickup.

JOHN NOWICKI: Could be a liability situation.

MR. VALENTINO: It will be done away with.

RAY BLEIER: Just make it all material.

DON FASO: All material should be stored inside the fence?

RAY BLEIER: Yes.

DON FASO: Based on the fact that the building is 72K, you're look at 1 percent of that, which could be eaten up by the landscape architect, which would leave even less for landscaping.

RAY BLEIER: I'm kind of hung up on that a little bit.

DON FASO: What do you want to do?

RAY BLEIER: I think I would rather go with the informal plan, not signed by the licensed landscape architect, and -- just have them review it.

DON FASO: Prepared by a nursery, submitted to the Conservation Board?

RAY BLEIER: Yes.

JOHN HELLABY: I somewhat tend to agree with Ray (Bleier). Let them come up with the agreement, and if after they review the plan, they decide let's donate to the Tree Fund, at least they will have final say on that.

CHARLES ROBINSON: They can get a plan professionally drawn for minimal cost. I mean it has been done -- there are professional organizations.

DON FASO: I have seen nurserymen draw up some pretty neat looking plans.

CHARLES ROBINSON: Just a consideration. We just want to take a look at it. We'll see

where we go from there.

DON FASO: Then we'll leave it as a condition that a landscaping plan per se be submitted to the Conservation Board for review and approval.

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

1. Pending approval of the Town Engineer.
2. Petition the Town Board (through the Town Clerk's Office) to include this property in the Chili Consolidated Drainage District. This is to be done within 30 days of the date of this letter.
3. All material shall be stored inside the fence.
4. Landscaping plans shall be submitted to and approved by the Chili Conservation Board. Plans may be prepared by a nursery or Landscape Architect.

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

3. Application of Paul Road Industrial Center, owner; 1 S. Washington Street, Rochester, New York 14614 for resubdivision of Lot #3 in the Paul Road Industrial Center Subdivision into two lots at property located at 465 Paul Road in L.I. & FPO zone.
4. Application of Paul Road Industrial Center, owner; 1 S. Washington Street, Rochester, New York 14614 for preliminary site plan approval to erect a 51,000 sq. ft. light manufacturing building at property located at 465 Paul Road (proposed lot #3A of resub.) in L.I. zone.

Mark Valentine, Duncan Jackson and Rich LeFrois were present to represent the application.

MR. VALENTINE: My name is Mark Valentine with the MRB Group. We with me tonight --

DON FASO: One second. I have a declaration to make. I am not declaring a conflict of interest, but I'm making a declaration for the record. I'm employed by Sandborn Map Company, Incorporated, which is a firm that prepares maps from aerial photography for architects, engineers, surveyors and MRB has contracted with Sandborn Map for this project and I was in direct contact with Duncan (Jackson) on this application, but I have no invested interest in MRB whatsoever and this declaration is just for the record.

MR. VALENTINE: Duncan Jackson from MRB and Rich LeFrois from LeFrois Builders, who will be the owner of the building and developer.

We have two parts up tonight. I don't know if you want to handle them separately or do them together. The first on the agenda is a resubdivision of the Lot 3. The second part is the site plan approval.

DON FASO: Actually I didn't read it, but we'll do both.

MR. VALENTINE: Okay. The resubdivision is Lot 3. I don't know if anyone needs to look at it. Lot 3 was recently created with the Paul Road Industrial Park Development. As part of that, we plan to resubdivide a small portion on the northeast corner, adjacent to Aviation Avenue which is the new street created north/south and Paul Road, the east/west road. They will be subdividing 4.47 acres, out of a total of 34.81 acres that is the total parcel. So leaving the Lot R-3A, we plan to develop into site plan this evening the 4.47, and R-3B that is 30.4 acres would be the remaining portion of that. That is for the resub. I can go on with site plan if there are no questions about the resub of it.

DON FASO: We'll cover all of the questions at the same time.

MR. VALENTINE: We're asking both subdivision approval and site plan approval for a 51,000-square-foot building to be created on the Lot R-3A. As part of that, it is currently located in a Limited Industrial zone. The proposed development is plastics. It will have some light manufacture,

some processing, mostly distribution out of this building. It is also located in the ADATOD Overlay District. Being located in the ADATOD Overlay District, we'll also have to apply for a conditional use permit in order to move forward with the project. Until such time, we can talk with the Town Board and get it rezoned to the ADATOD District.

We're also looking for a SEQR determination from the Board this evening. We have applied to the Zoning Board for parking in the front yard. Basically we have two front yards, one facing Paul Road, the main entrance and the other front yard facing Aviation Avenue. And as I said before, we also will follow up with the Town Board to rezone it to the ADATOD District upon approvals.

Existing on site is an open field, kind of mowed as part of the former Bausch & Lomb property. Not much on the property. At the far south end there is a small portion, an abandoned baseball field, softball field. As far as the proposed grading of the site, the building is located somewhat in the center, parking in the front yard areas and in the rear of the lot is the loading dock areas for any deliveries to the site. Drainage would be handled sheeting off the site, the pavement, to swales on the side to pick it up and take it to a catch basin which would be conveyed to the storm water system.

As part of the storm sewer system, there was originally with the Paul Road Industrial Park, a regional detention facility was proposed at the southern end of the industrial park. With the new DEC Phase 2 requirements and upgrades, we have revised the drainage and revised the drainage calcs, and redeveloped the pond at the south end to meet the new Phase 2 requirements. We have added a sediment forebay to it, micro pools, a low flow channel for low flow conditions and reviewed the outlet structure to have inserted pipe to maintain required volume and also the low flow pipe there is to release over a 24-hour period of the one-year storm. That area is all encompassed within the existing easement that was prepared before. We have developed it inside of that, so it is within the existing drain easement. The grading has been revised and the outlet structure has been reviewed. The outlet structure has not been developed so it will be reviewed upon approval to meet the new Phase 2 requirements. A full storm water pollution prevention plan has been submitted to the Town Engineer along with revised calculation for drainage. The plan was prepared because this is an over one acre of disturbance and over one acre of disturbance you need to comply with the new Phase 2 requirements.

Utilities for the property. Utilities will connect off Aviation Avenue and utilities will be being installed right now. They'll connect to the existing sanitary stub lateral that was left with the past development. The stub was left for this property. We'll connect to that.

8-inch combined water service will be tapped off opposite side of Aviation Avenue and run to the building for both domestic and fire flow purposes. The downspouts, as we show them currently, we have them going to splash block. We realize that the Town of Chili requires them to be hard piped. We will update that and pipe them into the storm sewer system.

Parking requirements. Approximately 20 percent of the building, the front portion is going to be for office space. The remaining portion is either storage or warehousing area. Based on that, we have calculated we need approximately 153 parking spaces. Currently on the plan we show 114 spaces. There are less than ten employees for this company, and there are very limited visitors. So at this time, 114 spaces is more than adequate for development that is going in there now, but we have designated areas to be land bank areas for parking in the future to meet the requirement if so needed.

There are loading docks on the south end. There are four docks on the south end for loading for either tractor-trailers or small trucks. There are also two drive-in ramps with overhead doors you could drive directly into the building. There are garbage dumpsters located also at the south end that are enclosed in the structure. And lighting. There is no parking lot lighting being prepared for this property. There will be some small shielded wall packs on the building for security. That will be the only lighting that is provided. Landscaping for the property, we have included landscape berms along Paul Road, overlapping berms and also extensive landscape plantings to hide the parking lot. The parking lot is approximately 4 feet below Paul Road. It sits down in to hide the parking area in the front also with landscape berms above that and the landscape plantings on top of it. There are berms planned all along Aviation Avenue to give the streetscape as part of the original Paul Road Industrial Park plan. There is also landscaping around the building, foundation plantings and a landscaping island at the southwest corner to block the look of the loading docks. There is a large landscaping mound there with some trees and some plantings. Access to the site is located off two points off Aviation Avenue. There is no access off of Paul Road. There is an access in the front for

employees, for any visitors that may come to the property, with handicapped spaces. The access in the back will be used strictly for loading dock areas and any truck deliveries. The building will be an 8-foot high split-block face base to the building and a metal building halfway up from there.

We have brought elevation pictures, colored elevations with us this evening you can take a look at.

Any signage for the building will be on the building itself. It also can be seen in the elevation we brought with us that Rich (LeFrois) has. We have received comments from the Town Engineer. We have also received County Comments for this. I have spoken with the Town Engineer and addressed his comments as to how we can address them. I have provided him with a storm water pollution prevention plan and the calcs.

At this time we're requesting site plan approval, resubdivision and a conditional use permit so we can move ahead with the process until such time that we can get the Town Board to approve the ADATOD rezoning. At this time, I would like to open it up for any questions the Board may have.

DON FASO: Is Aviation Avenue dedicated now?

MR. JACKSON: We have a letter on file with the Town that at such time as we develop two more lots, the Town will take the road for dedication. At this point, it is private.

DON FASO: That was part of an old driveway system, correct?

MR. JACKSON: Yes. It is not in the same place, but it is generally in the same place. We just had to make it bigger.

DON FASO: I'm just wondering about Town standards.

LARRY NISSEN: Designed to Town standards.

MR. JACKSON: The road is going to be redesigned -- or has been designed to Town standards.

RAY BLEIER: I would like to get some clarification here from Keith O'Toole addressing Dan Kress' interoffice memo as to the direction we should be going in. What are we looking at? We're talking about a possible rezoning, or -- I guess it seems pretty definite they're seeking the rezoning. I'm kind of lost, you know, the steps that we should be going through. Should we ignore the rezoning at this stage and just consider the application as presented?

KEITH O'TOOLE: I see no problem with reviewing it in anticipation of rezoning occurring, making any approval subject to that rezoning occurring. Of course, if it doesn't occur, then the approvals won't be worth anything.

RAY BLEIER: There is some risk then involved?

KEITH O'TOOLE: I would expect if they didn't get the rezoning they would come back before the Board to try to get approved under the existing zoning.

DARIO MARCHIONI: We could make it subject to them getting the rezoning approved?

KEITH O'TOOLE: Yes.

RAY BLEIER: There was mention of a conditional use permit. Now, what is this conditional use permit?

MR. VALENTINE: As we understand, the conditional use permit would be needed to construct the building and proceed with the process now with the zoning as it exists.

RAY BLEIER: As it exists.

MR. VALENTINE: At this time. As we understand it, I believe within one year -- we would pursue it right at this time, but within the year, as long as it was rezoned -- that process can continue.

MR. JACKSON: The --

RAY BLEIER: When I see the agenda here, as published, you know, for the public, you're applying for a resub, which is very straightforward. There is no question about that. But then the other application is preliminary site plan. Now, I don't see anything here mentioning any conditional use.

MR. JACKSON: The reason we're asking for a conditional use is because it is located in an ADATOD Overlay District which needs to be rezoned by the Town Board. Our next step is to go to the Zoning Board for the parking variances, and then to the Town Board for rezoning. But in the meantime, in order to allow the project to proceed, we're asking for a conditional use permit.

DON FASO: Let me read something.

JOHN NOWICKI: Question on that?

DON FASO: Can I read this, John (Nowicki)? I will read it out loud for the record.

"115-20.4E ADATOD rezoning conditions. All ADATOD rezoning, prior to being placed on the official zoning map, shall be conditioned upon the application obtaining from the Planning Board site plan approval as further specified in 115-27 of the Town Code."

115-27 is Article 4 site plan approval. So prior to going to the Town Board for rezoning they need this Planning Board's conditional approval.

RAY BLEIER: Conditional approval? It says "site plan approval."

DON FASO: Site plan approval.

RAY BLEIER: That is why I am confused about the conditional use approval.

JOHN NOWICKI: Under the existing zoning, this is Light Industrial?

RAY BLEIER: This is Light Industrial approval. They don't need any conditional use permit.

JOHN HELLABY: I agree with Ray (Bleier). I don't understand.

DON FASO: Keith (O'Toole)?

JOHN NOWICKI: Let it go through.

DON FASO: Page 115-62.26?

KEITH O'TOOLE: I have read it.

DON FASO: What is your interpretation?

KEITH O'TOOLE: I think you're right. I'm not sure that it requires that it be a final approval, but certainly an approval.

JOHN NOWICKI: But they're on the right track right now.

KEITH O'TOOLE: It would appear to be.

JOHN NOWICKI: Even if we waived final.

DON FASO: They have the site plan. Then they can apply to the Town Board.

JOHN NOWICKI: Then they can apply to the Town Board for the ADATOD?

KEITH O'TOOLE: Yes.

JOHN NOWICKI: Simple. What is wrong with that? We'll forget the conditional use. Just go ahead and get the rezoning.

DON FASO: Are we comprehending that correctly?

KEITH O'TOOLE: I think discussion had been had to the question of what if the ADATOD is not granted and do they have an alternative. I don't know if that was the intention or not. But as things stand now, if their intention is to go ADATOD and they want to proceed in that manner, then it sounds like they're doing the right thing.

MR. LeFROIS: As I understand it, and I have to have help with it. The way I understood it is we could have this application and have this building constructed and not have the ADATOD District and come back on a yearly basis to get a conditional use permit renewed; is that right, Dan (Kress)?

DANIEL KRESS: No.

JOHN NOWICKI: I think you want to go in the direction you're going. You get the preliminary, waive the final, get your project going and if you want to go in ADATOD, make your application to the Town Board.

MR. LeFROIS: Okay. That is a lot easier for us.

DARIO MARCHIONI: So we're not dealing with conditional use permit?

JOHN NOWICKI: No, we're not.

DON FASO: Purpose, 115-20.4. The purpose of the ADATOD is to provide for a proper environment to foster warehousing distribution facilities, truck terminals and other motor vehicle sales, service, parts distribution and maintenance facilities that are located within a defined area around the Greater Rochester International Airport. These Overlay regulations shall be restricted to those lands that are currently zoned L.I., and which are located north of Black Creek, west of the Genesee River and south of Paul Road, east of the Carriage House Lane, south of Gates-Chili border, east of Lexington Parkway and Battle Green Drive, so the borders are definitely defined. This falls within the borders. It meets the purpose. I think we're on the right track.

KEITH O'TOOLE: Mr. Chairman, just to clarify, I understand what you're saying, and I agree with what you're saying. If the applicant is asking can they break ground without the rezoning, the answer at this point would be no. If they want to proceed as if it is a conditional use permit, similar to other uses permitted in the L.I., then they have not even advertised for that anyway, so in any event, all

we can give them is site plan tonight. So they're pretty much stuck going ADATOD at the moment right now. So that is how it works.

DON FASO: Clarification, Keith (O'Toole). Does this require another public hearing before this body for a recommendation to the Town Board? It doesn't read that way.

KEITH O'TOOLE: I don't think that was the intention. This is the public hearing for the --

DON FASO: For subdivision and site plan. It merges the two.

So the next step would be an application to the Town Board to be placed on Town Board agenda for rezoning?

KEITH O'TOOLE: Yes.

DARIO MARCHIONI: Our approval of this is actually a notice to the Town Board.

DON FASO: Well, application still has to be made.

DARIO MARCHIONI: Right. But it is a recommendation automatically.

DON FASO: And if we make that a condition of approval, once that application is made to the Town Clerk, they have fulfilled that obligation. If, in fact, the Town Board denies it for some reason, then they're back before the Planning Board for a conditional use.

KEITH O'TOOLE: Correct.

JOHN NOWICKI: We're in good shape.

DON FASO: Amazing how it all comes back to you, John (Nowicki).
(Laughter.)

The Board discussed who had the ADATOD section in their code books.

DON FASO: I will find out from the Town Clerk why three of us don't have the supplement for our code book. Does anybody keep track of the inserts?

JOHN HELLABY: I used to.

RAY BLEIER: I had a few questions. What are the hours of operation for this facility?

MR. LeFROIS: They're generally normal business hours, you know, 7 to 6 o'clock, 5:30.

RAY BLEIER: There is no evening or night shift?

MR. LeFROIS: Not in this particular application, no. They're basically a plastics distributor for all purposes, so it would be working normal business hours.

DON FASO: Just warehousing, no injection molding?

MR. LeFROIS: No injection molding. The only thing they really do -- they have a 4 x 8 sheet of plastic and someone needs a 4 x 4, they will cut it in two. Something like that.

RAY BLEIER: What about the volume of truck traffic?

MR. LeFROIS: They deliver with a straight job-type truck. They will get tractor-trailers in there, but I would estimate there are -- probably six to eight a day would be --

RAY BLEIER: Semis?

MR. LeFROIS: -- semis. And probably three to four or five of straight job trucks, something like that, making their deliveries.

RAY BLEIER: You mentioned about a berm along Paul Road. My first take on this was, oh, gads, you come in with front parking, and that was a big turn-off.

I know you're going to the Zoning Board for that permit, and then you mentioned about the berms. I was looking at -- like LAI, will this look like the LAI facility just down the road from you? Are you familiar with it?

JOHN NOWICKI: Lifetime Assistance, the building down the road.

MR. LeFROIS: To be honest, I don't know what one that is.

RAY BLEIER: Just on the other side of the armory.

MR. LeFROIS: Probably similar to that. We have a development on Calkins Road in Henrietta where we have undulating berms. It doesn't screen it 100 percent, but it cuts it down. They're not laying up there like a hot dog. They go up and down and they have some nice landscaping.

RAY BLEIER: What is the height of the berms?

MR. VALENTINE: Approximately 2 to 3 feet, but the parking sits 4 feet below Paul Road.

RAY BLEIER: Yes, it does at LAI, too.

MR. VALENTINE: It will be similar to the neighboring property. The parking is in the front

similar to the armory. The parking is recessed down below the berm in the front.

RAY BLEIER: I was curious why -- you certainly should be able to have enough total area here to have more of a parking away from the front of Paul Road.

MR. LeFROIS: Well, we --

RAY BLEIER: Why are you still hung up on getting that parking there?

MR. LeFROIS: Ray (Bleier), if I could give you a quick schematic how the building will work. Curbell Plastics is basically taking one half of the building. They will take this half of the building (indicating). As they rent out the other half of the building, we need to be able to get these people near the front entryway. The other properties we have, we don't provide parking there. They're parking on the grass. You know, we're landlords. We need to provide some parking for them near the front entry, or they will make it out of -- you know, parking on grass or any place else. So the main entrances into the building are basically here (indicating).

RAY BLEIER: This is the first I heard that you're considering only occupying half of the building.

MR. LeFROIS: This will be a multi-tenant building, that is correct. They're taking approximately one half of the building. They will use two loading docks for their portion. We'll have two loading docks and another drive-in door basically for the other half of the building.

RAY BLEIER: Is there a prospective renter?

MR. LeFROIS: We have several. We do not have a commitment as of yet. We have several that we're talking to.

RAY BLEIER: I'm just wondering, the use of the other half of the building; that might be in conflict with some of the zoning --

MR. LeFROIS: We would make sure we wouldn't rent it to anybody that was not in compliance with the zoning, to whatever was permitted in that zone.

RAY BLEIER: It gets to be a little hazy here. Let's see. Well, you mentioned -- how many employees, just for this part of the operation? Did you say about ten?

MR. VALENTINE: I believe there are about ten employees.

RAY BLEIER: Certainly your parking is going to be more than adequate, depending on what the other half of the building will be.

MR. LeFROIS: We're making the building a high building, and the purpose is for distribution. So we will have -- we'll definitely have adequate parking. We'll probably have even too much, but we'll have adequate.

RAY BLEIER: I guess I have a lot of reservations and concerns about this at this time. I would like to see some more architectural renderings here. The building -- I can see what that looks like, but I would like to see it with the elevations. Are the elevations in here for the berm?

MR. LeFROIS: Yes.

DON FASO: The grading plan, from Paul Road, the berm looks to be about 3 or 4 feet high and then it will drop about 8 feet to the parking lot.

MR. LeFROIS: It will be, give or take, 8 feet of elevation difference from the top of the berm to the parking lot.

DON FASO: Which is basically what LAI is. If you drive along Paul Road you can't see the front part of the parking lot, the cars that are in it.

MR. LeFROIS: I have probably driven by it 100 times.

DON FASO: You see. You never noticed it.

JOHN HELLABY: You only anticipate one other shared tenant in that space?

MR. LeFROIS: Yes. Because of the shape of the building, we're looking at 20 to 25 to 30,000-square-foot users. We want to divide it down the middle. In the Rochester market, we don't have -- we feel that that is a good size for this type of warehousing operation that we have. We're providing a good clear height. We have obviously the other building over here with vacant space. The problem we're having is that building is only 16 foot height. People today want a rack higher. That is kind of a problem that we're facing all of the time.

JOHN HELLABY: One of my concerns would be the signage. Naturally at this point you want a sign on the front of the building. What if you have another client in there?

MR. LeFROIS: That sign is just for informational purposes. We would come back and do it per code and all of the other requests on the sign.

JOHN HELLABY: The plastics business is a retail-type walk-in business?

MR. LeFROIS: No; all industrial.

JOHN HELLABY: No over-the-counter type stuff?

MR. LeFROIS: No. I'm not saying you can't go in and buy something, but they don't generally sell to the public.

JOHN HELLABY: There is no lighting per se shown on these drawings that you can pick up on. Is there --

DON FASO: You said it was security down cast?

MR. LeFROIS: We'll have security down cast around the building which, generally speaking, because of the hours of operation, you will get enough fallout just to get the people to the cars and they go home. They're generally going home by 5, 6 o'clock.

MR. VALENTINE: No plans for overhead lights at night. Just normal operation hours, 7 to 6. Just the security lights, the down lights on the building, at those times just for people leaving, but there would be no night operations.

JOHN HELLABY: The only other question is, on the plan you have noted future parking. In anticipation of what, a higher volume type client?

MR. LeFROIS: I think your code has a parking requirement for industrial warehouses that is real high. We just had made it -- I believe it meets code.

MR. VALENTINE: The future parking plan shows a land bank area. If parking was ever needed at that level -- obviously now we're well over the spaces we need, and even in the future.

JOHN HELLABY: You don't anticipate having to utilize it?

MR. LeFROIS: No, no.

JOHN HELLABY: I'm concerned the way it is shown on there having to cram it.

MR. LeFROIS: I wouldn't think realistically there would ever be parking that would be used there for a distribution-type facility. Even if it was a Light Manufacturing, still you're not going to, you know, get that many people in there.

JOHN NOWICKI: The only thing I want to comment on is that -- Larry Nissen's letter, Engineer's letter, will that be complied with?

MR. VALENTINE: Sure.

JOHN NOWICKI: Just -- all of the conditions they have in -- is that the letters of credit have to be posted. The overall presentation and engineering performance, the documents -- the drainage reports sound very good. Congratulations on that. You will be appearing before the Conservation Board for landscaping; is that correct?

MR. LeFROIS: Yes. I --

MR. VALENTINE: Landscaping. We'll be appearing before the Zoning Board also.

JOHN NOWICKI: My level of comfort with the LeFrois Building Group is very high. I have seen them all over the County of Monroe and in this Town before, and it is very good. I suspect it will be the same here. My confidence is quite high.

DARIO MARCHIONI: You said that Aviation Avenue eventually will be dedicated to the Town. Is there anything we can do on the entrance on Paul Road, like a center island, to brick this up -- just --

DON FASO: You will get an argument from Joe Carr.

JOHN NOWICKI: He will beat you up on that.

DON FASO: It is a snowplow hazard.

MR. VALENTINE: The entrance has been designed to D.O.T. standard.

MR. JACKSON: It also has been reviewed by Joe (Carr).

MR. LeFROIS: We had a planting area in the cul-de-sac in the back we removed per Joe (Carr)'s request.

DARIO MARCHIONI: You can understand our position. We're planners. If you drive down the street, you see a nice looking building you are going to put up --

MR. LeFROIS: We'll have nice landscaping on both sides of the road.

DARIO MARCHIONI: Any signage or anything?

MR. LeFROIS: At this point, we're not anticipating that. Not to say we may not come back in the future, if the park becomes big enough it would warrant a sign, Paul Road Industrial sign, whatever.

DARIO MARCHIONI: Will you have a sign, lit sign?

MR. LeFROIS: It won't be a lit sign. There are a -- what is it -- I think there are two lanes out, and one in, so there will be plenty of access for people to get in, and it has all been approved by D.O.T.

DARIO MARCHIONI: The treatment of an entrance sometimes reflects what is inside the entrance.

MR. LeFROIS: I agree with you. We want -- I mean obviously we're going to own this, so we want to make it look very attractive, so we want to landscape that entrance. We'll do something to make it attractive so more people want to come there.

DON FASO: I may be stealing Bill Arnold's thunder here, but plastic in my mind causes a toxic hazard. What type of concerns will be addressed in the construction of this building?

MR. LeFROIS: To the best of my knowledge, this is only going to be taking sheet plastic in and sending it back out.

DON FASO: But in lieu of a fire, full sprinkler? What type of inventory, the amount of inventory?

MR. LeFROIS: ESFR high density, high flow head sprinkler system will be in there.

DON FASO: I would like the Fire Department to have a floor plan layout when this is occupied. Is that okay, Bill (Arnold)?

BILL ARNOLD: More than fine, thank you.

MR. LeFROIS: No problem whatsoever.

JOHN NOWICKI: I just want to congratulate you. You're in a Drainage District. Nice going.

BILL ARNOLD: That was one of my questions. Thank you.

DON FASO: I figured it might.

BILL ARNOLD: To go along with that, the hydrant, is that going to be looped or just a single source from the supply?

MR. JACKSON: Single source.

BILL ARNOLD: Any plans down the road to loop that system to provide two forms of water supply?

MR. JACKSON: I believe it is a 12-inch main in there now, and if we run that through the Water Authority, as far as their approval -- as far as looping it, the only thing we can do is loop it back out to Paul Road, on the other side of the property.

BILL ARNOLD: My concern is if you had a water main break, or if we had a serious fire in there, we would have another source of water from another direction.

MR. LeFROIS: From a practical standpoint, there is a full fire loop that surrounds the Bausch & Lomb building, that is on a separate system.

BILL ARNOLD: A separate system, that's correct.

Any hazardous materials in the building that we should be aware of? Obviously just dry plastic?

MR. LeFROIS: That is basically it.

BILL ARNOLD: The pond that you're putting in, the size of that pond, the depth?

MR. VALENTINE: The depth -- it kind of varies in the micro pool area. It is approximately 3 to 4 feet per DEC code. The side banks have been sloped back to 1 on 4 per the new requirements for any small children walking by, whatever, not such steep slopes that anyone may trip or fall into the pond.

BILL ARNOLD: That's it. Thank you.

RAY BLEIER: Exterior lighting?

MR. VALENTINE: Wall packs on the building only. There won't be any plans for parking lot lighting since there won't be any night uses, any after hours work there. Just wall packs around the building obviously for security lighting and --

DON FASO: What if the second half of that building goes to a firm with two shifts?

MR. LeFROIS: Then what we would do is come back and see you at that time, if that should happen.

RAY BLEIER: What percent of the existing Bausch & Lomb building is not being used?

MR. LeFROIS: It is probably -- at least -- it is about 70 percent leased. Of that 70 percent, there is -- Bausch & Lomb still leases 75,000 square feet that there is about 10 feet in there, five

people, you know, very minimal.

DON FASO: Just warehousing?

MR. LeFROIS: Basically it is finished office now. I don't know what they do with that division, but it is all finished office.

DON FASO: They went to Mexico.

MR. LeFROIS: I think you're right. There is another three or four years left on that lease, and after that time, we figure on coming in and doing a pretty good retrofit of the building.

RAY BLEIER: I was wondering -- did you consider this application, you know, planning to fit it --

MR. LeFROIS: Again, because of the height -- that is only a 16 foot clear height building. They need more vertical building. Everybody in warehousing today wants a lot more vertical height. That is one of the inherent problems we have with the existing Bausch & Lomb building is it is a basically 16-foot high building. Anybody that wants warehousing today wants additional height.

RAY BLEIER: Good enough.

DARIO MARCHIONI: You did say, Rich (LeFrois), for the record, that it would be split face block, that yellow portion of the building?

MR. LeFROIS: Yes. It won't be yellow.

DON FASO: Could you hold that up so the audience could have a better view of that?

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

On Application #3, Don Faso made a motion to declare the Board lead agency as far as SEQR, made a determination that the resub will have no significant environmental impact, found this to be an unlisted action, and the Board all voted yes on the motion.

DECISION ON APPLICATION #3: Unanimously approved by a vote of 6 yes with no conditions.

On Application #4, Don Faso made a motion to declare the Board lead agency for SEQR, found this to be an unlisted action, made a determination of no significant environmental impact, and the Board all voted yes on the motion.

The Board discussed the proposed conditions.

JOHN NOWICKI: Do you have a copy of the County Comments?

MR. VALENTINE: Yes, we do.

DANIEL KRESS: Section 115 -- to answer for Keith (O'Toole), Section 115-33(c) as in cat, Number 11.

DON FASO: Thank you. That is granting the variance for front parking.

RAY BLEIER: I would like to specify if and when they have a second client in that facility they come in before the Planning Board. I would like to see the impacts on parking, perhaps lighting that was mentioned and -- I don't know how we would do that.

DON FASO: How about before client entering into a contract with another tenant that they appear before the Planning Board?

MR. LeFROIS: The only problem I have -- I have no problem with sitting down, or -- and everything else. It is just a timing problem we always run into. Nobody makes a decision and everybody wants to move into -- a guy comes into town and he wants to have a business and be in it in two months. So before I can basically sign a lease, I would need to get your approval. If we could do it somehow informally we won't have to go for the 30 days before the submit.

DON FASO: You know what our code says. You know what is allowed and not allowed.

MR. LeFROIS: We'll comply with your code. If there is anything that doesn't meet your code, we'll come back to see you.

DON FASO: If you have a prospective tenant. You can say this is a lead, but we still have to go before the Planning Board for review and comment. They shouldn't have a problem with that.

MR. LeFROIS: It is the -- only the timing. That is the only thing.

DON FASO: I can't see that as a problem.

MR. LeFROIS: It has been in another town.

JOHN NOWICKI: This is Chili.

MR. LeFROIS: No. But it is not a problem with the approval. It is a timing problem, that if somebody wants to sign a lease -- I have no problem if there is another -- if we wouldn't have to make the 30-day presubmit. In other words, if we could make a week presubmit before.

DON FASO: Well, I'm sure your prospective tenant's attorney will tell them if you sign a lease and need approval, that the signing of the lease is contingent on approval.

MR. LeFROIS: There is no doubt about it. There is only a matter -- a lot of times we just miss this month and could it be a two-month period before we come in to see you. That is the only problem I have.

DON FASO: But I'm hearing the Board is concerned about what might go in there and would like to review that. Just to address lighting, uses, parking -- you may not have to tap into that reserve parking. You may not have to -- you may not have to if you have another warehouse with two employees and two warehouse people.

MR. LeFROIS: We want to work with you. I was just seeing if we could shorten up the time. If I miss the cutoff now, I might not be able to get into an August meeting. Do you see what I mean? That is what I -- where I ran into the problem in the past.

DON FASO: You could always tap your tenant for a special Planning Board meeting.

MR. JACKSON: The other half of it, the other side of it, before you get the tenant, the -- building the second half, that is kind of a shell. If he gets a tenant that needs certain requirements inside, he can't start that until he gets the Planning Board approval. If he gets the approval, then he can --

MR. LeFROIS: Typically what we'll do is we'll -- again, I'll do it anyway you guys want, but we usually get the entire shell approved like this. We have to bring in a remodel plan to the Town on the other tenant. The Building Inspector will review it. If there is something that does not comply with the industrial code or that he is fuzzy about, then he sends us back to the Planning Board. If everything is hunky dory.

DON FASO: Actually, the code is on your side. We're approving site plan approval for this site, this size building.

MR. LeFROIS: Right.

DON FASO: As long as -- your tenant could be taking over the whole building.

MR. LeFROIS: Right.

DON FASO: In two or three years time when the lease is up, he could be moving out and you could be leasing it to another use. If there are no changes other than inside, the occupancy, it may not come back before the Planning Board unless you want to revise your site plan for outside lighting.

MR. LeFROIS: That would be great, if we could do just what you said, as long as we don't do anything to the exterior of the building.

DON FASO: We are approving the building. The Board is concerned about what may go in there. So I think we would like to have you come back before the Board with that prospective tenant so that the Fire Marshal can get another look at it to see what is going in there so we can address any concerns.

MR. LeFROIS: Okay. It is just --

JOHN NOWICKI: The use will be according to code.

DON FASO: The code is on his side. The code is on his side. But what I am hearing --

JOHN NOWICKI: Put up the building. When you get another use, if it is something that doesn't go along with the code, he has to come back. What is the problem?

MR. LeFROIS: If it does meet the code, we could just get a remodeling permit and go on and do our thing?

DON FASO: Yes. The code is on your side. Do you understand where the Board is coming from? Timing shouldn't be a problem. I don't see it as a problem.

MR. LeFROIS: Well, it is, on my side. It -- because we -- you know, with a broker that comes into town and a lot of guys want to sign a lease in a week. We have other clients that won't make a

decision for six months and then want to be in a building in 30 days. I have no problem with, you know, with going through the Building Department or through you guys, just if we don't -- if we just don't have, you know -- if I -- if I missed the cutoff, in essence I lose two months, because you only meet once a month.

DON FASO: However, on the flip side of that, there is a Developmental Review Committee within the Town that you could meet informally with, that would be all of the major players, the Building Inspector, the Town Engineer --

MR. LeFROIS: Could we have that, that they approve it?

DON FASO: We could flag it for any concerns.

RAY BLEIER: I think they would be okay as long as they were not modifying site plan.

JOHN NOWICKI: I don't know where we're going with this.

DON FASO: We're getting --

JOHN NOWICKI: You're getting hung up on something that shouldn't be hung up on. Approve the building. He knows what is going on.

DON FASO: What I am hearing is you want it on the conditions of approval?

JOHN NOWICKI: No. You don't need that.

RAY BLEIER: Well --

DON FASO: He has suggested that.

JOHN NOWICKI: Well, why?

RAY BLEIER: I said if there were site plan modifications.

JOHN NOWICKI: If there are site plan modifications.

MR. LeFROIS: No problem at all with site plans.

DON FASO: Then we have four conditions. Anything else?

DARIO MARCHIONI: Mr. Chairman, I was wondering if it would be wise to put a condition that the application go to the Town Board for a rezoning for the ADATOD.

JOHN NOWICKI: We already discussed that.

DARIO MARCHIONI: In lieu of conditional use permit. But put it on the record, so we'll have it on the record.

JOHN NOWICKI: We don't need it.

DON FASO: I think it would just be covered in the minutes.

JOHN NOWICKI: It is in the minutes.

DON FASO: Keith (O'Toole), sufficient?

KEITH O'TOOLE: I would think.

JOHN NOWICKI: It is in the minutes.

DON FASO: The process is spelled out in the code. We're following the process.

DARIO MARCHIONI: Yes, but in lieu.

DON FASO: By granting site plan approval, if we take the vote and it's approved and final is waived, that is step one. He can then take it to the Town Board.

JOHN NOWICKI: That is his choice.

KEITH O'TOOLE: If you want -- to follow up -- I understand what Dario (Marchioni) is saying. If you want to say something explicit in the Notice of Decision that says "pursuant to provisions of the code, we hereby recommend rezoning to the ADATOD District," that would be fine.

DARIO MARCHIONI: For the record, so when we get the conditions, we know that is the procedure that is going through. Thank you, Keith (O'Toole).

CHARLES ROBINSON: Mr. Chairman, since you're doing site plan approval, the Conservation Board's request is for landscaping plans since you're doing a site plan approval.

DON FASO: Didn't I see those on the site plan, in the packet? Weren't there plantings?

MR. LeFROIS: Yes.

CHARLES ROBINSON: Signed and stamped?

DON FASO: You want approval, they meet before you?

CHARLES ROBINSON: Signed, stamped licensed landscape plans.

MR. JACKSON: Not a problem.

DON FASO: I don't have it as a condition.

MR. LeFROIS: That is fine.

RAY BLEIER: I think I would like to read this one paragraph again, the ADATOD. It says, "Rezoning procedure. Anyone desiring to establish an ADATOD use shall apply to the Town Board for rezoning of any parcel of land that is first zoned L.I. and located within the area described."

DON FASO: Meets these two prior.

RAY BLEIER: "In addition, prior to the submission of any application for rezoning by the Town Board the applicant shall submit a concept site plan to the Town Planning Board for its review and recommendation on the rezoning."

So it sounds like to me that we have to make a recommendation.

DON FASO: Which I just covered under Number 5.

DARIO MARCHIONI: That is what I was getting at.

JOHN NOWICKI: We just did.

RAY BLEIER: You were making it as a condition, weren't you?

DON FASO: The condition that they apply to -- no. You're right. That would require a separate letter to the Town Board.

RAY BLEIER: It is not a condition.

DON FASO: Yes. It is a separate letter to the Town Board. I will take care of that letter. Well, that would be a separate vote then. I will eliminate that Number 5 proposed condition. I'll move Number 6 up to 5 which is the wet seal landscaping plan.

The Board further discussed the proposed conditions.

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

1. Pending approval of the Zoning Board of Appeals.
2. Pending approval of the Town Engineer.
3. A waiver has been granted for parking regulations (number spaces required) per section 115-33(C-11) of the Chili Town Code.
4. An inventory list and material layout shall be submitted to the Fire Marshal.
5. Landscaping plans shall be prepared by a licensed Landscape Architect and submitted to and approved by the Chili Conservation Board.
6. Pending approval for the Town Board for rezoning of this parcel to the Airport Development Area Transportation Overlay District (ADATOD).

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

DON FASO: I make a motion that we recommend to the Town Board the rezoning of this parcel to ADATOD, and the Board all voted yes on the motion.

5. Application of Black Creek Estates, LLC, 3535 W. Henrietta Road, Rochester, New York 14623, property owner: A. Perrotta; for preliminary subdivision approval of 48 lots to be known as Black Creek Estates/Ballaqua Manor Subdivision at property located at 159 Chili Scottsville Road in R-1-20, FPO & FW zone.

Don Carpenter and Robert Fallone were present to represent the application.

MR. CARPENTER: Good evening. My name is Don Carpenter with DDS Engineers here tonight representing the applicant Black Creek Estates, LLC, for the development of the 58 1/2 acre parcel at the corner of Beaver Road and Chili-Scottsville Road. The site is currently vacant, zoned FPO, which is Flood Plain Overlay. It also has a portion of the Floodway District on site and is

predominantly zoned R-1-20.

The proposal, as you can see, is for a residential subdivision, most of which is going to be developed per the R-1-20 code. It is 18,000 minimum square foot lots, towards the frontage. We're also proposing to develop some larger lots on a more private secluded part of the subdivision to the rear along the creek.

The site contains approximately 10.3 acres of New York State DEC wetlands CI 35 as well as a quarter of an acre of a federal wetland near the intersection of the church driveway and Beaver Road at the northwest corner of the property. We are not proposing to disturb or fill or otherwise intrude into the New York State DEC wetland or the 100-foot buffer. We are not proposing to fill anything over a tenth of an acre into the federal wetland so this project will not require a joint permit. It will require a Notice of Construction to the -- to the Corps, I think it is three working days before. But we fall under the tenth of an acre fill within the federal wetland.

The existing site drains predominantly to Black Creek, sheets across the property to the south and sheets into Black Creek. About a third of the site drains to the northwest corner into an existing culvert that flows underneath the church driveway.

The discharge to that point under existing conditions is 4.61 cfs for the ten-year storm. What we have done is to route almost the entire site into the drainage pond and so we have reduced the runoff to that 12-inch culvert to 1.75 cfs for the 10-year storm. So in effect I think we're going to see a great alleviation of kind of a drainage problem at that driveway right there. I believe that culvert is slightly undersized, and I think that is probably why the federal wetland is there in the first place. In addition, this site contains a portion of the 100-year flood plain. The flood plain actually changes from elevation 530 at the southern portion of the site along the creek to elevation 531 as you get up to the western boundary near the rear of the church. We are proposing to fill within the flood plain. The amount of fill within the flood plain is approximately 9,000 cubic yards. As part of this proposal, we're providing 13,000 cubic yards of storage at or below the flood plain elevation, and so we're actually creating about 1 1/2 the amount that we're filling. So we're creating a surplus, and we're -- what we're trying to target is the elevations below those that we're filling. In other words, most of the filling that we're doing

is at elevation 536 and above. And 90 percent of the storage or 80 percent of the storage that we're providing is at elevation 526 and below. And so we believe that this addition of a surplus storage within a flood plain will alleviate some downstream flooding issues. I understand that during the 100-year storm, this stream actually tops the road, just to the west of the church. Difficult to say if that situation will be reduced, but I believe that it will. In any event, we are providing 1 1/2 times the storage that we're filling, so in effect, we're sort of moving the 100-year flood plain on the site to the western part.

All of the houses, the basement elevations of the house also will be 2 feet above the 100-year flood plain. This project requires a great deal of earthwork on the site. And kind of in recognition of that, we have tried to preserve the entire rear portion of the site along the stream corridor to every degree possible. That's the reason for the larger lots along that dead end cul-de-sac drive. And the proposal as it stands is really almost two separate subdivisions, one developed in the allowed densities towards the frontage of both the roads. As I mentioned, 18,000 square feet is the minimum lot size. And the second one is the seven lots that are to be developed along the cul-de-sac. And it is sort of separated by the proposed pond. And it will have a distinctly different feel. We expect the homes that will be built on the higher density lots will be in the neighborhood of 160,000 and up, and the homes that will be on the seven lots to the rear will be around 300,000 and up. They're larger lots. They contain, you know, at least 50 percent to 60 percent, you know, wooded, densely wooded DEC wetland buffer, and we both endeavor to preserve the wetland as well as use it to the economic advantage of the project. It is a very expensive project to develop. And so, you know, we don't mind, I guess, exploiting, you know, the property to that end.

So with that -- oh, the project is serviced by both public water and public sewer. There is an existing Pure Waters manhole to the north of the church. There is actually a lateral that was installed to the property line and a clean-out set in concrete. I guess it was always intended that the sewer would be extended. I don't know if it was intended to be extended through the intersection or just to this property, but be that as it may, we are tying into the sewer near the property line and bringing the sewer on site so all of the homes will have public sewer as well as public water.

I think that pretty much covers it all. I will answer any questions the Board may have.

DON FASO: Don (Carpenter), you have copies of the Engineer's comments?

MR. CARPENTER: Yes, I do.

DON FASO: Number 3, wetland boundaries, have they been shown on the revised site plan?

MR. CARPENTER: Yes. Yep.

LARRY NISSEN: Since I generated those comments on April 25th, I have received a second set of plans that have been revised, and most of these comments in my letter of April 25th have been addressed.

DON FASO: Oh, okay, thank you, Larry (Nissen). Are there any that have not been addressed? Have you had a chance to look at the new calcs?

LARRY NISSEN: Yes. We have submitted revised drainage calcs.

Number 6 has not been addressed.

DON FASO: Number 6 on your old letter?

LARRY NISSEN: Yes. That is really about all.

DARIO MARCHIONI: Where do we start here? First, the Drainage District. There is a concern about the wetlands pertaining to the -- have you fully addressed that?

MR. CARPENTER: Yes.

DARIO MARCHIONI: Do you have it staked out?

MR. CARPENTER: Yes. We had the wetlands flagged by Environmental Resources, and back in March, I believe, or late February, he walked the DEC boundary with the DEC and they confirmed that, you know -- the mapping. The federal wetland, the quarter-acre federal wetland was also delineated by Environmental Resources and submitted to the Army Corps. Both agencies have concurred with the boundary, and as I mentioned, the only requirement in association with the wetlands we'll have to abide by is Notice of Construction. I think it is three days prior to --

DARIO MARCHIONI: Any type of reaction area you're addressing here for this development?

MR. CARPENTER: Well, as I mentioned, we're sort of trying to preserve the stream corridor to a great extent. In fact, we're proposing absolutely no intrusion into the buffer or the stream corridor of any kind. I know that Black Creek is a "designated tributary." As such, you know, the public has access for canoeing and fishing and any recreation of all kinds along the stream. Obviously that will be maintained.

JAMES MARTIN: I believe in your correspondence you said that will be a wet pond. You anticipate that will have water in it on a year-round basis?

MR. CARPENTER: Yes.

JAMES MARTIN: You have an enormous amount of cut and fill outlined on your plot map.

MR. CARPENTER: Yes.

JAMES MARTIN: I would certainly be concerned about stability, for landscaping and everything else, when you get all finished with that. Obviously, you know, you will engineer this properly so we won't have soil sinking down around foundations and all that kind of stuff going on, I would hope.

The general layout, as the Town Engineer has indicated, you know, there is an offset requirement for minor streets in the Town and the intersection you have with Black Creek Drive, whatever it is, probably does not currently meet that. Are you going to revise the plan in order to meet the Town code on that particular situation?

MR. CARPENTER: Our intention was to avoid a four-way intersection. I guess there is not a very simple answer. I would prefer to not space the -- the arterial streets, you know, 300 feet apart, but by the same token, you know, if we can't get any kind of relief from that requirement, obviously we'll have to change the plan.

JOHN NOWICKI: Are you asking for relief?

MR. CARPENTER: I intend to ask for relief, yes. I don't know if that is from the Planning Board or the Town Board.

DON FASO: Hang on. I can probably tell you in a second.

MR. CARPENTER: What we're trying to achieve with the detention pond as well as the landscaping -- and this sort of places that the offset of the intersection is to use the pond as kind of a buffer between the two densities of the home sites, and we're trying to create a more private and

secluded private -- you know, private cul-de-sac without, you know -- without that pond. I mean if we shift the road up 250 feet, we'll lose that buffer of the pond.

JAMES MARTIN: I did note on your plot map also that black was, if I'm designating it appropriately, is that a private drive or will that be designated to the Town?

MR. CARPENTER: Our intent is to actually have it be a private drive. I know there is a Town requirement for six lots maximum on a private drive. Again, I don't know if it is possible to get any relief from that requirement or not. If it is not, I think we'll consider reducing the number of lots on the private drive. I think that is more --- maybe a question for the owner to decide.

JOHN NOWICKI: Why would you or the owner object to a dedicated road? Why would you want all of the maintenance on it?

JAMES MARTIN: How will it be maintained?

DON FASO: Just if why I ^ ** that was discussed at DRC. That will definitely require a Homeowners' Association. There is no two ways about it. There will be a homeowners for maintenance and the homes on that drive will be contributing to a maintenance fund subject to the approval of the Secretary of State.

JOHN NOWICKI: They control the funding and build it according to Town standards.

DON FASO: The road will be built to Town standards.

MR. CARPENTER: I think if we could leave it in the current location I could probably make a strong case for dedication. If we move it 300 feet away, it is going to be more difficult to maintain a private feel and, you know, it will allow the property owners -- the Homeowners' Association more control over the driveway.

So I guess I think we would be willing to dedicate it if we can keep it close to or even where -- you know, where it currently is.

JOHN NOWICKI: You know, I look at that pattern, and I just get -- I like the location. I love the location. But that circular loop in there, is there any possibility of breaking that up with circles, with some --

DON FASO: Cul-de-sacs?

JOHN NOWICKI: No. But if you turn right onto -- what is the name of the street as you go in to the right?

MR. CARPENTER: Black Creek Drive.

JOHN NOWICKI: You go around that big circle with half acre lot houses, it just seems it needs to be broken up. I have seen some subdivisions where they put in a divide, split the road so you have to go around.

DON FASO: John (Nowicki), that looks exactly like Freedom Pond Trail in College Greene. It is exactly like it. That is it.

JOHN NOWICKI: You're absolutely right.

DON FASO: Except the private road instead of going to homes, goes to an apartment project.

JOHN NOWICKI: You're right. Very similar.

JAMES MARTIN: Those are the concerns I have based on the plot map at this time.

JOHN NOWICKI: The other one -- have you given consideration or thought to the traffic then on the Chili-Scottsville Road, in that particular section? Really, they're coming over that ridge at a pretty good clip and there is a curve there. There are a lot of people that don't realize that stop sign is there. You might hear that from other people in the area. I think you'll have a speed problem in that area.

DON FASO: My concern also is the sight distance on --

JOHN NOWICKI: The sight distance is --

MR. CARPENTER: We actually propose the driveway in the spot that gives us the straightest sight distance in both directions, so that we meet the State requirements for sight distance.

JOHN NOWICKI: That is a very interesting spot for speed, a lot of speed in that area.

MR. CARPENTER: That is an area where they just reconstructed the road, and it is a little speedway.

JOHN NOWICKI: Was any thought given to an entrance off Beaver Road?

MR. CARPENTER: Not exactly. If we did that, in order to have an entrance, we would want to site it as far away from the intersection as possible and I didn't want to fill in -- I wanted to try to stay

out of that federal wetland as much as possible.

JOHN NOWICKI: What is your intention to protect the property -- these houses will be facing in, and the properties on the Beaver Road side will have backyards now, will you build a berm on that road? Will that be a bermed area so that the people won't be able to see Beaver Road?

MR. CARPENTER: They will be able to see Beaver Road. Obviously the landscaping will be up to individual homeowners. The houses will be 4 to 5 feet higher than Beaver Road along Beaver.

JOHN NOWICKI: When you say "landscaping will be up to the individual homeowners," I don't agree with that. I think that you're going to have to look at our -- our Conservation Board is going to have to look at some serious, serious landscaping on the Beaver Road side to protect those properties. I'm talking some good size plantings, Austrian Pines, whatever the case may be, because there are subdivisions I have seen on the east side, Atlantic area, very similar to this on a busy road, with extensive berming and landscaping. That is the only way I can see that I would look at this and say I might go for this, but you better think about doing something on the Beaver Road side.

DON FASO: Don (Carpenter) you mentioned the federal wetlands on Beaver Road. Where exactly is that?

MR. CARPENTER: This little green triangle here (indicating).

DON FASO: I'm looking at a map that was generated by our Director of Information Management Services, that shows the federal and state wetlands, and I do not see that little triangle. That has been flagged?

MR. CARPENTER: Yes. Actually, it was flagged by our consultant, Environmental Resources. He flagged both the DEC wetlands and the federal wetlands. We canvassed the entire site because of the presence of potentially hydric soils, so we hired a wetlands consultant to look at the entire property, and those may or may not be --

DON FASO: What was the firm?

MR. CARPENTER: Environmental Resources.

DON FASO: Where are they out of?

MR. CARPENTER: Spencerport.

Federal wetlands, there is not a minimum size requirement, and they can pop up virtually anywhere. Not always mapped.

JOHN NOWICKI: Who is the builder on this?

MR. CARPENTER: Black Creek Estates, or Black Creek, LLC.

JOHN NOWICKI: Who is it?

MR. CARPENTER: The Fallones.

JOHN NOWICKI: Senior, Junior?

MR. CARPENTER: Actually both.

JOHN NOWICKI: Fallon Builders. Have they selected a particular style of housing? Something new in the area, or something they have done in the past?

MR. CARPENTER: I have photos of the newer houses that are pretty recently built by the builders. I will pass these up to the Board. Along the same vein as these (indicating).

DON FASO: Why don't you start them down there?

I will make sure the audience gets a chance to review them.

JOHN NOWICKI: I wanted to just touch base with you, too, on the wildlife aspect. It looks like you have a pretty good landing area for geese. I think in that area there was some fairly active deer herds in there.

I would imagine that people might want to enjoy that. Those are some pretty interesting characters that live there. I like the idea. I just think you have to do a little more work on it.

For now, I will reserve anything else until later.

DON FASO: Any thought given to the phasing?

MR. CARPENTER: It is a difficult project to phase due to the earthwork involved, and also the utilities. I don't know if you noticed, but the sanitary sewer comes from the northwest corner and it goes all of the way around to the rear of the cul-de-sac and the storm sewer comes from a high point that is about midway through the site and coming all of the way back around the pond until it is -- we're sort of up in the air on how to actually phase it. There would have to be some engineering work done for some temporary drainage. And economically you will build most of the storm sewer and almost all

of the sanitary sewer. It is not to say it won't be phased, but because of the --

DON FASO: My concern is granting preliminary, waiving final and not getting another crack at it. By granting final and preliminary on a phase, it makes -- we get it back before us to make sure everything is on track.

MR. CARPENTER: The first phase would be the 25 lots coming in on the entrance road, and you would end up with two streets.

DON FASO: So the cul-de-sac would be Phase 2?

MR. CARPENTER: The cul-de-sac.

DON FASO: Show me the first 25 lots.

MR. CARPENTER: A line something like this (indicating). So everything from here back would be Phase 1 (indicating).

DON FASO: Including --

MR. CARPENTER: Including the cul-de-sac.

JOHN HELLABY: Who is going to maintain that retention pond? Is that part of the homeowners'?

MR. CARPENTER: Originally we had -- when it was a private drive, we had considered that the owner of the lot would maintain it. I don't think an easement to the Town is out of the question.

DON FASO: I think the easement would be -- excuse me, the easement would be required. Ownership, no. Easement, yes.

JOHN HELLABY: You had made a statement about an awful lot of earthwork to be done on this job. Do you have a handle on whether or not the site is actually balanced?

MR. CARPENTER: It does balance. It has been a struggle.

JOHN HELLABY: There is no need to truck in material or truck out material?

MR. CARPENTER: No. There will be enough dirt flying around. We don't want to get anybody confused with driving them down the street. It involves about 90,000 cubic yards of dirt moving from one side of the site to the other, and there is a large job of the earthwork, and that's one of the reasons why I'm asking for the Board to consider, you know, waiving that final approval, at least on Phase 1.

The owner has been in conversation with the property owner, and it has been a little bit of a delay, or we would have been here a month ago. We have gotten kind of a late start. We really would like to get started as soon as possible on the earthwork and hopefully still be able to build some houses this year.

JOHN HELLABY: I know it takes a crystal ball, but walk us through your anticipated time frame.

MR. CARPENTER: I think the earthwork is probably going to be a 30 to 45-day process, maybe less. But I think it is possible to have some homes being built this fall, September is kind of the target. We would like late August, early September. If the weather -- everything goes right with the weather, you know.

JOHN HELLABY: What do you anticipate build out wise? Again, I know it is a shot in the dark, but...

MR. CARPENTER: I'm sorry, what was --

JOHN HELLABY: Build out? I mean, what -- are you thinking you could get things turned around in two years, three years, ten years?

MR. CARPENTER: My gut feeling -- I'm no builder, but we were sort of joking around in the hall, and I was telling the guys, "This is your year." I mean it is -- everybody knows this is a very high year for building. I'm not going to even guess as to, you know, how quickly these lots will sell or how marketable they are, or any of the other things that go into the whole home-building process, but my gut feeling says these lots are going to be very desirable and very marketable and I wouldn't be surprised if the majority of the subdivision is sold before the end of this year.

JOHN HELLABY: Lighting districts or sidewalks, or any of the other amenities?

MR. CARPENTER: Obviously we'll have to create a number of districts, drainage districts, lighting district. I guess I haven't thought a lot about sidewalks.

DON FASO: I'm not sure the Town wants them.

JOHN HELLABY: Just asking a question.

DON FASO: Maybe sometime in the future we might have to purchase sidewalk snow removal equipment, but not right now. But a lighting district would be probably a condition of approval.

JOHN HELLABY: That is all I have right now.

RAY BLEIER: I have a couple questions. What about the infrastructure? Is that all going to be completed up front?

MR. CARPENTER: A lot of it will have to be. That is one of the difficulties with phasing this project. I started to explain earlier, and -- it is probably unclear, unless you really have the utility plan in front of you, but the drainage starts at one end and goes around to the pond, and the sewer starts at the other end and goes up around to the cul-de-sac, and so it is going to be difficult to not build the entire systems, both systems for Phase 1 since the utilities are coming from one end of the site, and the entrance is coming from the other. So most of the infrastructure, except for the pavement, will need to be in place, even for a phased development.

RAY BLEIER: And the drainage pond and everything, that will be done up front?

MR. CARPENTER: Yes.

RAY BLEIER: I was wondering, I had a little concern about the fact that you only do have one access point into this property here, and I was wondering what the Fire Department's take might be on that. I was wondering whether or not there should be a secondary access point, a gate that connects to the property in case of emergency.

MR. CARPENTER: Well, as I mentioned, it is difficult to provide a secondary point far enough away from the existing intersection, which is the reason that we're showing one single point. Certainly, those rear lots -- the lots that front along Beaver and along the church property are accessible by fire equipment, both from Beaver Road and from the church parking lot. I understand your concern. I'm not quite sure a gate would be necessary. I think it is certainly accessible by the existing roadway frontage.

DON FASO: Ray (Bleier), as the Fire Marshal has shared with me on more than one occasion, a traffic accident blocking an intersection will not stop a fire truck from responding to an emergency call, even if they have to plow it out of the way.

BILL ARNOLD: I don't know if we would plow it out of the way, but...

JOHN NOWICKI: You have the same situation in College Greene, Ray (Bleier).

RAY BLEIER: Yes, I know.

DON FASO: I don't like to see them either.

RAY BLEIER: That is not to say that they're right, either.

JOHN NOWICKI: I agree.

RAY BLEIER: That's all I have.

DON FASO: We're also not looking at a 200-lot subdivision.

RAY BLEIER: You have 48.

DON FASO: There is more in College Greene.

KEITH O'TOOLE: I think before we do any approvals, some decisions have to be made. I have heard somewhat conflicting statements. Certainly if we have a Homeowners' Association, that could take control of the private drive, if we're going to do that, and consideration should be given as to whether the pond should be included as part of that maintenance obligation of the HOA. I think certainly the Town should get a drainage easement. This seems like a rather significant pond and even if the HOA has an obligation to maintain it, it would behoove the Town to have opportunity to access the pond certainly in emergency circumstances. So before we go and approve anything, there should be a decision as to whether there will be a HOA of the full blown variety, not the de minimus, and whether the Town has a concern as to whether the road should be private or dedicated. Thank you.

DON FASO: Well, good point, Keith (O'Toole).

I have to admit that I have been out of touch with a lot of the rules and regulations regarding subdivision approval for the last odd number of years. But if memory serves me right, and I trust my memory, four lots would be an acceptable flag lot situation without an HOA. More than four would require an HOA. That is what is going around in my brain.

KEITH O'TOOLE: My recollection is that four or less is a de minimus HOA where you do the common driveway easement, a quick filing with the AG and they say thank you very much.

DON FASO: You hit the fifth house and you're in DOS approval.

KEITH O'TOOLE: That is right. Up from the no action level to the full blown HOA.

DON FASO: That is automatic unless he cuts the lots down to four.

KEITH O'TOOLE: Exactly. And while you're at it, you could drop some landscaping in the middle of that cul-de-sac since the HOA would be picking up the tab anyway, and not the Town, for what it is worth.

MR. CARPENTER: If we go with an HOA.

DON FASO: I don't see anything around it.

MR. CARPENTER: If we don't dedicate the road.

DON FASO: Oh, dedicated road, then it is a moot point. Yes. If you dedicate the road, it is a public street.

MR. CARPENTER: The intention of having the hinging point on the private drive was to ensure, you know -- not an exclusive, but a controlled measure of privacy for the larger lots. I think if we move the street 300 feet away, we lose that measure of control. If we dedicate the road, can we minimize the distance between the intersections to something less than 30 feet? I mean maybe not as minimal as we're showing it, but at least to try and maintain.

DON FASO: Larry (Nissen), you're referencing design criteria.

LARRY NISSEN: I pulled that from Chapter 97.

DON FASO: Then it is our prerogative.

LARRY NISSEN: Not with any authorization to relax the restriction, but you can do with it as you will.

MR. CARPENTER: The design criteria prefers no four-way intersection, but the 300 foot is kind of a rule. I guess we would prefer not to have a four-way intersection there. But if that gets us away from the 300-foot rule, then maybe a four-way intersection, you know, isn't out of the question. Or, you know, something less than 300 feet.

DON FASO: I would have a concern if it was a higher volume, but based on the number of lots, I can't really see this as a problem where somebody turning out of the private drive might hinder somebody making a left off Black Creek. You just -- I don't think that is really a major concern of mine.

KEITH O'TOOLE: Just a parting thought. One benefit of the HOA is that you have a master hazard policy that could cover that pond, which would not be a bad thing. Nothing further.

DANIEL KRESS: Just two brief comments. One, I did specifically ask the Fire Marshal about Mr. Bleier's question, because I had the same concern whether one point of access was sufficient, and he had indicated and used College Greene as an example, there were certainly other developments in the Town, larger developments that were approved with only one way in, one way out. What you could do if you were particularly concerned about that, the code does provide for alternate access to be provided when you have got only one means of access, and in College Greene, it didn't actually amount to a second road heading in. It was really just a hardened area which to the naked eye would appear to be a grass surface, but some fire engine or emergency vehicle could roll over it if necessary.

DON FASO: That was moved, wasn't it?

DANIEL KRESS: It has now moved over to the far side. You had a couple possible locations for that.

The only other thing, based on conversations with the Town Supervisor, he just left me with the distinct impression based on past experiences the Town has had with private roads, that --

DON FASO: Oh, yes, somewhere down the road when they realize what it will cost to resurface, they want the Town to take dedication.

DANIEL KRESS: Yes. Just so you understand that.

KEITH O'TOOLE: Mayflower.

DON FASO: Mayflower and Pumpkin Hill.

DANIEL KRESS: Yes.

LARRY NISSEN: I just had a question about where you stood with the flood plain overlay, getting the flood plain overlay zoned boundaries revised. That is a process you need to go through with the Corps of Engineers, as I recall?

MR. CARPENTER: I'm a little unclear. I'm not sure if we need to file the mylar for that. I know there has been a new rule, and I have to admit I'm not --

LARRY NISSEN: That could be quite time consuming.

MR. CARPENTER: Could be.

LARRY NISSEN: This will require a 60-day notice -- or a 60-day waiting period as I recall after filing a Notice of Intent, minimum 60 days with the DEC for a SPEDIES permit, as I recall. I don't know if you're aware of that.

LARRY NISSEN: Other than that, I don't have any other questions or comments.

BILL ARNOLD: As far as the single way in and out, I don't have as much a concern about the way in as I do about the looped fire main system. I would strongly suggest they consider another supply off Beaver Road in the event of a problem there. As far as the traffic on Scottsville-Chili Road, I have an equal concern as well. The traffic does travel through a pretty hefty speed there. I have attended several accidents there and I can verify and vouch for that. If they continue that plan, the Vehicle and Traffic Safety Committee should look at lowering the speed limit in that area, probably some flashing lights to alert traffic to slow down there.

DON FASO: That is 45 in there now?

BILL ARNOLD: It is, but I'm guaranteeing you they're doing much more than that. The only other thing is the size and the depth of the pond, again --

MR. CARPENTER: The size and depth? The pond is about 5 feet deep.

DON FASO: It does have a four on one slope?

BILL ARNOLD: Maximum 5 foot deep?

MR. CARPENTER: Average, 5 foot deep. It is pretty consistent.

DON FASO: But it has also got 3 feet of reboard.

MR. CARPENTER: Yes. 3 1/2.

DON FASO: So in a 100-year storm we could have --

MR. CARPENTER: The pond will retain the 100-year storm event. Obviously the 100-year flood plain, you know, waters from the creek will probably come into the pond during a 100-year flood event.

BILL ARNOLD: I'm not so concerned about the amount of water in there as I am being it is in a residential area. We have similar areas in other residential areas as far as children in the neighborhood, playing on the pond, playing on the ice, particularly from our guys' point of view as a rescue situation.

DON FASO: I think I did -- it was a four on one slope, if I'm not mistaken.

MR. CARPENTER: The sides of the pond, yes. Some three, mostly four on one.

DON FASO: What is the price range?

MR. CARPENTER: The majority of the homes, as I mentioned, the more -- the half-acre lots are 160 and up. 160 to two and a quarter, and the larger lots are probably going to be somewhere 300 to 400. These are some pretty typical houses that range -- what is the price range for these, Bob (Fallone)?

MR. ROBERT FALLONE: The one you just let go was around 250.

MR. CARPENTER: What about this one? About the same?

MR. ROBERT FALLONE: Yep.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DON AND AUDREY CRAIG - 160 Chili-Scottsville Road

MS. CRAIG: Audrey Craig and we live at 160 Chili-Scottsville Road. I noticed on here that the thing going into the -- the development is 159. Is that going to be right across the street from us? That is my first question. Is that right across the street from our house? I mean there are only two houses right there. And --

MR. CARPENTER: This driveway right here and driveway right here (indicating). There is -- right directly across the street here is the mile marker. I don't know if you know where that is. Here is the first sort of culvert and the large -- I'm assuming you're one of these two driveways? But in any case, it would be directly across the street.

MS. CRAIG: Then I have another question. You said on Beaver Road you -- the road will be

higher than -- the land will be higher than the road along Beaver Road. Well, on Chili-Scottsville Road, will it be higher than -- right now the road is -- the land across the street is really high, but I mean is it still going to be higher, and then the backs of their houses are going to be toward us, so are you going to put something along there so it won't look so bad for us?

MR. CARPENTER: To answer your first question, the high point kind of -- at the extension of Old Chili-Scottsville is approximately 549. The contour -- the grade we're proposing right there is 546. Actually, 543. So we're -- we're cutting that hill down about 4 or 5 feet.

MS. CRAIG: It will still be higher than the road?

MR. CARPENTER: Slightly higher, but it won't look as high.

MS. CRAIG: Will you put something there so we won't have to just -- so it will look nice?

MR. CARPENTER: Well, actually, there is about a 25-foot strip that we're not doing anything with, so that all that existing vegetation along Chili-Scottsville will still be there.

MS. CRAIG: It is just all weeds and everything. It doesn't look nice. I was wondering if you're going to put like a pipe all along there and fill that up to the road so it will look nice and maybe plant grass or something. Do you know what I am talking about?

MR. CARPENTER: Not exactly.

MR. CRAIG: You better go look at it. You will see. I want it to look nice. We have lived there a long time. We don't want it to look ugly, from our house, you know? We have had a nice view all these times.

JOHN NOWICKI: Why aren't we talking about berming those two roads with the landscaping?

DON FASO: When we get to the decision-making process we can.

JOHN NOWICKI: When I see a subdivision on main roads I see berming and landscaping.

DON FASO: Autumn Woods.

JOHN NOWICKI: Manitou Woods.

MS. CRAIG: We don't want it to look ugly from our house. Our house will be looking at this ugly thing, you know.

MR. CARPENTER: It will not look ugly. Obviously we want it to look nice so the homes will sell.

MS. CRAIG: In my mind I picture it -- the road is there, a little bit higher and all of the weeds along the road and everything and these beautiful homes over there, all we'll see is the back of the house with the weeds and the ditch and everything. Is it going to look like that?

MR. CARPENTER: No. It will probably look like it is mowed.

MS. CRAIG: I hope so, because that ditch goes like this (indicating) and then like that (indicating).

MR. CARPENTER: Right.

MS. CRAIG: That is all I have right now.

DON FASO: We can make it a condition it all be crushed out and planted.

DARIO MARCHIONI: She brought up a good point. As you exit that road, will the lights of the cars shine right on her house?

MR. CARPENTER: I'm not exactly sure.

DARIO MARCHIONI: She lives directly across the street. How will that be handled?

MR. CARPENTER: The driveway is not directly across the street from her house. I think that her house is probably 3 feet higher than the road.

MS. CRAIG: Excuse me. I have one other question. You know, there are other driveways along there. You see there used to be an old road there, you know, just down from us. There is like a -- well, our house -- the Hayes' and then our house and then there is another driveway. So maybe you're thinking it is that other driveway, and maybe -- I don't know. You better check that because I really don't want it across the road from me, if you could fix that. I mean I am for it. It will be really nice, but I just don't want that thing right across the street from us, please.

MR. CARPENTER: Understood.

MR. CRAIG: Don Craig. Mr. Chairman, Board. I do have some concerns. We want to be good neighbors. We're happy that they're going to develop the land. The last owners that had it had a cash crop of marijuana growing there, so we're happy to see a subdivision going in.

We're concerned for the new neighbors coming in also. I would venture to guess that 95 percent

of those cars coming out of that access road are going to go towards Chili Center and not towards the Town of Scottsville, at least 95 percent of them. That is about 100 cars a day you're proposing to go in there. And if we had an access from Beaver Road, it would be more advantageous for those people coming out of that tract. I'm sure some of them have to work.

I grew up on that farm, so I know the farm. That wetland you're talking about, I don't believe it is there. I think that is just the other side of the church, that wetland that you have got shown. As I recall, it was a pasture lot down there, and I don't remember any.

DON FASO: Well, he did have a professional stake it out.

MR. CRAIG: Well, they could have made a mistake, too, Don (Faso). I mean, we're all human.

I do have some thoughts about the safety of those people. They will be coming out on Chili-Scottsville Road and walking, so I would propose to you to -- you would send a sidewalk down the west side of Chili-Scottsville Road to the creek there.

You have a town park that is just the other side of that creek. And you are going to have a lot of people walking in it. I know in time that some day you might have to even put a -- or the Town will have to put a bridge across there so that they can get to that park. It is just food for thought for you, and us also.

We are good neighbors, right now. We want to stay good neighbors.

So we propose that we -- the neighbors propose that there should be two entrances into that subdivision. And again, we're real happy for the subdivision. It is the best thing going.

You crossed one bridge for us about the sewers. We didn't know whether you were going in septic tank systems or what, so you have already crossed that, and we're happy for that, too. Not only do we like to have good neighbors, we don't want to smell them, too. 50 houses over there, we would more than likely have that problem.

The pond, retention, I just -- the first time I seen it was tonight. Are you going to have that pond with stagnant water so the mosquitoes can breed? We have a healthy crop of mosquitoes around that neighborhood right now. If you're proposing a pond like that, are you going to have fountains in that pond or something like that to keep the water moving so you won't have the mosquitoes?

MR. CARPENTER: Well, we don't have any aeration proposed, but --

MR. CRAIG: It is no big deal, but it takes a pump and -- I don't know who is going to own responsibility for that pond, but if you have a body of water that is going to be that big in that area, you will have a lot more mosquitoes than what we have right now.

MR. WIDENER: How deep is it?

MR. CRAIG: 5 foot.

MR. WIDENER: Hazard for children?

MR. CARPENTER: That is why we're trying to maintain a shallow depth.

MR. CRAIG: When you come out of that entrance you have proposed right now, about 95 percent -- I'm just taking that as some kind of a joking figure -- that is going back towards South Town or Marketplace Mall or something like that, they're going to be taking that Old Chili-Scottsville Road up by some of our neighbors that are here tonight, and that could be a real hazard unless the Town proposes a cul-de-sac or something to stop that road and force the people to go down to New Chili-Scottsville Road. I don't know. But you will have to dead end that road again. There are many accidents right there on that corner, and they come across there, and they slide into that big ditch.

DON FASO: I do remember talking about closing that road when they lowered that hill, many years ago. That was ruled out. I doubt that will happen.

MR. CRAIG: Just a thought. Will you put another --

DON FASO: It is a good thought, but I doubt it will happen.

MR. CRAIG: Well, you could talk to Joe Carr.

DON FASO: No. You need to talk to the Town Board.

MR. CRAIG: Well, the Town Board, I'm just saying that this is a safety problem the neighbors up the road from us will have.

DON FASO: They're well represented here tonight.

MR. CRAIG: Yes, they are.

DOROTHY BORGUS - 31 Stuart Road

MS. BORGUS: I wonder if the gentleman who is doing the presentation could show me the direction of the drainage, as it will end up.

MR. CARPENTER: Sure. The drainage right now is split right on the high point. This is all draining (indicating) to this area (indicating). Now this is draining into the creek (indicating). What we're proposing is the rear of these lots will still drain to this point (indicating), but all this is going to be channeled through the pond and the creek (indicating).

MS. BORGUS: Now you said that high water, you expected the creek to empty -- to drain some water into the pond?

MR. CARPENTER: Well, the pond -- the 100-year flood plain elevation will be inside the pond, yes. So during a 100-year -- theoretically a 100-year storm event would spill into the pond.

MS. BORGUS: I live right on that creek. Right on it. And I'm telling you, the flooding this year was terrible. As more and more filling takes place downstream at the golf course and in that area, this -- it gets worse back-up -- upstream.

DON FASO: He is doing more compensation.

MS. BORGUS: That whole thing kind of worries me. I hope that these very expensive houses have very good sump pumps, because I think they're going to need them.

RAY BLEIER: And generators.

MS. BORGUS: And generators. You got it.

JOHN NOWICKI: They come with canoes.

MS. BORGUS: Really. I have looked at that piece of land. My whole life I have lived in town. I guess I never ever thought that this would ever be land that would be built upon because it looks so horribly low, and I understand that there must be a lot of earthwork to be done to make that a suitable building location.

Are all those things around the -- your street there, are those intended to be trees?

MR. CARPENTER: Those are trees, yes.

MS. BORGUS: You will have street trees?

MR. CARPENTER: The code calls for street trees.

MS. BORGUS: I agree with the Chairman that this should be a phased project. I know other build-outs in Town have been done putting all of the infrastructure in first and still being phased. I think not to phase it takes a way a lot of teeth from the Planning Board if you get into problems, and I see this as a very problematic site. So I don't believe that the Planning Board should go with a non-phased plan.

My other question would be, between the street, on the cul-de-sac there, and the pond, are you saying that the Homeowners' Association, if there were one, would maintain that piece of land all of the way around that pond and cut it?

MR. CARPENTER: That piece is actually owned by Lot 48.

MS. BORGUS: Well, maybe to a novice that doesn't look like much work to keep that maintained, but that's a big job. That is a lot of area to keep cut. I foresee that if this -- that is left to one person to do, it won't happen. They may have good intentions, but it is just like it was mentioned by the Board, people in Town think they would like private roads until they really realize what they have gotten themselves into. That is another problem waiting to happen if you think one person is going to maintain all that lawn.

DON FASO: Did you hear Keith (O'Toole)'s suggestion?

MS. BORGUS: I thought I heard them all.

DON FASO: If he goes Homeowners' Association, perhaps the pond could be in with the HOA.

MS. BORGUS: Then you have to insist on a Homeowners' Association. That is not doable for one person and that comes from somebody who has a large lawn. And that is not even squared or easy to maintain. It is spread all over. I don't see how any one person could maintain it.

JOHN NOWICKI: Bob Bell.

MS. BORGUS: That is a rare, rare case. It is beautiful.

DON FASO: He is a second owner, correct?

JOHN NOWICKI: He bought it and fixed it up.

MS. BORGUS: He made a lot of improvements. It didn't look like that before.

DARIO MARCHIONI: If someone affords a \$300,000 home, they would afford to cut the grass.

MS. BORGUS: He would have to hire it. It is quite a job. It is not just the area if you put it in a nice square. It is spread out all over. It is a linear grass cutting job. It is not boxed in for you.

The other thing I would just like to comment was on -- I believe it was Mr. Nowicki about having so many backyards face streets. That never seems to work out well. And I say that because we have one up in our area, too, and everybody didn't think they minded having their backyard open to the road until they bought those homes that back up to Chili Avenue near Semler's farm. One by one a lot of them came in and wanted to put in berms and some of them did. The problem with that is that everybody doesn't have a berm and the berms that are put in don't match one another. Plantings don't match. The berms don't match. It looks hodgepodge and some people never did put a berm in, so people on Chili Avenue have to look at the backyards. That is not an attractive proposition. And from sitting this far back, I count 17 that will face either Beaver Road or Chili-Scottsville Road. I think there is a better way to plan this.

JOHN NOWICKI: Would you agree Autumn Woods looks good?

MS. BORGUS: Yes. But if they say, as this gentleman is proposing, they're going to leave a 25-foot strip of what he calls native vegetation or whatever, that is weeds and junk and that won't cut it.

DON FASO: I think we're going to fix that.

JOHN NOWICKI: We're not going to accept that.

MS. BORGUS: But we are not -- I can't imagine such a plan. You can't have junk trees and what -- and vegetation, quote/unquote, along a main highway and think you have something. The people across the street from these deserve better. We deserve some continuity what is put in. It can't be hodgepodge with every landowner there going their own way because from what I see up in Westchester, it doesn't work.

I just think there has to be a better way to develop that piece of land if it is going to be done. I just don't like the whole -- the plan just doesn't work for that. I can't imagine living in a house where you just have to go all of the way around the loop -- there was another subdivision mentioned -- not Mayflower. College Greene. That could have been done better, too. Just because we have one doesn't mean we have to repeat the mistake, if you will. That could have been laid out better, done better. This should be done better. Thank you.

JAY WIDENER - 134 Old Scottsville-Chili Road

MR. WIDENER: I think everything has been covered, but I will say a few things. First I would like -- Jay Widener, 134 Old Scottsville-Chili Road. The first part I do have to repeat. I do think there you have to have two egresses. I mean, if you come out of this -- the one you have now, you know what the big cut-off will be, Old Chili-Scottsville Road. Right now we have had three people killed on that road. We have had several accidents at this corner that is visible. The other corner we had one killed and about nine accidents there. So what I would like to see on that, nothing to do with you, but I will have to talk to the Town about putting a cul-de-sac on that road. That way there it does -- it is not going to affect your traffic at all. It will help you out. But I personally would like to see the cul-de-sac on the busy traffic end or the Beaver Road end and this opened up and you could come down from our road and feed the traffic here. I think that would be an ideal set up.

Another entrance in this, in case of an -- if you have an accident in the middle of the intersection coming up around, and you plan where nobody else can get in there and you have an emergency in the back, you're stuck. If you have another accident coming off Beaver Road or something where you can get in, it gives you two egresses and that would help out a lot.

I think that about covers everything I wanted to say. I'm in favor of it. I like the type of houses you got. I think we just got to work out a few little kinks. Thank you.

PHIL SUPERNAULT, 130 Old Chili-Scottsville Road

MR. SUPERNAULT: We also applaud the subdivision. It is a great idea. Good looking houses. They can do nothing but improve our property value so I don't have any concerns there. Has a traffic density survey been done?

MR. CARPENTER: We did preliminary analysis. You know, for 48 homes, it came in under 100, as you can expect. It is under the threshold that the State would require any kind of extensive analysis.

MR. SUPERNAULT: You looked at traffic on Scottsville-Chili Road?

MR. CARPENTER: Yes.

MR. SUPERNAULT: So you're saying 100?

MR. CARPENTER: The State D.O.T. has a --

MR. SUPERNAULT: I'm aware of that.

MR. CARPENTER: -- a 100-car guideline.

MR. SUPERNAULT: But realistic terms it looks like -- more like 150 to 200 cars, plus associated traffic, service vehicles, stuff like that. So you will be -- and nobody -- we walk that road every day. It is a dangerous road. Traffic comes flying from Scottsville Road across that bridge on that curve, on that bend, and it is a 55-mile-an-hour zone and not 45, and there is nobody traveling 55. And we're going to be dumping cars in and out of there twice a day, probably more like 150 cars. There will be accidents there. Especially -- what kind of distance is there between the entrance to the subdivision and Old Scottsville-Chili?

MR. CARPENTER: About 600 feet.

MR. SUPERNAULT: A lot of these people -- here is what is happening. Somebody is flying from Scottsville to get somewhere. Somebody will make a quick left onto Scottsville-Chili and then want to make that quick right onto Scottsville-Chili. What is going to happen? There will be accidents there. All the more reason I would agree with Jay (Widener) that we need seriously -- my concerns aren't for the developer. My concerns are more for the Town to take a close look at this, because there will be accidents, there will be fatalities. Jay (Widener) is right. We had at least two. We had fatalities on both those intersections that caused the lights to be placed there. We who live in that area, we don't chance the Blueberry Hill intersection. They did the work. It is still dangerous because most people don't observe. So now we're dumping probably another 100 cars over that intersection there. That is already dangerous. And again, my concern is not with the developer. My concern is with the Town and let's plan ahead here. Let's be thinking about -- because we may be sitting here tonight in a sense predestined -- predestining some people to die on those two intersections because of decisions that we either make or don't make. That is going to be a dangerous scenario there, and I know because we walk it.

Also, our little road -- what is the speed limit on that? It is seven-tenths of a mile long.

DON FASO: I assume it would be a Town road, 35.

MR. SUPERNAULT: No. There is no -- there is no posted limit, so it is whatever Old Scottsville-Chili is. It is a 55-mile-an-hour limit there. There is not a sign on that road that indicates speed limit. So if you're coming from Scottsville, turning onto Old Scottsville-Chili Road, what is the speed limit?

DON FASO: 35. Yes, it is. When you come into town, you will notice that the Town speed limit --

MR. SUPERNAULT: You're coming from Scottsville. Hear me. There is not a sign. There is not a sign coming from Scottsville.

DON FASO: I know where you're going with it, but there are signs entering Chili advising of the Town speed limit. Unposted, it defaults to the Town speed limit.

MR. SUPERNAULT: If I live in Scottsville, how do I know that?

DON FASO: Ignorance is no excuse for disobeying that. We're splitting hairs and you're being technical.

MR. SUPERNAULT: We live in the neighborhood. Nobody travels 35 miles an hour on that road.

DON FASO: Oh, I believe that. Nobody does 30 in a 30.

MR. SUPERNAULT: Again, there is not a sign on Scottsville-Chili Road between that corner and Scottsville that says 35 miles an hour.

DARIO MARCHIONI: There is a weight limit sign, though.

MR. SUPERNAULT: Yes. I don't think -- I think you -- if you check into that, you will find as far as people are concerned, that is 55 miles an hour through there. That is one of my concerns, and I

hope I'm not sitting down here a year from now, you know, talking about somebody who died as a result that we're not planning for the future.

Along those same lines, being a 30-year resident of Chili, we're growing. One of my concerns about Chili, for my 30 years of teaching and being in this area is we don't have a community-center feel.

All of the time I see things popping up and more reasons to go into Chili Center. Now we're bringing another 2 to 300 people in here. Why can't we allow some sidewalks to get them into the center of town? We'll have children. We'll have children again -- and those -- again, if we hold true to form, we're bringing about two and a half to three kids in per household. They will not all play in that area. They will want to go to Chili Center. Will we walk them along Scottsville Chili and our road with basically no shoulders? It is a dangerous road to walk anyway. It behooves the Town to think about sidewalks for the taxpayers, the people paying taxes on these \$200,000 homes.

DON FASO: Thank you.

MR. WIDENER: I just wanted to add to that. I talked to Joe Carr on it just as a friend, not officially. I laid out what I thought. I said, "What do you think, Joe (Carr)?"

He said it is beautiful. He has been trying to get that for years. So he would rather see that, rather than trying to go across all the intersections and everything else. As far as the highway is developed, if we had the Old Chili-Scottsville Road with a cul-de-sac.

DON FASO: Jay (Widener) or Dario (Marchioni), how many homes are on that stretch?

MR. WIDENER: Oh, let me see. I have to think.

DARIO MARCHIONI: 15.

DON FASO: Would all 15 agree to a cul-de-sac?

DARIO MARCHIONI: Petition tomorrow.

MR. WIDENER: Okay. I'll get it going tonight.

DON FASO: I just remember Beaver Road Extension with a minor modification, what an uproar that caused when we considered eliminating a dangerous Y intersection.

MR. SUPERNAULT: You would save lives.

DON FASO: What do you want to do with phasing, preliminary, final?

RAY BLEIER: Certainly, I wouldn't want to see it proceed to final this evening.

JOHN NOWICKI: Too much work.

RAY BLEIER: I don't know if the applicant has had a chance to hear the comments and concerns. I'm wondering if the applicant might be considering addressing some of those concerns and amending the revised plans and coming back to the Board even with an appropriate preliminary.

JOHN NOWICKI: I think they should go along with a tabling before they have had a chance to look at the comments tonight and come back -- and thought it over a little bit.

JAMES MARTIN: I would support that position also.

DON FASO: Not even doing a preliminary with all of the conditions we have addressed?

JOHN NOWICKI: No.

JAMES MARTIN: It sounds like there are serious traffic safety concerns.

JOHN HELLABY: There is the list of stuff from the County.

DON FASO: County Comments, I just thought were kind of typical cut sheet kind of stuff.

JOHN NOWICKI: I think there is enough good quality comments here.

JAMES MARTIN: I would like to see a defined phasing as part of the plan.

JOHN NOWICKI: We need some definite thoughts on the landscaping, the berming, and ingress, egress. The safety consideration. The people are right. That is why I mentioned it early in the presentation. It is a terrible stretch of road that has to be considered.

RAY BLEIER: I think if they were to form a Homeowners' Association, you could address the landscaping along Chili-Scottsville Road and have it maintained in an appropriate fashion.

JAMES MARTIN: It is a mess there.

JOHN NOWICKI: It is a nice idea, nice development --

DON FASO: Well, Ray (Bleier), that would be kind of a burden for six lots to maintain all the landscaping on two frontage roads.

KEITH O'TOOLE: If I may, you could do the HOA in a couple of fashions. You could have two HOAs. One would be for the half dozen estate homes, with the road. And possibly the pond. Or you could have another HOA that does the landscaping and the pond and separate things that way. Or

you could have an HOA that just includes the estate homes and an HOA that overlaps everything, so that folks who live in the big houses get stuck with the road but everyone else pays for the pond and the landscaping, including the folks in the big houses. An HOA is a developer's issue, because they're worried about the qualifying ratios and if you spread that out over all of the lots, it kind of evens things out a bit.

DON FASO: That is a very good point.

LARRY NISSEN: Even if there is an HOA for pond maintenance, we'll insist on an easement to the Town for maintenance.

DON FASO: That is automatic.

KEITH O'TOOLE: As a follow-up with Larry (Nissen), he was concerned about Lot 48 being stuck with the pond, the control structures and everything else. It seems a little ambitious for the lot owner.

MR. CARPENTER: Actually, it is the owner of the project's lot, and that is what the design was kind of built around. That is why Lot 48 is 8 acres, the largest lot in the subdivision. It is the most buffered and secluded, and that is really the intention. As far as the Homeowners' Association, I think I'm correct in stating that we want to stay away entirely from a Homeowners' Association. It is a long process. It is probably, you know, not -- we're not prepared to undertake that. In lieu of Homeowners' -- we would like to retain some minimum distance, hopefully less than 300 feet between the two intersections to try to maintain that, you know, the private nature of the cul-de-sac road, but if we dedicate the cul-de-sac, maybe either keeping it where it is, or, you know, moving it another 25 to 30 feet, and also assure the Board that we can provide some berming along the frontages, I would like to offer that as a solution to some of your concerns.

As far as the traffic study, we have been -- I have had SRF talking with Dave Gerring who has been apparently in and out of Town, but they worked up some preliminary trip generations that aren't exceeding the peak hour of 100 cars, and SRF doesn't believe that the State -- they're not sure, but it is their opinion that the State may not even require a traffic study. As far as the secondary access, this stretch of Beaver Road being relatively short from, you know, the next intersection up, I'm wondering if it wouldn't create more of a hazard to have an additional intersection. It would have to be right next to the church property, in which case we would end up filling the entire federal wetland which would throw us into a joint permit, so that would hold the project up. And also, you know, I would put to the Board that it may even create an additional hazard, the sight distance. That section of the road slows up towards the west, and, you know, I'm not quite sure that would solve any real circulation problems. I think the access, where we have proposed it, provides for the greatest amount of sight distance in either

direction, and it is probably the single spot that provides the greatest amount on either road. As I stated in the beginning, we have had kind of a long, drawn-out conversation with the owner of the property just to get the property under contract. It is the owner's intention to build his own house there, and definitely to be under construction this year. In order to do that, we would need at least a preliminary approval for the first phase of this project so that we can get started on the earthwork. I don't think any of the concerns from either of the County agencies or from the Board are insurmountable enough that we can't get a solution one way or another. I think the drainage is pretty cut and dry. The really only outstanding issue I think is access and landscaping. I think the landscaping is simple enough to solve. We can definitely provide some berming along the frontages. I happen to think that the houses that are graded are going to provide some seclusion from both Beaver and Chili-Scottsville Road, but we can actually provide some berming along the frontage, especially of Beaver Road. And I guess I'm open to any other suggestions that the Board might have about the possibility of a preliminary approval.

RAY BLEIER: Well, the Board seems to be pretty well set on requiring a phasing of development here, and what has happened before is that an applicant will come in, and we'll grant preliminary for the entire plot and grant final for say Phase 1. So if you were to do that and have -- if we table it tonight, you would come in next month and get the final -- or the preliminary on the entire and final on the Phase 1, if everything is up to snuff. So you would not have lost any time.

JOHN NOWICKI: I agree with Ray (Bleier). Those issues that were put on the table tonight you should go back and study, look them over. Both the Planning Board and the audience, and the table over here, and come back and -- if you have done your homework and thought about what the

people have said, I agree with Ray (Bleier), we could do preliminary and final next month and you guys would be off and running and we'll all be happy and smiling, I hope. If you don't, there will be some problems.

RAY BLEIER: I seriously would like to explore that other alternate cut. It was a good point some of the neighbors made. Which direction is the traffic going there? It is going to Chili Center. No doubt about it. That was probably not an exaggeration when he said 90 to 95 percent either.

DON FASO: I think when you look at trip generation studies, though, you will find that they may try going Old Chili-Scottsville Road and up to the intersection of Chili Avenue and find it more difficult to get out of than if they went straight up Chili-Scottsville Road to Chili Avenue and made a left at this corner rather than down further.

JOHN NOWICKI: The people should get a petition signed and put a cul-de-sac and get it over with.

DARIO MARCHIONI: Most of the people there are going to Henrietta, down Beaver Road, eastward. Very few really go straight to Chili Avenue. Mostly they're making that right turn.

DON FASO: I bet if you did trip generations on that, you would find that studies would say that a lot of them will find the quickest way to get to an expressway. Not everybody works in Henrietta.

JAMES MARTIN: You will go east to Henrietta or 490.

DARIO MARCHIONI: You ever see the traffic on Ballantyne Road in the morning?

DON FASO: I did that for a long time, Dario (Marchioni), yes. I don't do that any more. I don't want to do that any more.

DARIO MARCHIONI: Backed up to Case Hoyt.

DON FASO: Wait until they start construction on that bridge.

DARIO MARCHIONI: That is what I am saying.

DON FASO: My take on it would be dedicating the road, landscaping that hill. The road layout doesn't concern me. I live near College Greene. I'm one subdivision over. I think that works well. I really do. It is almost a mirror roadway layout to College Greene. That doesn't concern me. So I think dedicating the road, the landscaping plan --

JOHN NOWICKI: Easements.

DON FASO: The easements, of course.

JOHN NOWICKI: HOAs, if you think about it.

DON FASO: If they want to stay away from an HOA, I want some control over the pond for maintenance.

JOHN NOWICKI: We need a landscaping plan, too.

DON FASO: What would be the disadvantage, in your eyes, of walking away with a table tonight or getting preliminary with no final?

MR. CARPENTER: If we got preliminary, we could start the earthwork. If we walk out of here with a tabled matter, we can't start anything. We can't start -- the earthwork is going to take longer than 30 days anyway. If we leave here with preliminary approval, we're not being slowed up in any way.

DARIO MARCHIONI: Is your purchase of this property contingent on preliminary, or any conditions?

MR. CARPENTER: It is contingent on site plan approval, but preliminary approval -- we could waive the contingency if we got a preliminary approval.

DON FASO: This is the disadvantage of not coming before the Board for discussion.

MR. CARPENTER: I know I'm asking a lot. I know this is the first time the Board has seen this project. By the same token, it is fairly straightforward.

DON FASO: It has potential. No doubt about it. But I think the Board has some serious concerns that need to be addressed to give them that warm and cozy feeling before they put a stamp on it.

RAY BLEIER: I just get the feeling if we grant preliminary tonight, you're pretty much looking at what you're seeing now, and there is less likelihood that there would be any change and I would like to have the applicant have the time to consider possible changes.

DON FASO: What do you want to see, Ray (Bleier)?

RAY BLEIER: I still think that another road cut out to Beaver is --

DON FASO: I'm not sold on that one.

JOHN NOWICKI: They should go back and think about it. There is enough people here that have suggested they should think about it.

DON FASO: What about the residents of Old Chili-Scottsville Road that wanted that dead ended into a cul-de-sac?

RAY BLEIER: I don't think Old Chili-Scottsville Road is a concern to me. It is not that much of a concern. I travel it and I go over to the golf course, from Chili Center. I am more concerned about the other intersection up by Blueberry and a lot of people are. They just avoid it like a plague. They just go straight out to Chili Avenue instead.

DON FASO: I think people will migrate that route up to Chili Avenue. They will avoid Old Chili-Scottsville Road, unless they're going to Henrietta.

JOHN HELLABY: I guess I got to tend to agree with John (Nowicki) inasmuch as, you know, there are a lot of comments that have been made here tonight about the landscaping issues, the berming, the access points. And again, being the first time it has come before us, yet I like the overall concept. I think it is great, but I think they have to go back and get some of these -- yes, it might be standard issue stuff that County wants and whatnot, but I would like all that stuff addressed ahead of time.

DON FASO: If we're going to do a table, we need to give him reasons and --

JOHN NOWICKI: We just stated them. I make a motion we table this application for all of the above reasons we just gave.

MR. CARPENTER: Well, even if we got preliminary, we would have to have Town Engineer and Conservation Board approval, right?

DON FASO: Correct.

MR. CARPENTER: Couldn't we make the landscaping subject to Conservation Board approval and all of the other engineering comments subject to Town Engineer's approval?

JOHN NOWICKI: I'm sorry, I --

JOHN HELLABY: That cuts us out of the loop.

JOHN NOWICKI: I cannot do it here. I am not going to be pushed into a preliminary I'm not happy with. I am not voting on the preliminary plan. There is too much at stake here. There are serious issues here. I like the idea. I agree with everybody else. It is a great subdivision, great idea, but they have to go back and do some hard thinking on this. I want assurances we have plans in place that show the berming, the landscaping. We want to make sure the safety of the people going in and out of the subdivision is taken care of, they come back with evidence of that. Why are we in such a hurry on this thing? It is May. You come back in June. If you do your homework, we give you prelim and final, you're off and running. What is the big deal? We're not hard to get along with here, but you can't come in here and cram it down our throat in one night. It is not going to work. You have too much to think about here. Ingress, egress. You got to think about that a little bit, too.

DON FASO: Okay. Straw poll, leaning towards a table?

DARIO MARCHIONI: Yes. I would like to make a comment. On that berm, if you could look in the neighbors to see how that -- some sort of prospective how the back of those houses would look, you know, especially the people that just made comments about it. Is there any way you can meet with them to address that issue so that next time --

DON FASO: You want a profile, you mean?

JOHN NOWICKI: The backs of the houses, if they do the berming and landscaping, like Autumn Woods, they won't have a problem. These people won't have a problem with it. I think if you come in and give us some idea -- maybe you can go ahead on that State road and get your State Legislators to say we'll put some blinking yellow lights up there to get people to slow down, get a petition signed to take the speed limit down before the bridge and let them know there is a serious subdivision with people coming in and out and do something to protect the people for God's sakes.

DON FASO: Jim, table?

JAMES MARTIN: Yes.

DON FASO: John (Nowicki) table -- okay. Let's compose a letter for reasons for tabling. What comes to mind is the landscaping.

JOHN NOWICKI: Landscaping. The safety issues.

KEITH O'TOOLE: Drainage easements.

JOHN NOWICKI: Legal easements on properties.

DON FASO: Wait, wait. I don't write that fast. Landscaping, drainage.

JOHN NOWICKI: Homeowners' Association, yes or no, one way or another.

DON FASO: Reasons for or against. They're saying no.

JOHN NOWICKI: Yes. Tell us "yes" or "no."

DON FASO: When you say -- traffic concerns that you -- that is too broad.

JOHN NOWICKI: Beaver Road, versus Chili-Scottsville Road, ingress/egress.

DON FASO: You want trip generation --

JOHN NOWICKI: I'm more concerned with the infrastructure of the area to protect people because of the conditions we know that exist there, the speeding, number one, and the crossing over that will take place. If they come out of that new subdivision and a left -- and a right is made, you have a hell of a lot of accidents there. People coming from Scottsville are going like hell coming across that bridge. It will be a problem.

JAMES MARTIN: Mitigation of the traffic safety concerns.

JOHN NOWICKI: Absolutely.

DON FASO: Don (Carpenter), you have FRS doing traffic generations now?

MR. CARPENTER: Yes.

DON FASO: Landscaping drainage. The issue of the HOA. The traffic.

DARIO MARCHIONI: Drainage District.

DON FASO: That is automatic.

DON FASO: I'm not hung up about the offset in that small of a subdivision.

JOHN NOWICKI: I don't have a problem with that.

DON FASO: Then I have the four.

JOHN NOWICKI: There you go.

JOHN HELLABY: County Comments, will they address all those, as well? There are notations on the drawings and things that he should clean up all those while he is at it.

DECISION: Unanimously tabled by a vote of 6 yes to table until the June 10, 2003 Planning Board meeting for the following reasons:

1. Provide landscaping plans for the two frontage roads and how they will be maintained.
2. Provide information on how the drainage pond will be maintained.
3. Applicant shall address the issue of road dedications vs. Homeowners Association.
4. Traffic trip generation studies shall be prepared and supplied to the Planning Board.
5. Applicant shall address County comments as outlined in a letter dated May 8, 2003.

Note: Applicant to submit the above information to the Planning Board no later than May 21, 2003 to appear before the Board on June 10, 2003.

There was a pause in the proceeding.

FOR DISCUSSION:

1. Application of Ignazio Battisti, 2575 Chili Avenue, Rochester, New York 14624 for proposed 15 lot subdivision at property located at 29 Stone Barn Road, 221 & 227 Golden

Road in R-1-15, RA-10 & L.I. zones respectively.

Rob Fitzgerald and Ignazio Battisti were present to represent the application.

MR. FITZGERALD: Good evening.

DON FASO: Up again.

MR. FITZGERALD: Once again, Rob Fitzgerald with Avery Engineering representing Iggy Battisti. This project has been going on, Iggy tells me, for 20 years or so, and here we are at discussion.

DON FASO: Probably longer than he has been alive.

MR. FITZGERALD: I guess he would like to proceed with the project once again. A couple of big issues in the past that have held up the project -- there was an issue with foundry sands. That has been cleaned, the issue. As far as some of the lots to the east -- to the west, I'm sorry -- there are four lots, actually five lots in the wetland or wetland buffer and some mitigation have been done at this point and been approved by the DEC so that he could work within that wetlands, in that 100-foot buffer. Of course now with the new SPEDIES Phase 2 adopted January 8th, we'll have to revise that, but at least he has the process started.

Once again, ultimately to make this work, we would have to get possibly a zoning variance to -- I believe it is RA-20. RA-10 and there is an L.I. parcel as well as R-1-15. We would like it all rezoned to R-1-15 unless the Planning Board has some other options, maybe incentive zoning or something like that that we could look at. That is why we're here to discuss just those issues. Actually, there are three existing parcels. We're proposing, I believe it is 15 homes and then remaining lands, as well. We have a large parcel (indicating), large parcel of land (indicating), 20 foot right-of-way that could access the southern parcel (indicating). Iggy (Battisti) owns a strip in here as well as another strip of land to the west. So there are three parcels. At this point, I don't have it really well delineated, but that is what we're looking for, for a change of zone or incentive zoning or maybe Town Council has some other possibilities of the way we could get these homes in here.

DON FASO: One of the things that I would like to see when you come back in for preliminary, and I don't care if it is a large scale, 200 or 400, but I would like to see all of the lands --

MR. FITZGERALD: Definitely.

DON FASO: I want to make sure we're not landlocking a parcel here. What I am looking at here, I can't imagine make that assumption, too.

MR. FITZGERALD: That is one of my concerns. Why don't we put a common drive or four lots. He said then it would landlock his remaining lands to the west.

DON FASO: I would just like to see all of the properties in question on one map, and if it has to be a large scale 200/400, I don't care.

MR. FITZGERALD: I will certainly remember that. I will remember and take care of that. I guess if we do go to the Zoning Board route, we would, of course, need your recommendation to go to the Town Board, and I would assume you would want to see preliminary plans before we do that. That is why we're here, for discussion. I just want the Board's feel. Or like I said, there is an incentive zoning possibility.

DON FASO: Is this still on Superfund or has it been taken off?

MR. BATTISTI: The Superfund has been satisfied.

DON FASO: Okay. I see it in your letter to the Board. Can we see some documentation on that?

MR. BATTISTI: That has been taken off the Superfund? Yes.

DON FASO: How is it mitigated? What led to its removal?

MR. BATTISTI: There was a settlement between the Estate and the fact that they didn't really find anything there. So they exhausted the rest of the Estate funds to satisfy the DEC's -- basically they settled for whatever cash he had left to satisfy like a \$2 million Superfund debt and -- but it has been --

DON FASO: That should all be documented somewhere.

MR. BATTISTI: Yes.

DON FASO: Can you supply the Board that?

MR. BATTISTI: I will have it for you, yes.

DON FASO: That would answer a big question for me anyway.

MR. BATTISTI: No problem.

DARIO MARCHIONI: I'm sure this is just a sketch to give us a general idea here, but -- you have intention of building houses here, I am assuming, right?

MR. FITZGERALD: I will let Iggy (Battisti) answer the question.

DARIO MARCHIONI: What type of houses will you put in here? What is the price range?

MR. BATTISTI: I haven't really thought much of that. Right -- we have never really gotten that far. In the past we have just been trying to seek subdivision approval or rezoning. It will be comparable to whatever is in the area. They won't be \$300,000 houses.

DARIO MARCHIONI: Once you get this set up, will you sell the lots or build it yourself?

MR. BATTISTI: Right now it has not been decided, I guess. I'm not a builder by trade, if that helps you. I don't intend to build any houses.

DON FASO: One of the other comments that really struck me, that has to be some of the weirdest looking flag lots I have ever seen. That just jumped right out at me. That is not what I would define as a flag lot option.

DARIO MARCHIONI: You mean 13, 14, 15.

DON FASO: 13, 14, 15 and 16.

MR. FITZGERALD: The lots to the east.

DON FASO: The driveway on 16 has to be what, how long? That is one long driveway.

DARIO MARCHIONI: Along the railroad tracks. Can't you divide those lots up?

MR. BATTISTI: Open for suggestions. That is why we're here. That common driveway has been there -- actually there are two driveways that were originally part of that property, and they're both being utilized right now. The difference is this driveway, if I could get up and show you, this originally continued this way (indicating). It came around (indicating) and second, there is another structure here that led straight into his -- Mr. Fitzsimmons' workshop which is not shown on this drawing, but we're open for suggestions. I mean we looked at the other side of Golden Road, and they have different flag lots. Basically, three or four, five lots that are back here. We could do a similar thing. We tried to keep the front similar, but just trying to access the remainder. Years ago when I came here, Mr. Faso, you may remember, Mr. Nowicki, this was never included in the original drawing. Mr. Fitzsimmons wanted to leave this for himself. A lot has changed since we have last been here. He has since passed away and his family would like to

utilize more of the land in different ways. So that is where we have come -- you know, I --

DON FASO: Iggy (Battisti), didn't the trunk sewer come through here?

MR. BATTISTI: Yes. These sewer manholes and sewer tie-ins are already established from when the sewer came in. They have been laid out from the previous drawings from eight, ten years ago.

DON FASO: Am I not seeing --

MR. BATTISTI: They may not be shown on your drawings. This is just a sketch.

DARIO MARCHIONI: Just to follow up on that, these are pretty well-wooded lots?

MR. BATTISTI: This was a cow pasture lot. This was not wooded. This is all vacant. Right now there is still debris from when Mr. Fitzsimmons was there. The cow pasture fence is still up. Part of the barn is still up. There is nothing in the front. The back is somewhat wooded. The wooded area you're probably thinking about is these back lots here (indicating). This area here is not so wooded. Actually from here over (indicating) is not wooded. There are some scattered trees.

DARIO MARCHIONI: One other -- how wide are the entrances going to be on the flag lots, any ways?

MR. FITZGERALD: Actually, Dario (Marchioni), I believe they're 30 feet, which the code requires 40, so that would be a possible variance.

DARIO MARCHIONI: You would need to get a variance for that.

MR. FITZGERALD: Yes, we would have, if we proceeded that way.

MR. BATTISTI: I believe I have seen some flag lots in Chili for around 8 feet, as well, at least when we were looking years ago. There were some that were done. Not off the top of my head, but I

know there are some off Marshall Road and whatnot. I don't know the name of the exact areas, but I know variances for an a lot less have been okayed.

DON FASO: Rob (Fitzgerald), have you looked at the possibility of the cul-de-sac to the right, of extending that further east to maybe where that Lot 16 is? You could probably reconfigure that, maybe have one lot on Golden and maybe only lose one lot?

MR. FITZGERALD: Extend the cul-de-sac to the east?

MR. BATTISTI: So this home here would be part of the cul-de-sac (indicating)?

DON FASO: Where your finger is, just drag it to the right. You would pick up a couple lots on the frontage.

MR. BATTISTI: This is the actual house that the Fitzsimmons' homestead is sitting on.

DON FASO: Oh, it is.

MR. BATTISTI: That is the only reason why it is oddly --

DON FASO: I have not walked the property.

MR. BATTISTI: That is why it is screwy. It is the actual house that is sitting on the property, it was set that far back.

JOHN NOWICKI: Somebody living there now?

MR. BATTISTI: No. It has been boarded.

DON FASO: Is it salvageable?

MR. BATTISTI: Yes. Vandalized a little bit, but it is still there. I believe the children are still interested in it. In this parcel, the three structures are still standing. That is why they tried to keep it separate.

DON FASO: Are they retaining ownership of it?

MR. BATTISTI: The Estate has it now. At least the girl -- I can speak for the girls. They would like it.

DARIO MARCHIONI: What Don (Faso) is trying to say, if you bring that property line over about another -- according to the scale, about another 100 feet, you still have enough setback on the house, you know, side setback, if that is the -- to be -- and still get two more lots on the way into that cul-de-sac and just put one lot on Golden Road.

MR. BATTISTI: Keep this here (indicating)?

DON FASO: There is no reason why you couldn't take that existing house and incorporate it into -- have access off the cul-de-sac.

MR. BATTISTI: You're right. There is no garage or anything, but the house faces the other way. I guess it is a minor technicality, if you will -- but -- actually, you could. Actually, this structure facing -- everything is facing this way. It could happen, though.

DON FASO: I assume you will keep the house and raise the other structures?

MR. BATTISTI: Erase or raise?

DON FASO: Bring down, tear them down.

MR. BATTISTI: There are some structures that will need to come down and a lot of other things. I believe that they were looking to keep the shop up and possibly the building next to the home.

DON FASO: The shop would be the one where -- it says "existing structure"? Then there are two ancillary buildings to that?

MR. BATTISTI: No. There -- the two in the back are pretty much down, here (indicating).

DON FASO: The one where it says "existing structures," that's the shop that they want to save?

MR. BATTISTI: No. The one at the end of this road, where it stops, it is sitting.

DON FASO: Not shown here?

MR. BATTISTI: No.

DON FASO: The one where it says "existing structure," that will come down, too.

MR. BATTISTI: There is a small building in front of the home that they were hoping to keep.

DARIO MARCHIONI: Is that L.I. section -- Light Industrial.

MR. BATTISTI: The L.I. section is this (indicating). Along the railroad and the expressway, if I am not mistaken.

DON FASO: Iggy (Battisti), you have to help me out here. What is your contractual obligation? Are they keeping this lot and you're incorporating into this subdivision and you have options on everything that is on the two cul-de-sacs and they're keeping ownership of that house?

MR. BATTISTI: This for sure they're keeping (indicating). And as far as the front portion of this, that is yet on the table. But they are looking at all of this (indicating). This was the original piece that Howard and I were involved in (indicating).

DON FASO: That is technically what you want to develop?

MR. BATTISTI: Yes. I mean I -- to -- whether I come here for this or this (indicating), it is basically all in the same amount of work. So --

DON FASO: It is just all incorporated into the same subdivision plan?

MR. BATTISTI: Right.

DON FASO: There will be two owners. The Estate is keeping 13, 14, 15 and 16? Or all of the property that is inclusive of that?

MR. BATTISTI: Right now 17 and definitely the front three.

DON FASO: The front three, 13, 14, 15?

MR. BATTISTI: Like 13 -- yes, 13 is in the front. I didn't see that. 13 to 17.

DON FASO: 13 to 17 is keeping in with the Estate?

MR. BATTISTI: Yes. I mean technically -- yes, that is basically it.

DON FASO: You want to do 1 through 12?

MR. BATTISTI: Right.

DON FASO: That is a really weird configuration.

MR. BATTISTI: I know. It wasn't easy trying to come up with it.

DON FASO: They want to keep Lot 16, which comprises 13.72 acres?

MR. BATTISTI: No, I don't believe that is right.

MR. FITZGERALD: The proposed 3-acre parcel, yes.

DON FASO: Reconfiguring the cul-de-sac may not work out anyway.

MR. BATTISTI: They don't necessarily need the acreage. We talked about that at one time, considering a driveway leading to this or somewhere in this area and kicking this further back. We looked at different options. I mean, I guess -- there are supplemental attachments to the home. If they could keep that on the property, that would be great. If you would like them to tear it down or whatever, that is something else.

DON FASO: If you drag this (indicating) this way (indicating), this house (indicating) becomes that lot (indicating), but by dragging it, you will pick up two extra lots. That eliminates those houses. You are losing one lot.

MR. BATTISTI: What happens to this area (indicating) then?

DON FASO: This becomes one big lot, but this fronts on this cul-de-sac (indicating). This cul-de-sac is dragged over to here (indicating). This house becomes that existing house, so you're losing one, but by dragging it, you may pick up two additional lots for those two houses. Your net loss is one lot.

MR. BATTISTI: Does this definitely need some work on it? You would have to, in a sense, change the rear to be a front.

MR. BATTISTI: The structure is about a 100 years old and a newer home subdivision, I don't know how well that curb appeal would look.

DON FASO: If it is boarded, you would rehabit and reside it.

MR. BATTISTI: Foundation and stuff.

MR. FITZGERALD: Do they really want to -- what do you think the price is on it?

MR. BATTISTI: I don't know. I would have to talk to them.

DON FASO: You know the west half could be doable, but I have a hang up on the east side.

JOHN NOWICKI: Does the boarded up house have sentimental value to the family?

MR. BATTISTI: They grew up in it.

DARIO MARCHIONI: The other concern is the railroad tracks are so close to 13 and 14, those two homes, I don't know if that makes any difference.

DON FASO: It's a very active line.

MR. BATTISTI: This is no further away than the homes on this side. We could put them all up this way and have them all facing the railroad, but we tried to have them facing Golden Road. It is too bad they couldn't move the house. That would be easier.

MR. BATTISTI: This part here you don't have a problem with?

DON FASO: Not if I could see the overall land configuration.

MR. BATTISTI: So shifting this further down, incorporating this in.

DON FASO: I think it might work.

MR. BATTISTI: That is fine. Only one house off west side -- off Golden?

DON FASO: Yes.

MR. BATTISTI: One house.

JOHN NOWICKI: One house.

DON FASO: I think your net loss would be one lot.

MR. BATTISTI: Would it be possible to leave the driveway to the home that is already there and one house alone?

MR. BATTISTI: The bulk of the property is in the front. It is very useful.

DON FASO: You're telling me that that driveway exists now?

MR. BATTISTI: Two driveways.

DON FASO: There is only one house.

MR. BATTISTI: This house (indicating).

DON FASO: Two driveways, but only one house.

MR. BATTISTI: No. Understood. But it was used as a turn-around to come in and out of.

MR. FITZGERALD: He is talking about keeping the house as it is with the driveway and possibly combining these three lots into one proposed lot which would be at least an acre and a half.

DON FASO: You would be losing two lots that way.

MR. BATTISTI: And shifting this back like you said.

DON FASO: Well, if the house is that bad, it may not fit in with the new cul-de-sac.

MR. BATTISTI: That is why we tried to keep it separate. Keep the values of the other homes, as well. We tried to kick it back -- I'm sure the property line could come back even further. If we could work another one in here and sacrifice one here (indicating).

DON FASO: I would want to see some distance for the backyard for that existing house anyway.

MR. BATTISTI: Right now there.

DON FASO: Iggy (Battisti), I have another question for you. Are you taking land off your existing lot, or is it 63 feet wide now?

MR. BATTISTI: It has always been. That was before me.

JOHN NOWICKI: You're not in a Drainage District, either.

DON FASO: If it is on for discussion, my main concern would be the remedial action was taken for the hazardous waste site, number one.

MR. BATTISTI: I believe I have that in the car if you would like to see it.

DON FASO: If you proceed to proceed with preliminary, that would be a concern that I would like to see addressed, making sure that it is --

MR. BATTISTI: If I'm not mistaken --

DON FASO: It has been mitigated and DEC has signed off on it.

MR. BATTISTI: Basically they're in the process of delisting it off the inactive hazardous site, which is what we originally did a few years back, but now they have gone through and delisted the remainder.

DON FASO: Is it in the process? Did I read that?

MR. FITZGERALD: Yes.

DON FASO: It was in your letter it was in the process.

MR. BATTISTI: Of being delisted, yes.

DON FASO: I think before we could even consider granting preliminary on this we would want to see the documentation it is off.

MR. BATTISTI: Absolutely.

MR. FITZGERALD: We would do that on preliminary submittal, or would have to for the hazardous waste as well as the wetlands mitigation. And it sounds like it is -- the problem is on -- to the east. That will definitely be a potential problem, even at the preliminary state.

DON FASO: It is a designated wetland, too, so you will have mitigation measures there that we'll want to see when you come in for preliminary.

MR. FITZGERALD: That has been completed and approved.

DON FASO: The wetland mitigation?

MR. FITZGERALD: Yes. Yes. I do have documentation to that that I will supply the Board.

DON FASO: That will be submitted with the preliminary?

MR. FITZGERALD: Yes. Could you have that up front? There are some things we have to update due to the new SPEDIES requirements which we would have to any ways because it is larger than an acre. But yes, definitely, when we get to the point of submitting for preliminary we would, of course, do that.

My big question is ultimately we need a zoning change. And before that, unless I'm mistaken, we would either -- we would need a recommendation from the Planning Board, and -- would you like to see proposed preliminary plans before we would ask for that recommendation? And to -- to make sure all of the other --

DON FASO: Generally, I think that is not a big hang-up with me. The way you want to go makes it nice and clean and simple, and I don't think that would be a problem.

I'm not sure about the master plan.

MR. BATTISTI: The master plan shows it already as being rezoned for R-1-15. Unless the plan -- that has been changed at some point, but the master plan at one time does show that.

DON FASO: So cleaning up the zoning is not a big problem, as far as I see.

KEITH O'TOOLE: Is that piece of land south of the tracks also proposed to be rezoned under the master plan?

DON FASO: What are you proposing on 17?

MR. BATTISTI: Whatever the Town wants. If you want it R-1, if you want to rezone it, that's fine. If you want to keep it Light Industrial.

RAY BLEIER: It is Light Industrial.

MR. BATTISTI: Yes.

RAY BLEIER: Would you leave it as --

MR. FITZGERALD: It is. It is my understanding, too, that this will be delisted, and I don't think they have touched upon south of the tracks.

MR. BATTISTI: I believe the delisting is for the whole parcel, everything, to the best of my knowledge.

MR. FITZGERALD: We need to get you that information so everyone is clear.

DARIO MARCHIONI: Did you talk to any of the neighbors? They would like to see the back cleaned up. Did anybody make any comments to you, the neighbors?

MR. BATTISTI: Comments on cleaning up?

DARIO MARCHIONI: Did they see this problem at all?

MR. BATTISTI: They have probably seen it over the past ten years at one point or another. I'm sure all of them have unless somebody new has moved in. As far as their issues, I haven't heard any of them lately.

DARIO MARCHIONI: I'm sure they would be glad to have the whole area cleaned up.

MR. BATTISTI: I'm sure it wouldn't offend anybody if it was cleaned up. There is still a lot of scrap metal back there.

DON FASO: Now is that other parcel landlocked?

MR. BATTISTI: There's a 20-foot right-of-way. It might actually be -- I don't know.

DON FASO: I'm also looking at a common ownership leader, now or formerly Ted Gordon, to the right of 17?

MR. BATTISTI: He owns both parcels?

DON FASO: No. My concern is what is the other common parcel?

MR. BATTISTI: On the other side --

MR. FITZGERALD: It extends beyond.

DON FASO: That is why I don't care if you go to 400 to show me everything.

MR. FITZGERALD: Which --

MR. BATTISTI: There is one parcel that I believe -- I'm pretty confident is landlocked and it is at the end of the subdivision. There is a small 6-acre parcel that backs up from Minuteman.

DON FASO: Already landlocked.

MR. BATTISTI: I know there is no entrance to it. That doesn't involve what we're doing. I mean we haven't done it to someone.

DON FASO: Who owns it?

MR. BATTISTI: I don't know. The gentleman's name, someone who lives down south I know from the cul-de-sac that is down off of Spice Wood, there is a 6-acre parcel behind.

DON FASO: We as a Board cannot knowingly landlock a parcel.

MR. BATTISTI: It is already landlocked. I mean I -- I don't want you to think we did it.

DON FASO: Show me.

MR. BATTISTI: I have to show you.

MR. FITZGERALD: This portion here, too, they have their access onto Golden Road and they are on, I believe it is another cul-de-sac across the expressway. They also have that on Golden Road. So we have the tracks and to the expressway. And we stop there, at this point, just for discussion, just to get a feel of the Board. We haven't really gotten into it either too much either. We have not done topography. I wanted the Board's feel on the project because I know there is quite a bit of history.

MR. BATTISTI: If I may ask the Board, if that is possible, Mr. Faso, would the Board be willing to entertain possibly something that looks like this (indicating) with this home coming back here (indicating) and just leaving it as three parcels here, mirroring this side here (indicating)? This side here you can't see, but these are all flag lots that lead to a similar configuration as this? Would that be something -- keeping us not right on the railroad like Dario (Marchioni) mentioned, and putting three lots and losing one somewhere, I guess, but something to that effect? Something that looks a little bit prettier or more decent as far as flag lots. Since we're here to talk.

DON FASO: I just think it is a --

MR. BATTISTI: I know what you're saying. I don't know what else to do with it. I mean it is a huge front yard to cut.

DON FASO: But on the other hand, I don't have to market it and sell it. That is going to be your problem.

MR. FITZGERALD: I think it is pretty clear that is an issue and we can go to the drawing boards on that and see what we can fit in there.

DON FASO: I think you can do something a little more creative.

JOHN NOWICKI: Are the two driveways in 13, 14, 15 dirt roads?

MR. BATTISTI: Gravel.

JOHN NOWICKI: So you could realign them?

MR. BATTISTI: Yes. We would have to rip up some gravel.

JOHN NOWICKI: We're not fixed by those roads?

MR. BATTISTI: No. Well, it is just hard gravel that has been there for, I don't know.

DON FASO: Any utilities going into that older house boarded up?

MR. BATTISTI: Utilities. Well water. Electricity and gas. Sanitary sewers, yes.

JOHN NOWICKI: They have sanitary sewers?

MR. BATTISTI: Yes.

JOHN NOWICKI: Holy cow.

MR. BATTISTI: The trunk line runs through there.

DON FASO: Capacity should not be a problem. That is the one that is eventually going to hook up with -- I think Joe Lu's office is doing the survey on that from the landfill, to Churchville, to Union Street.

JOHN NOWICKI: Is there an easement on your property for that sewer?

MR. BATTISTI: Yes, sir. They have an easement.

DON FASO: It is not shown.

JOHN NOWICKI: It is not shown.

MR. BATTISTI: No. This was just -- for rezoning we didn't show any of the utilities. There is a trunk line that comes right through here (indicating). It comes down, goes across.

MR. FITZGERALD: It goes right through the middle of his property.

JOHN NOWICKI: We have to know where that is.

DARIO MARCHIONI: That driveway would be right on top of the easement. The one on 13 and 14.

MR. BATTISTI: 13 and 14, the driveway will be part of the easement, yes, probably. Actually -- if I am not mistaken, I believe it is. I don't know exactly how close, but their permanent easement I believe was only 20 or 30 feet. Their working easement was greater, so it is not a big deal. I mean, there are roads over sewers now, aren't there? I think pretty much?

DON FASO: Probably nothing has changed since the last time I was on the Board. I assume we'll go out and do a site visit. I would propose an organized site visit on this one. Would the Board object to that?

The Board indicated they wouldn't object.

DON FASO: Have you guys done that in a while?

The Board indicated they had not.

DON FASO: We used to do that a few times.

DARIO MARCHIONI: Who buys the coffee?

DON FASO: I'll buy the coffee and donuts. I think the site probably would deserve a site walk with the Board.

A special meeting Saturday morning 10 o'clock for an hour. We would have to advertise the Board would do that, even though no vote would be taken.

MR. FITZGERALD: Would we be invited?

DON FASO: You would be leading the tour.

MR. FITZGERALD: And then -- I agree, Mr. Nowicki, but some towns don't like us to be there. They think we'll persuade them or walk then down the best trail. Then we'll just go from that meeting. I kind of get the Board's feeling. It is not cut and dry. That is why I wanted to just touch base with everyone on discussion.

DON FASO: It could be doable. But I think we want to see some answers to some questions.

JOHN NOWICKI: Show us those easements, the utilities where they're located, because it will impact where the lots are laid out.

DON FASO: That is a good sized trunk, 24?

MR. FITZGERALD: I think it is bigger. I'm guessing 30. 30, 36.

MR. BATTISTI: It relieves the 24 that is in there now. So it would have to be over 30.

DON FASO: When you're ready with preliminaries, let me know, give me a call, we'll go from there with a Saturday morning walk-through.

MR. FITZGERALD: Walk after we submit preliminary?

DON FASO: Ahead of time I would like an overall map. Mr. Nowicki would like utility layout, where the easements are, so we could have the map before we do the walk.

MR. FITZGERALD: We won't submit it, but at least have it in hand.

DON FASO: Before you make a formal application, put something together for us.

DECISION: Applicant may now proceed with preliminary subdivision plans. With the submission of preliminary plans, applicant needs to address the Board's concerns as expressed at the meeting.

Prior to submission of preliminary plans, the Planning Board recommends a site visit with the applicant and the applicant's engineer.

DON FASO: You all know I'm past President of the New York Planning Federation. The Town of Chili is a good member in good standing. And we hold an annual conference. I know Ray (Bleier) goes to a lot of them. I am ex-officio by being virtue of being past President so I get invited to the Boards, but I do not get a chance to vote. I am invited to the Board meeting. However, Ron Brand is a member at large with voting rights, and at the last Board of Directors meeting Ron Brand made a motion to create a new award, a new New York Planning Federation Award. The award is for outstanding Chairman of a Planning Board and this award's name is the John O. Cross Outstanding

Planning Board Chairman Award which will be awarded annually to an outstanding Planning Board Chair, and nomination must come from the Planning Board members. Not the supervisor, not the Mayor, not the Director of Planning, not the Town Engineer, but the nomination must come from Planning Board members, and this award will be statewide, awarded annually.

The meeting ended at 11:08 a.m.

A meeting of the Chili Planning Board was held on June 10, 2003 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 Don Faso.

PRESENT: Ray Bleier, John Hellaby, Karen Cox, James Martin, John Nowicki
and Chairperson Don Faso.

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

Chairperson Don Faso 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.

OLD BUSINESS:

1. Application of Black Creek Estates, LLC, 3535 W. Henrietta Road, Rochester, New York 14623, property owner: A. Perrotta; for preliminary subdivision approval of 48 lots to be known as Black Creek Estates/Ballaqua Manor Subdivision at property located at 159 Chili Scottsville Road in R-1-20, FPO & FW zone.

Don Carpenter and Bob Fallone were present to represent the application.

MR. CARPENTER: Good evening, Mr. Chairman, ladies and gentlemen of the Board, Town staff. My name is Don Carpenter with DDS Engineers here tonight on behalf of Black Creek Estates.

We have revised the site plan. As you probably have realized, we have relocated the entrance to Beaver Road. I believe we have addressed all of the Board's previous comments. I will go through them briefly. We have provided frontage berms along Chili Scottsville Road with approximately 180 evergreen trees planted on the 4 foot high, 6 foot wide berm.

We have provided an updated drainage report to the Town Engineer on how the drainage pond functions as well as a maintenance, an access easement on the plat map for the Town's access.

We are no longer proposing a private road. Both roadways will be dedicated to the Town.

I submitted traffic trip generation calculations with the previous updated --

I think that we have addressed all of the Board's concerns, and I believe that we have addressed all Town staff's concerns, as well.

As I say, we relocated the entrance onto Beaver Road, and I'm just going to repeat myself slightly for the benefit of the people in the audience. We added some landscaping along the Chili frontage to -- which is mostly going to function to buffer the residents' backyards more than provide any screening of the subdivision, since the subdivision is actually higher than Chili Scottsville Road.

And all of the roads will be dedicated to the Town.

We have also addressed the Town Engineer's and the County's comments. I can go through them if you would like.

DON FASO: Touch on them briefly.

MR. CARPENTER: We have submitted an application for -- or a petition for an extension to the drainage easement (sic) to the Town Clerk this morning.

DON FASO: The Drainage District.

MR. CARPENTER: Drainage District, correct, I'm sorry. We have a SPEDIES permit underway, application underway. I have added the notations for the flood plain overlay and the

floodway district on C2 as the Town Engineer suggested.

The drainage has been adjusted per the Town Engineer's comments. We have added gutter inlets. We have removed the junction boxes and the inlets and added manholes as junction points.

We have eliminated all of the diagonal crossings under the road and I believe the only thing that has not been addressed thus far, because it was omitted from the plans that were resubmitted, was the storm sewer profiles, but we'll resubmit those to Larry (Nissen) for his review tomorrow.

I think that is it as far as the Town Engineer's concerns.

The County's concerns were pretty general in nature. Mostly that we would be submitting plans for the water main as well as the subdivision and the SPEDIES permit with the Health Department's review. They also noted the presence of the wetlands, which we had delineated, as you know. I submitted a wetland delineation report at the last meeting.

The County highway comments have all been addressed. We have added the notes, the standard notes for County highway as well as the details. We have added gas and electric to the plans, albeit in a conceptual fashion.

I think that we have satisfied all of the comments that have been submitted to us so far. If the Board has any questions -- which I'm sure you will.

DON FASO: You didn't touch -- Joe Carr had a comment about up-sizing the sewer.

MR. CARPENTER: Yes. We changed all of the sanitary sewer to 10-inch.

DON FASO: For those that didn't know that, that was a recommendation or suggestion from Joe Carr.

MR. CARPENTER: Previously we had just a portion of the sanitary sewer that was at a flatter slope at 10-inch. It does tie into an 8-inch sanitary near the Beaver Road entrance out by the church, but all of the sewer that we're proposing on site is 10-inch PVC.

DON FASO: And I see you're phasing it.

MR. CARPENTER: Yes. I almost forgot. We're phasing the project, splitting it laterally along the frontage of -- or parallel to the frontage of Chili Scottsville Road. There are 35 lots in Phase 1, and the remainder of the lots are in Phase 2. So Phase 1 will extend to the end of the cul-de-sac, and then all of those lots from the center of the subdivision to the rest are in Phase 2.

DON FASO: Just for the Board's information, Charlie (Robinson) was here this morning or this afternoon for the Conservation Board. He had a prior engagement, but he left written comments. On this application, the Conservation Board reviewed the plans that were provided and made suggestion for changes to be incorporated into LLA drawings that will be presented at a later date. So apparently you submitted plans to the Conservation Board.

MR. CARPENTER: We met with the Conservation Board and I have a meeting scheduled for this Thursday to meet with a landscape architect. We'll incorporate their comments into the plans, which is mainly grouping some like species of trees. They had some species recommendations that we'll take into consideration and probably change them just as they suggested. It is pretty straightforward.

JAMES MARTIN: I will reserve comments for now.

JOHN NOWICKI: I could start out with a couple and then maybe come back. You said you have addressed all of the Monroe County Planning Department's comments in that extensive letter they sent us?

MR. CARPENTER: Yes.

JOHN NOWICKI: Have you somehow attached that or made it part of the drawings?

MR. CARPENTER: Most of the comments were added to the drawings in the form of a note. I can go through them if you would like.

JOHN NOWICKI: No. I just wanted to be sure you took each one.

The Town Engineer's letter, as he indicates, it is not complete. We'll probably give him engineer's approval on this project if this project is approved. You feel that you addressed all of the comments that have initially been put to you, the Town Engineer's comments?

MR. CARPENTER: Yes.

JOHN NOWICKI: You say the landscaping plans -- have you not gone before the Conservation Board --

MR. CARPENTER: I have gone to the Conservation Board informally, and they made some recommendations. We'll revise the plans and --

JOHN NOWICKI: You are revising the landscaping plans?

MR. CARPENTER: Yes.

JOHN NOWICKI: Now, Phase 1, can you tell me -- how much of the road system will you put in when -- in the initial phase?

MR. CARPENTER: I believe it is about 4,000 feet.

JOHN NOWICKI: Are you doing all of the roads or just Phase 1?

RAY BLEIER: Can you get up here and show us on the map what you're doing here?

MR. CARPENTER: Yes. Phase 1, we'll build the entrance and stub this road and then come all of the way around here (indicating). This intersection will be stubbed (indicating). And then Phase 2 will be this roadway (indicating).

JOHN NOWICKI: What would you say -- could you guess or say what their anticipated construction schedules will be as far as time frames? I know market conditions will prevail, but what are they expecting?

MR. CARPENTER: I don't know what they are expecting. I can speculate. I would imagine probably Phase 1 will be -- may not be completely constructed by the end of this year, but I believe it will probably sell out. They will probably sell all of the houses in Phase 1 this year.

JOHN NOWICKI: So a two to three-year project?

MR. CARPENTER: Yes. That is a good --

JOHN NOWICKI: Okay. What are the style of homes? Do we have any drawings submitted to the Town yesterday or the --

DON FASO: At the last meeting.

MR. CARPENTER: We had some photographs at the last meeting. I still have them.

JOHN NOWICKI: Did they stay the same?

MR. CARPENTER: Yes.

JOHN NOWICKI: What about letters of credit being posted for the project for the Town Engineer for utilities and landscaping and what have you? What has been talked about or what has been addressed there?

MR. CARPENTER: Once the Town Engineer completes his review and we have made all of the final revisions to the drawing, we'll submit an engineer's estimate to be approved by Larry (Nissen), and I imagine that is going to be -- all of the utilities, that will be publicly held as well as the landscaping. You know, the sanitary sewer, water main, storm, the roadway and the landscaping.

JOHN NOWICKI: Okay. If the Board was to approve the project, what would be your expected start of construction time? What would you --

MR. CARPENTER: They would like to get started on the earthwork right away. As soon as I can guarantee them that the site is balanced, they are ready to go, which I can do on Friday.

JOHN NOWICKI: That is all of the questions I have for now.

JOHN HELLABY: It was covered pretty extensively. The only question I have is on your letter of May 20th, Item Number 2, you show an access and maintenance easement on the Town of Chili. Ownership of the pond will be retained by the owner of Lot 48. What would the owner of Lot 48 want with the pond? Unless something is not labeled right here.

MR. CARPENTER: He would like --

DON FASO: That is really not uncommon.

JOHN HELLABY: But I don't think it is Lot 48 he is talking about. Did you renumber these?

MR. CARPENTER: The lots have been renumbered since that letter was written. I --

JOHN HELLABY: 48 was down in here somewhere (indicating).

KAREN COX: You're talking Lot 32 would own it?

MR. CARPENTER: Yes.

JOHN HELLABY: Oh, all right. Thank you. I will reserve any other questions until after the audience has a chance.

DON FASO: If you have not picked up on that, there have been major changes from the first preliminary we saw and Mr. Carpenter has taken into account all of the Board's and audience's suggestions and come back with a new set of plans.

KAREN COX: Which I just got in my mailbox this morning. So -- you and I had talked before the meeting about the environmental issues. I have a concern because of the wetlands that are on those properties. You know, how is it you convince a homeowner, three homeowners down the line not to

build anything back in those wetlands? I mean -- you know, the first homeowner may be aware because there are restrictions on their deed, but three or four homeowners down the line, that information may have gotten lost.

DON FASO: That is on the deed. Their lawyer should make them aware of that.

KAREN COX: Their lawyer should, but sometimes that doesn't happen, and -- I mean, is there any type of monument or marker that you could put on the property line that would remind people not to do anything back there? It is just a suggestion.

MR. CARPENTER: Mr. Martin also brought this up, and I guess it is possible that we could put a 4-inch concrete filled PVC with some kind of a bronze cap on it that says "buffer limits." And also, on the subdivision map, I think what we'll do is show an area within the wetland and the buffer, and then an area, you know -- two labels, so the wetland -- the area within the wetland on each lot is clearly shown so that the buyer of each lot is cognizant of the fact that this is area within the New York State DEC wetland, you know, CHK1 I think it is, or 14. If that is -- but -- you know --

JOHN NOWICKI: Wouldn't you have a tape location map on each of the lots?

MR. CARPENTER: Yes.

JOHN NOWICKI: So we could have a condition that the tape location maps show boundary lines in and a note specifically addressing your point.

KAREN COX: And a permit would --

JOHN NOWICKI: Go two points on that.

MR. CARPENTER: I think we have done similar things with other projects that are adjacent and include wetland areas. We show the area on the filed subdivision map, the area of the lot that is within the buffer -- or the wetland.

JOHN NOWICKI: Sure.

KAREN COX: You said you talked to Henry about the sight distance on -- I'm sorry, Monroe County about the sight distance on Beaver Road and he is all right with that?

MR. CARPENTER: Yep. His exact comment was that the distance between the intersections is not optimum, but it is acceptable, and if it is what the Town is after, if it is the Town's wish to locate the entrance there, then he said it is approvable. I will be honest with you, like I told you before the meeting, I was doing my best to talk him out of it, but he wasn't taking it, so we moved it.

RAY BLEIER: I had a question for Larry Nissen there since the -- there has been addition of three lots to the plan here. Does that have any impact or will that impact the drainage calcs you have done?

LARRY NISSEN: Not significantly.

RAY BLEIER: Okay. And actually, I do like the relocation of the entrance to the project on Beaver Road compared to Chili Scottsville Road. It is a definite improvement in my estimation. That's all I have for now.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DON FASO: The road ingress and egress for the subdivision has been relocated. The developer will put a landscape berm at the top. That was the residents' concern. So the traffic from Old Chili Scottsville Road won't have to dodge cars coming out of that subdivision. The pond is in a drainage easement. I think that was basically most of the concerns from the audience, but at this time, I will take comments or questions from the audience on the revised plans.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DON CRAIG, 160 Chili Scottsville Road

MR. CRAIG: Don Craig, Chili Scottsville Road.

The berm along Chili Scottsville Road, you say it is going to be a 4-foot berm? Is this going to be navigable for mowing and stuff like that?

DON FASO: Well, you need to understand one thing. The part that is in the right-of-way, the developer can't do anything with. So what is there now is going to stay there. From where the property line is up --

MR. CRAIG: Don (Carpenter), I have seen this on Autumn Wood. That looks great. Is it

comparable to Autumn Wood?

MR. CARPENTER: Yes.

MR. CRAIG: That is my only question. You were going to say something.

MR. CARPENTER: They're one-on-three slopes which are considered mowable.

DON FASO: You don't have a steep embankment that is not mowable.

MR. CRAIG: It happened in front of my house. When I built my home down there, I built it two blocks higher than the road. Then the State come along and raised the road 7 foot, which stuck me down in, and made me an unmowable bank.

BOB FALLONE, 70 Quail Lane

MR. FALLONE: I don't want to give the neighbors false hope. The ditch will look the way it is.

DON FASO: What is in the right-of-way, the developer can't touch. It is a State project. We can TAP petition the State to clean it up, but it is not the developer's responsibility. He can't do that. It is in the right-of-way.

MR. FALLONE: It is different from Autumn Woods. They don't have that ditch, so they can go over and mow the State's property.

DON FASO: I will talk to Joe Carr to see if we can get the State to clean it up. I can't promise anything.

JAY WIDENER, 134 Old Chili Scottsville Road

MR. WIDENER: I like the new plan you have here with your entrance and stuff off Beaver Road. I'm still a bit concerned about the traffic. You're going to have probably 200 cars going in and out of that area. Are they going to be using the Old Chili Scottsville Road as a cut off? Because they are now, and I would --

DON FASO: You mean to get to --

MR. WIDENER: I would love to see a cul-de-sac.

DON FASO: Turning east on Beaver and then up Old Chili Scottsville to Chili Avenue?

MR. WIDENER: Yes.

DON FASO: Why would they do that?

MR. WIDENER: I don't know. The way you have it laid out here is a lot better with the entrance off Old Chili Scottsville Road.

DON FASO: Historically people will find the easiest and quickest way.

MR. WIDENER: I would like a cul-de-sac on the Old Chili Scottsville Road, at one end or the other. We have had three deaths there, and there have been multiple accidents on the lower end right by the subdivision, probably eight, nine, ten a year, where they come off Old Chili Scottsville Road and go right into the ditch there. We always have people pulling --

DON FASO: I talked to Steve (Hendershott) and Steve (Hendershott) and Joe Carr have taken a serious look at the possibility.

MR. WIDENER: I brought this up last week, and everybody seems to be in favor of it. I just want to let people know this is what I want.

DON FASO: I did relay that to Steve (Hendershott), and he said he and Joe (Carr) have looked at it. He is not promising anything either.

MR. WIDENER: Of course not.

BARBARA RUDMAN (phonetic)

MS. RUDMAN: I have some questions to ask. Everyone wants less traffic as far as this is concerned, but if they do cut our road off, what about the mail? Are we going to have to go up to the corner to get our mail?

DON FASO: I have absolutely no idea. I have no idea.

MS. RUDMAN: They're cutting expenses and everything. As you get older, that would be hard. The school buses, would they come down that way? That is my main concern. Whatever.

DON FASO: I can't answer your question. I do not know.

MS. RUDMAN: It is something to think about.

DON FASO: I assume you're looking for preliminary and waiving final on Phase 1?

MR. CARPENTER: Yes.

DON FASO: And then with that, I will move that we declare ourselves lead agency for SEQR -- even though we did the last time, the plans are so much revised, that we'll do it again.

Don Faso made a motion to declare the Board lead agency as far as SEQR, found this to be an unlisted action and made a determination of no significant environmental impact, and the Board all voted yes on the motion.

DON FASO: I move that we grant preliminary subdivision approval on the entire project and waive final for Phase 1.

Don Faso reviewed the proposed conditions with the Board.

DON FASO: Did you petition the Town for the Drainage District?

MR. CARPENTER: Yes.

DANIEL KRESS: That was received by Mr. Brongo's office this afternoon.

DON FASO: That is taken care of.

JOHN NOWICKI: Will you establish all of the letters of credit necessary for the project?

LARRY NISSEN: Yes. We'll establish letters of credit for Phase 1.

JOHN NOWICKI: Sanitary, landscaping and everything --

LARRY NISSEN: And grading of the overall site, erosion control on the entire site.

DON FASO: I'm sorry?

LARRY NISSEN: Erosion control for the entire site.

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

1. Pending approval of the Town Engineer.
2. Plantings must be approved by the Chili Conservation Board.
3. Pending Monroe County Department of Planning & Development comments.

RAY BLEIER: I just wanted the audience to know since we're giving approval for Phase I tonight, this gives us the opportunity to have the developer come back for Phase 2 approval, and that will be a public hearing also, so we'll see how things are going, and if there are some concerns, you will all get your chance to speak again.

PUBLIC HEARINGS:

1. Application of Roberts Wesleyan College, owner; 2301 Westside Drive, Rochester, New York 14624 for preliminary site plan approval to erect a 3,900 sq. ft. storage building, 1,000 sq. ft. greenhouse, and 400 sq. ft. concrete pad for fuel storage tank at property located at 4223 Buffalo Road in P.I.D. zone.

Ed Martin and T. Richard Grier were present to represent the application.

MR. MARTIN: Good evening. My name is Ed Martin. I'm a Project Engineer with B&B Associates. I'm here tonight on behalf of Roberts Wesleyan College and their applications before you. Also in attendance tonight is Mr. T Richard Grier. Mr. Grier is --

DON FASO: We know Rich.

MR. ED MARTIN: He is head of the Facilities Department with an intimate knowledge of the existing and proposed facilities for the site.

This proposal can best be broken down into three steps. The first step is to resubdivide two individual lots and combine them into a single two-acre parcel, the boundary of which is shown on the plans before. The second step includes a demolition plan, the removal of three existing houses, a small shed and several thousand square feet of existing asphalt pavement. The third and final stage of the proposal is construction of, partially described a moment ago, a 3900-square-foot maintenance storage

building, two concrete pads, one of which is to locate a fuel storage tank, additional asphalt pavement, site lighting including pole and building mounted, a detention pond to be located in the southeast corner of the site, and perimeter landscaping to act as a buffer.

The site has four access points to public streets, two to Buffalo Road and two to Pleasant Street to the west. No additional utility laterals or main extensions are required with this proposal.

Since our submission, we have had an opportunity to speak with Mr. Carr of the Highway Department regarding storm water management, and towards that end we have met with Mr. Dave Lindsay of Lu Engineering on site to investigate the possibility of making a piped connection and I can go into greater detail as a result of any comments or questions you may have.

Throughout this application process Roberts Wesleyan College has really communicated to us they want to be a good neighbor. They understand the sensitivity of the location with respect to the development to the south. So much so, just recently we have been asked to investigate the possibility of increasing the buffer, the landscape buffering we're proposing by including a fence to be installed primarily along the south boundary of this parcel, and we would like to solicit your feedback on that issue, as well. We have received comments from Lu Engineering as well as the Monroe County Development and Review Committee, and we would be happy to go through those or answer any questions you may have at this time.

DON FASO: How tall is the fence that you're proposing?

MR. ED MARTIN: That is one of the issues we would like to get some feedback from you. I understand that the code allows 6 feet.

DON FASO: Anything else would require a variance from the ZBA.

MR. ED MARTIN: Correct.

DON FASO: You made a comment about piping drainage. Can you elaborate on that? There is a drainage problem. There is a low area on Mayflower Village with ponding water. Will this help, and why will it help?

MR. ED MARTIN: That is a tough question to answer. I will tell you this: Having been to the site, you're correct in that the area, in our southeast corner as well as off site the area is low with respect to the surrounding road system. Today, storm water from our site as well as a small portion from north of Buffalo Road goes to our southeast corner and essentially percolates into the ground. Having met with Dave Lindsay of Lu Engineering, we found an existing storm manhole about 150 feet east of our southeast corner. We pulled the top off that and found I believe a 24-inch discharge pipe. The manhole is in excellent condition, and to both of our perspectives, it appears to be an easy connection if an easement were granted by Mayflower.

DON FASO: Can you swing that around a little bit?

MR. ED MARTIN: Certainly.

DON FASO: Point that out for us.

MR. ED MARTIN: Unfortunately, it doesn't quite show up on -- can you see that?

DON FASO: A little more.

MR. ED MARTIN: Our southeast corner is down here (indicating). There is an existing manhole that sits probably right about where my pen is pointing right now (indicating). There is nothing between our southeast corner and the manhole other than a few trees, mostly on our site. There might be some small shrubbery along Mr. Gilmore's parcel, depending what type configuration is used.

DON FASO: You popped the cover?

MR. ED MARTIN: Mr. Lindsay did from Lu Engineering.

DON FASO: Which way are the laterals?

MR. ED MARTIN: There is a 24-inch main discharging southerly to a pond that is several hundred feet south of here (indicating). There is either an 18 or a 24 coming from the east, as well.

DON FASO: Coming from the east?

MR. ED MARTIN: Yes. Coming from the Mayflower Road. There is a line coming from that direction.

DON FASO: Did you pull out the Mayflower Subdivision plans?

MR. ED MARTIN: I did not. I e-mailed Mr. Carr following our visit, and in the early stages of this project, I had a meeting scheduled to go over some mapping that he had and he was pulled into an emergency meeting so I was left with the mapping they pulled out, which did not include that, but it is our intention to further investigate that.

DON FASO: Larry (Nissen), have you talked to Dave (Lindsay) on this at all?

LARRY NISSEN: Yes.

DON FASO: Are you satisfied that what they're proposing is doable?

LARRY NISSEN: It appears to be doable. We would want an investigation made of the capacity of the system. That is one thing we would want to look at. Again, the whole thing hinges on ability to obtain an easement from Mayflower Village.

DON FASO: What is the rim elevation in relation to the existing ground?

MR. ED MARTIN: We have not completed topography, but just eyeing it, it is comparable to our southeast corner, the rim is. The invert or the bottom of the discharge pipe is approximately 7 to 8 feet down, and with our design discharge pipe, which is sloped at half a percent, we could easily make that connection.

JOHN NOWICKI: Into the manhole?

MR. ED MARTIN: Correct.

DON FASO: I'm just wondering about the possibility of lowering the rim and turning the manhole into a catch basin to help alleviate backyard flooding. What do you think, Jim (Powers)?

COUNCILMAN POWERS: It is very poorly swaled back there. We have looked at it. With some work, we could put that water into that pipe that he is speaking of.

DON FASO: You think it is doable to turn the manhole into a catch basin, maybe lowering the rim a little bit?

COUNCILMAN POWERS: That is possible.

DON FASO: You have not done the topography?

MR. ED MARTIN: Correct.

DON FASO: Does it appear to be in a low area --

MR. ED MARTIN: The actual rim? No, it appears to come up a little bit. I'm guessing the rim is some 2 feet higher than our southeast corner. So one option that just comes to mind quickly without investigating is if we were to obtain the easement, we could put an additional inlet catch basin off site not disturbing the upper portion of the manhole and make a single connection with our discharge as well as surface runoff from the development to the south. Place the off-site catch basin in a low spot as you discussed.

DON FASO: For the record, Councilman Powers is present, of the Mayflower Village Association.

DON FASO: Keith (O'Toole), I'm a resident of Mayflower.

KEITH O'TOOLE: Yes, sir.

COUNCILMAN POWERS: You're back here with me, Don (Faso).

DON FASO: I should have declared that earlier. I just realized that. What do I do, Counselor?

KEITH O'TOOLE: Probably should stand down.

DON FASO: Turn it over to Ray (Bleier)?

KEITH O'TOOLE: Yes.

DON FASO: With that -- I apologize for that. It just -- when Jim (Powers) started talking, I'm thinking, wait a minute, me, too.

KAREN COX: You asked some good questions, though.

DON FASO: Sandy, for the record, I'm a resident of Mayflower Village, 7 Lilly Pond Circle, which Lilly Pond backs up to this site plan, and because of that reason, I am going to abstain from discussion and vote.

With that I will stand down.

RAY BLEIER: Well, you can still address the Board as a concerned resident.

DON FASO: Sorry to spring that on you, Ray (Bleier).

RAY BLEIER: I was completely unaware of that situation involving Mayflower Village and your proposal here. It sounds like there definitely has to be some improvement to the drainage situation, both on your property as well as adjacent properties here. So any additional plan will certainly be appreciated.

RAY BLEIER: One of the things on that letter, from your company there, dated May 9th, one of the paragraphs here, it says, "The enclosed supplemental project information report provides greater detail of the proposal."

Now, what is that? I can't seem to find anything.

MR. ED MARTIN: We submitted a copy of -- it is a -- probably a 12-page report or so discussing the project, holistically, what the proposal is and technical subcategories including storm water management primarily, landscaping and buffering.

MR. ED MARTIN: And lighting.

RAY BLEIER: Were there copies to the Board?

KAREN COX: No.

RAY BLEIER: I haven't seen anything like this.

MR. ED MARTIN: We submitted it to Kathy Reed. I'm sure we could get additional copies provided to the Board.

JOHN NOWICKI: Is this something that is just passed down?

KAREN COX: Who has a copy?

The Board indicated they did not have a copy of it.

JOHN NOWICKI: Dan Kress, do you have a copy of it?

DANIEL KRESS: I'm looking for it now.

MR. ED MARTIN: Most likely with a tan cover on it.

DON FASO: Al (Hellaby), you can look in the pile.

JOHN HELLABY: I will rifle your pile.

DON FASO: Go ahead.

JOHN HELLABY: You got it. This is pretty substantial. That is it, though, buddy.

MR. ED MARTIN: It contains the same details that I have discussed, the building sizes, the amount of additional pavement, how storm water is routed to the proposed pond, the operation of the pond itself. It speaks a little bit about the lighting and the landscaping around the buffer. It does not discuss the fence that was mentioned earlier.

RAY BLEIER: Okay. Going on from that. You're saying you will have the four road cuts. Are all those road cuts necessary?

MR. ED MARTIN: Those are existing.

RAY BLEIER: I know.

MR. ED MARTIN: I guess I would have to -- to ask Rich (Grier) if they felt it necessary. Most parcels are rather hesitant to give up access to roads like that.

RAY BLEIER: Well, I'm surprised the State D.O.T. has not come in and taken maybe the two on Buffalo Road and make it one.

MR. ED MARTIN: I think right now they have a difficult time given that it is two separate parcels, each individual parcel with an access. So I imagine they're viewing it individually.

RAY BLEIER: But you're subbing it into one.

MR. ED MARTIN: Correct, but the D.O.T. I don't think is aware of the resubdivision at this time.

RAY BLEIER: One thing I did notice on the property is it is very well screened from your neighbors.

Someone in the audience stated, "No, it isn't."

RAY BLEIER: I saw a lot of trees along the back, the side and the back.

Someone in the audience stated, "Come in the wintertime."

KAREN COX: What would be the ramifications if you took one of those entrances out on Buffalo Road? I guess what types of vehicles will be using each entrance? Is it a lot of cars? Is it a mix of maintenance vehicles? Will the maintenance vehicles use one entrance exclusively? I understand your point once you lose an access, getting it back is -- you would need almost an act of God to get it back, but, you know, it takes away some of the traffic or the safety concerns, I guess.

MR. ED MARTIN: I guess without having the intimate knowledge of the operation of it, I would be hesitant to commit to that, and I would ask that Roberts consider it. I guess I would answer it with a question, and -- I understand the safety concern with respect to multiple accesses, but we're not talking

about adjusting the amount of traffic volume. I have lived in Chili for several years, and I could be wrong on this, but I don't recall having any problems driving through here, so I'm not sure there are a lot of conflicts. I have visited the site at different times of the day and have been able to enter and exit very easily on Buffalo Road. So I guess if it is a serious safety concern, we could look into it greater, but if there is a different concern, we could look into maybe a different way of addressing it.

JOHN NOWICKI: I just have a question. The safety concerns -- I'm trying to think of -- in that area, as you're coming from the light from Westside Drive into this area, is the speed limit reducing from 55 to 40 or --

MR. ED MARTIN: I think it happens immediately west of here (indicating) and it goes down --

MR. GRIER: 40.

JOHN NOWICKI: Just past that, I think the speed limit drops.

Someone in the audience stated, "45."

JOHN NOWICKI: So you have a 45-mile-an-hour through this point and then it drops again until North Chili.

Someone in the audience stated, "Drops to 35."

JOHN NOWICKI: So you have the entranceway to Mayflower Village. Then you come up on these two here (indicating). Then the street.

KAREN COX: Then the gas station. From Westside Drive, you have -- it is what used to be a gas station, then Mayflower, then these two, Pleasant Street.

Someone in the audience stated, "There is Miller on the other side."

JOHN NOWICKI: The whole thought here, I'm trying to drive to a point here, is that because of the activity that you see on the other side of the street with the new soccer fields and all that, that maybe the State should really talk a close look at the posted speed limits in here, and other types of control devices all the way through there, because the number of people -- do people park along that State highway to watch kids play and stuff like that?

MR. GRIER: Yes.

JOHN NOWICKI: So now is probably the appropriate time to have our elected official, our Town Supervisor or someone initiate some correspondence immediately along this strip of road here, because I'm not sure that I -- I can see why they need the two entrance ways in and out, because of what they're dealing with here, and I wouldn't want them restricted, but it might flow better without jamming everything up into one point. But I would rather see a strong initiative, an effort to get the State to really consider from Westside Drive all of the way to North Chili, Buffalo Road, the intersection that is supposed to be improved, a complete study of that area to get the traffic to slow down and control it.

KAREN COX: People have been parking -- or maybe they have. I thought that the -- we had brought up the concern when those athletic fields were built about people parking along Buffalo Road.

JOHN NOWICKI: Yes.

KAREN COX: Are they doing it now?

JOHN NOWICKI: I don't think so.

KAREN COX: I haven't seen it.

JOHN NOWICKI: They just put all new gutters on both sides of that road, I believe.

Someone in the audience stated, "Yes. It was just torn up."

JOHN NOWICKI: They just put all new concrete gutters down through there. But again, the posted speed limit should be looked at and the development in the area that has taken place, you cannot ignore that point.

MR. GRIER: I can speak to the operation as we presently operate it.

Richard Grier, Director of Facilities, Roberts Wesleyan College. The way that we handle that is

that we have all of the vehicles coming in one entrance, which would be the one that is closest to the main building, and then we keep that a one-way going through and coming out the other entrance. If we were to go to one entrance, that would significantly hamper our ability to get in and out. Most of the vehicles would be employee vehicles and our service trucks.

KAREN COX: That makes better sense.

MR. GRIER: One way in and one way out. I'm not saying that happens 100 percent of the time, but that is our goal to try to do that.

KAREN COX: That would make a lot of sense.

Someone in the audience stated, "Excuse me. Is it all right if we talk?"

RAY BLEIER: Not yet. Please wait until after the Board is finished. Thanks.

KAREN COX: You had indicated you had spoken with the neighbors about a fence. Is that something that will happen? Or you're considering it based on -- it sounds like right now, things look really good because the leaves are out on the trees, but in wintertime, if they're mostly deciduous, you're not screened very well. So would you look at fencing, or pine trees or both?

MR. ED MARTIN: Well, actually our plan right now for landscaping does include evergreen species, and the landscape plan that was submitted reflects that. As well as some under story shrubbery to fill in the lower portion, which because of the canopy, doesn't screen, as well.

Just as a point of clarification, I myself have not spoken with the neighbors. This was in conversations with Mr. Grier regarding the fencing. And every indication to me has been, you know, if this is something the Planning Board feels is worthwhile, we will and intend to fully pursue it.

JOHN NOWICKI: Can I work along with you on that question? I want to hear what the neighbors -- with a fence, sometimes fencing can be a real maintenance nightmare, depending on what side you're living on.

KAREN COX: I agree.

JOHN NOWICKI: Because that can be a nightmare down the road. And if you had to go into -- I can appreciate when people say when leaves fall off the tree you would see some things, but if you went to the deciduous, or conifers, whatever you want to call them, pine trees, you would have a much better opportunity to do some screening, with low plantings. Then it becomes a non-maintenance factor on both sides of the aisle. The residents don't have to maintain it nor Roberts, except for watching the weeds grow. But I don't know. Has the Conservation Board looked at this?

MR. ED MARTIN: We submitted to them. I have not had any direct communication with them.

JOHN NOWICKI: I think we just have one comment here.

RAY BLEIER: Yes, that comment seems a little inadequate.

JOHN NOWICKI: I want to see what the people say about that. I want the people in the audience to think about that, fencing versus plantings.

KAREN COX: Eventually fences have to be replaced. So do trees, but they last longer.

JOHN HELLABY: Somewhere I saw a note of a 10-foot fence that was kicking around here.

RAY BLEIER: That was an interoffice memo.

JOHN HELLABY: Is that what was originally discussed?

MR. ED MARTIN: I have heard that height discussed, but that is for discussion, and as was discussed earlier, that would require a variance from the ZBA.

JOHN HELLABY: You will require a variance for the front parking which you will secure, correct?

MR. ED MARTIN: That was not my understanding. I thought we were conforming with the code.

JOHN HELLABY: I believe so. Don't they require a variance for the front parking?

DANIEL KRESS: There will be a variance required for that.

JOHN HELLABY: There will be a variance required for that. I don't have a problem with the subdivision, raising the houses or whatnot. What does this proposed building look like? Is it a metal type building?

MR. ED MARTIN: I will ask Mr. Grier to describe it and while you're at it, probably describe the operation of what is going to occur in it, as well.

MR. GRIER: The building is a metal type sided building. The color would be similar to what the

colors are of the existing maintenance shop area.

JOHN HELLABY: Flat roof?

MR. GRIER: No. Pitched roof. It would be used primarily for the storage of equipment. We have in the neighborhood of \$250,000 to \$300,000 worth of mostly grounds equipment that we need to have in covered storage to prolong its life, so that is where we'll put that.

JOHN HELLABY: Isn't that presently stored in the other building, though?

MR. GRIER: We have that scattered across campus in different buildings and we're trying to consolidate our operation into one building, one site.

JOHN HELLABY: Why is this building actually shown on the drawing in like two segments? You have 100 by 30 and another 30 by 30 on the end. Is that future expansion or office areas?

MR. GRIER: The section on the east end with a segment is lower, and it would be our intention at some point to put our salt storage in that area.

JOHN HELLABY: Fully enclosed?

MR. GRIER: Fully enclosed.

JOHN HELLABY: Overhead doors and access into this building would be at the front end?

MR. GRIER: Overhead doors face to the north, towards Buffalo Road, except for the easterly part of the building which would be accessed from the east side.

JOHN HELLABY: Overall height of the eaves?

MR. GRIER: I don't recall if it -- just offhand. It is single story with a 5 on 12 pitch, so it is probably on the neighborhood of 18 to 20 feet.

JOHN HELLABY: All right. Your added dumpster enclosure presently doesn't show a gate on the front. It is required it be fully enclosed.

Can you tell me the difference between a B type and C type luminary?

MR. ED MARTIN: I myself cannot. Our landscape and lighting department specified those with discussions with Roberts as to what their lighting requirements were, and keeping in mind, preventing spillage off site.

JOHN HELLABY: So you did take that into consideration?

MR. ED MARTIN: Absolutely.

JOHN HELLABY: Hours that you figure these lights will be burning as far as on and off types? Are these going to be on 24 hours, all night?

MR. GRIER: Right now, I believe we have one light in the parking lot area that does run all night. It is facing away from the Mayflower development area.

Someone in the audience stated, "No, it isn't."

JOHN HELLABY: You will have your chance.

MR. GRIER: The lights we're looking at using are shoe box type fixtures which will put more light down and less spread.

JOHN HELLABY: Will you put shades on these?

MR. GRIER: As required.

JOHN HELLABY: Are these sodiums? Do they cast a orangish yellow?

MR. GRIER: I don't know if that has been determined.

JOHN HELLABY: Luminaries on the building. I think I heard you mention that. You show them on the parking lot, but I don't see anything on the building.

MR. ED MARTIN: We showed the pole-mounted lights, because they provide the greatest extent of lighting in terms of their spillage to the boundary of the site. In other words, any additional building-mounted lighting would be within the cast of the pole-mounted lighting.

JOHN HELLABY: You said you have had no direct conversations with the Conservation Board?

MR. ED MARTIN: Correct.

JOHN HELLABY: I think you said you have submitted the drawings --

MR. ED MARTIN: We submitted it at the same time we made application to the Planning Board and asked Kathy Reed if any comments had come in, and we had not received any.

JOHN NOWICKI: The comments we have from the Conservation Board, does that indicate that they have looked at these things, or what? Why are we getting a comment here?

KAREN COX: That is usually the case.

JOHN HELLABY: The Conservation Board requests that the plan be revised to include foundation and/or tree planting on the north side of the storage building. It sounds to me like you need to sit down and talk with these people.

JOHN NOWICKI: I don't think the Conservation Board has looked at some of the issues that we're looking at here.

JOHN HELLABY: Again, I'm sure the audience will have some comments.

Lastly before I move on, just to investigate this drainage thing when Don (Faso) abruptly left us here, it sounds like a superior idea. Can we work the logistics out between Mayflower and yourself to make this happen? I don't know what the logistics are as far as right-of-ways and easements. I guess what I am looking for is some input from you, how far are you willing to go with this thing?

MR. ED MARTIN: I think in discussing this with Roberts Wesleyan, they're willing to commit to the scenario we described, something like the pipe to the catch basin off our site in a low area.

JOHN HELLABY: The connection is coming off the back end of the pond?

MR. ED MARTIN: Yes. I can point it out on the plan.

JOHN HELLABY: I have it here. It is the overflow pipe out of that pond, correct?

MR. ED MARTIN: It is the primary flow out of that pond. That is designed to reduce the peak flow to rates below what occurs today in the existing condition.

JOHN HELLABY: But then you would just somewhere along that piped line, to that existing manhole, drop a drop box basically at the most convenient location to filter that entire area?

MR. ED MARTIN: Correct. Just from my site visit there, I think we would probably discharge, run the pipe southerly, because it seemed -- if my memory serves me correctly, the low spot is almost due south of our southeast corner, so we would route our pipe southerly to a catch basin with a field inlet to take the surface runoff from Mayflower and pipe easterly with a larger sized pipe to take our design flow as well as any runoff flow.

JOHN HELLABY: You might adjust the pipe from the pond. You might swing it around more.

MR. ED MARTIN: It would unlikely go the way it is shown now in order to take Mayflower runoff, correct.

JOHN HELLABY: All right. That is all I have right now.

JOHN NOWICKI: I will start on the proposed fuel tank storage. Could you describe to me what is intended there, and what I am going to be looking at if that got constructed? What am I looking at?

MR. ED MARTIN: If I may, let me turn it back over to Mr. Grier. I will just make one comment. I understand that a similar operation occurs today at a different location.

MR. GRIER: Right. The intended use is for our maintenance vehicles and lawn mowers and those types of things, some of the equipment obviously we could drive to a gas station. Other equipment like, you know, small utility vehicles aren't able to be licensed to drive down the road, so it makes it difficult to fuel them.

Also, when we're having plowing operations in the winter, we need to have access to fuel 24 hours so we can maintain the facilities.

JOHN NOWICKI: What will it look like? Will you have equipment tanks sitting there?

MR. GRIER: There would be two 1,000-gallon tanks, one for gasoline and one for diesel. Those tanks would be approved by the EPA, by their design standards for tanks. We have one such tank across the street currently that we use, and we're needing to relocate that. Then the second tank would be a matching tank. Those tanks handle the -- the tank itself is a thousand gallons and the external diking around it holds 110 percent of the capacity of the tank.

JOHN NOWICKI: So in other words, if you had the leakage on both tanks, the concrete berming you're putting around will contain that?

MR. GRIER: Well, the tank itself has it. The tank itself comes with dike storage. And then -- so if you had secondary failure, then it would go into the concrete storage area.

JOHN NOWICKI: So there is nothing else around. It is just two tanks sitting out there on a concrete pad?

MR. GRIER: Yes.

JOHN NOWICKI: So the people pump the diesel fuel out of the tanks themselves, or the gas?

MR. GRIER: Yes.

JOHN NOWICKI: How do you handle your security?

MR. GRIER: We have a key switch operated fuel. You have to have a specific key to operate the fuel and so that is the only way you can get fuel out of the tank is to do that. All of the other accesses are kept locked with our standard locks that we use on campus.

JOHN NOWICKI: When I look at the drawing, am I to think that a vehicle is going to pull up on the pavement area and somebody is going to drag a hose out from that pad out to the roadway and fill their tank that way? Is that what I am looking at? How are they going to fill these vehicles or these pieces of equipment?

MR. ED MARTIN: Right.

JOHN NOWICKI: How will they do that?

MR. ED MARTIN: Depending on the length of the hose, they could do that. It is a matter of a few feet to the south parking area, and slightly longer to the east there. We have discussed a possibility of bringing that pavement closer to the storage area as needed, depending on the hose length on those.

JOHN NOWICKI: Have you talked to or has the Fire Marshal seen these drawings and the location of this proposed fuel storage area?

MR. ED MARTIN: I was under the assumption they would be distributed to him through our application to the Planning Board.

DANIEL KRESS: The Fire Marshal has seen these drawings?

JOHN NOWICKI: Any comments back on them?

DANIEL KRESS: There are state and federal requirements regarding fuel storage of this sort and secondary containment and a number of fire code type requirements, so I frankly am of the opinion that between the Fire Marshal's office, the Fire Department and my office, we will see to it that the necessary requirements are all met.

JOHN NOWICKI: Well, I'm satisfied to some extent, but I'm not satisfied to the fact of security around these tanks is not being shown on the drawings. I mean if a vehicle gets away and pounds into one of these things, and I don't see anything around these things -- I don't like the idea of dragging hoses out that far to start filling vehicles.

DANIEL KRESS: Part of the fire code requirements that would apply would be putting ballards or other barriers to those things.

JOHN NOWICKI: It would be nice to see that on our drawings and as part of the presentation, that we have security in place and we have this thought out before we run into trouble. I would hope that that would have been done before we got to this point.

I would like to go on -- are the proposed roadways and parking areas to be paved?

MR. ED MARTIN: Yes, they are.

JOHN NOWICKI: Asphalted pavement?

MR. ED MARTIN: Yes.

JOHN NOWICKI: Thank you. The other question I have, can you prepare or have you ever delivered to this Town architectural drawings of the proposed building?

MR. ED MARTIN: We have not.

JOHN NOWICKI: May I ask why not?

MR. ED MARTIN: Um, I was under the impression we would do that following the planning procedure of this. Not sure of where the approval process would lead. Assuming any -- you know, any changes that would be required, we would want the architecturals to reflect what is intended to be built.

JOHN NOWICKI: It would make it a lot easier to see elevations, especially elevation changes. You have pitched roofs. I would like to know what the siding is, what it looks like, windows, doors, architectural treatments. We have a view from Buffalo Road, and again, I don't know what we'll be looking at from the back of the buildings, or the sides, and it would be certainly helpful to see architectural drawings on the proposed building. And color schemes.

The dumpster area, the proposed dumpster pad, I assume that is going to be a new area?

Someone in the audience stated, "No, it has been there a year and a half, sir."

JOHN NOWICKI: Will that come out?

MR. ED MARTIN: The small shed is being removed as part of the demolition.

JOHN NOWICKI: Then there is a proposed pad for the new dumpster?

MR. ED MARTIN: Correct.

JOHN NOWICKI: The fencing around that is 6 feet high.

MR. ED MARTIN: It is a board-on-board. I believe it is 6 feet tall. We have a detail on the detail sheet.

JOHN NOWICKI: Again, it is going to be critical to the plantings, again, in that area --

KAREN COX: It shows 4 foot 8.

JOHN NOWICKI: I think we have to pay a little more attention to -- the Conservation Board has to pay a little more attention as far as screening that dumpster pad out of there.

The Monroe County Planning Department comments didn't look too bad. Did you review those?

MR. ED MARTIN: Yes, I did.

JOHN NOWICKI: They don't look too bad. Al (Hellaby) brought up a good point. I would be a little -- not concerned, but I would like to see the type of lighting and the placement of the lighting on the final plans and what kind of -- what do they call that when they shine it down, the luminaries, or how much it splashes on the ground?

JOHN HELLABY: Spillage.

JOHN NOWICKI: How that will be controlled so the people around the project, you know -- we want to see it facing out to the areas rather than into the yards and make sure it doesn't spill over.

MR. ED MARTIN: I believe our landscaping plan has --

JOHN HELLABY: It is shown on five, John (Nowicki).

MR. ED MARTIN: It shows the contours for lighting.

KAREN COX: Lighting contours is what it is called.

JOHN NOWICKI: I just want to make sure. The rest of the stuff looks like it can be worked out okay between the drainage, the Town Engineer and Mayflower Village Homeowners' Association. As far as that goes, I don't see anything that can't be worked out. But overall, if you keep everybody -- the people in mind around you, and when we get to the final plan on this thing, I think we'll come out with a decent project. Thank you.

JAMES MARTIN: I would just like to second the comment. Building elevations should be part of the package when we're trying to review these applications.

A question on access and security. Are you planning any gating or anything on any of the access roads into this site for security reasons at this point?

MR. ED MARTIN: No, sir.

JAMES MARTIN: I think everything else has been pretty much covered. I think we're going to have a fair amount of comments from the audience tonight, so we'll pay close attention to what you have to say.

DANIEL KRESS: My only concerns were whether we're talking about a couple of variances for front yard setback and/or a fence, which I think you have -- you're both already aware of, so I don't think I have anything further.

LARRY NISSEN: Nothing other than what I put in my letter.

DAVID SAUR: Yes. Just a couple questions. You said two 1,000-gallon fuel tanks?

MR. GRIER: That's correct.

DAVID SAUR: Do you guys have any idea if there would be any hazardous materials like fertilizers, pesticides being stored over that way?

MR. GRIER: Um, not in the vicinity of the tanks, no.

DAVID SAUR: No. The storage shed?

MR. GRIER: The fertilizers we currently keep those in the existing maintenance facility.

JOHN NOWICKI: Can I just -- to go back on that one, you made the question. Next to the proposed fuel storage is a metal greenhouse to remain. What is the object of that and what is that going to be used for?

Someone in the audience stated, "It has been there a year and a half."

MR. ED MARTIN: The greenhouse, I would imagine, is for plant planting. I assume for species

to be planted around the campus and such?

MR. GRIER: Yes.

JOHN NOWICKI: Is that a problem with you as far as the fertilizers?

DAVID SAUR: No. If there is a big quantity of it, we would like to be aware of it.

RAY BLEIER: Would you like a list of all these materials?

DAVID SAUR: I'm sure we could work -- if we could get the MSDSes after they put up shop and we'll see what they have down there. As long as we're notified, we would just like to know ahead of time. That is all I have, sir.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOMINIC FANTAUZZO, 10 Lilly Pond Circle

MR. FANTAUZZO: My name is Dominic Fantauzzo, F-a-n-t-a-u-z-z-o, 10 Lilly Pond Circle, directly behind the proposed changes.

First of all, this was a proposal and you have already done 90 percent of the stuff except for building the building. The dumpsters have been there and they're very noisy. You have the greenhouse there, and that has been there for a year and a half, and you also have two propane tanks that I talked to Mr. Hendershott and he told me he would get the Fire Marshal to see if they were legally put there. He said the Town wasn't aware of this.

As far as I'm concerned, Mayflower Village, they're going to be a good neighbor, I can't see this, because they have been using that facility as a dumping ground. Since all of their procedures of maintaining their grounds to look beautiful -- they have all their access lumber, gravel. They even have presently a fertilizer truck behind my house. As you said about the fence, the fence would be hard to maintain. We have had fences on the cul-de-sacs with trees for the past eight years. That was just because the neighbors over there didn't want to look at another neighbor's yard. So the -- I would say -- I think Jim the builder put the fence back there, with the evergreen trees. It is behind her house. Now, presently behind me I have nothing. Again, I'm looking at a situation where it is ugly.

JOHN NOWICKI: Can you point on a map where you live?

MR. FANTAUZZO: I am living directly -- if you look at the house, if this is where the present house is (indicating), my house is 10 Lilly Pond Circle. I'm directly behind that. And at that point, when they first proposed the zoning, they said there wouldn't be any big vehicles there. Well, they -- I guess you're even maintaining the bus there, as well. Are you familiar with the Wesleyan College bus? You park the bus there. You have a big dumpster there. You have dump trucks there. You have fertilizer trucks there. You have a greenhouse that has been there a year and a half. Again, there is an awful lot of noise with jackhammering that is being done on the -- I would say the property that was the old red house. I don't know what that house is, but there is a lot of jackhammering. My wife has MS. She has a problem moving. She is being sedated, and when these people come in -- I can't say you control the noise, but she is on a sedative, and she is disturbed by this, so I'm naturally disturbed.

Again, as far as the fence, I ask Mr. Hendershott, who called me back, and he said that they agreed for this fencing, and at the same time I told him because of the harsh winter we had, a lot of their snowplowing was all -- all this was pushed against the trees and then when the melting season came, the melting of the snow caused great big puddles between the buffer and the trees, causing all of the water to back up towards my house. And as Jim (Powers) knows, I explained to him, there is a drainage problem. My neighbors have this draining problem. My neighbors over there have a draining problem. I'm concerned because -- there are two reasons I'm concerned. Number one, that is considered Chili property, and it is also considered the Mayflower common area property. We have no jurisdiction ourself as an owner of that house to do anything on that property. We have to ask permission from the Board to do this. I explained to Jim (Powers), when the builder put the drainage in there, and -- that was -- I would say upper towards the other house, closer to Foxtail, the landscaping wasn't done properly, and what happens is when the water -- we have a heavy rainfall, all of the water just sits there. And because I'm below that, and as you know, that is the low spot, all of the water that doesn't get to this drain comes into my area and then starts backing up to my cellar. Now, I can't do anything about that. My insurance company says that is not wetland, and as far as I'm concerned, that is not my problem either because it is the common area, plus there is a buffer that -- for the Town of Chili, plus I think the college is contributing to the water being put into that area.

And as far as the trees, a lot of our trees are being destroyed because of the heavy winds. So what is happening -- as a matter of fact, we also have a couple of trees that are dying. I think, Jim (Powers), right towards Foxtail there is a tree that is dead, and I don't know -- there is no foliage on it at all. That is happening quite a bit. I think on 9 Lilly Pond Circle, where Helen lives, when you said that -- you know -- if I could call you Raymond (Bleier), you said there was a big buffer of trees there. There is a gap about 10 foot that goes from her property, and you can see the red house and all of this other opening. And again, I just don't understand this proposal, when they said this was a proposal, when I think 80 percent of this done and I asked Mr. Hendershott about that. He said, "Well, they're just beginning."

Well, no, no, no. This has been going on for a year and a half. And again, I think there -- I think Bob has gone to the college and he has talked to somebody. I don't know if he has talked to the Chancellor. They said they want to be good neighbors, but there is nothing they can do. What do you mean there is nothing they can do? If you looked at CVS, when they purchase property, they put a buffer in, a fence in, and then they put trees. And I think looking at what was proposed here earlier in Black Creek, they're already doing this. They're already putting trees. They're already putting a buffer. We don't have that.

And I'm also worried about the gas tanks. When they said that -- he brought up a statement here, and the statement was that he has unlicensed vehicles that cross Buffalo Road. I guarantee you that if my grandson or my great grandsons were riding a dirt bike on Buffalo Road, unlicensed, they would be in jail. But yet Wesleyan College continues to run back and forth with their vehicles and they're unlicensed. And God forbid -- I have put five children through college, one is an attorney, two are school teachers.

JOHN NOWICKI: What kind of vehicles are you talking about?

MR. FANTAUZZO: They're lawn mowers.

JOHN NOWICKI: Do you have a lawn mower that is licensed?

MR. FANTAUZZO: Am I going around the street, crossing the street, the main drag? Can I do that?

JOHN NOWICKI: Probably.

MR. FANTAUZZO: So in other words, the Board is condoning that they could --

JOHN NOWICKI: The other question I have for you, have you had a chance to look at that drawing that has been --

MR. FANTAUZZO: Yes. I have been looking at it.

JOHN NOWICKI: Did you notice where they have moved the edge of pavement to, how much farther they have gone north with the edge of pavement?

MR. FANTAUZZO: I understand in the beginning of the statement they are taking asphalt out.

JOHN NOWICKI: Quite a bit, to be honest with you.

MR. FANTAUZZO: But in other words, you're still looking at a dumpster. You're still looking at say the proposed gas tanks. You're looking at -- what is to say they will not put more lumber or gravel back there?

JOHN NOWICKI: Well, they have a plan before us, the Board and the Town, and they are pulling these things back and creating berms and trying to make a plan that is presentable to try to solve some of these problems. We're trying to do the same thing, listen to you folks to solve these problems.

MR. FANTAUZZO: Excuse me, John (Nowicki), but I have been living this for a year and a half and I'm pretty upset. A lot of the people of Mayflower have approached the College and asked them politely, "Look, you're maintaining your property, you're spending millions of dollars for your property, but what are you doing for your neighbors?"

If they would have suggested something -- I had to go to Steve (Hendershott). I had to go to Steve (Hendershott). And Mr. Powers has been working his fanny off, too, and I haven't seen anything done. And I just wanted to bring that to the attention of the Board, to make sure if they're proposing the fence, if they're proposing the hedges, that is done and not three years from now.

JOHN NOWICKI: What is your feeling about a fence versus landscaping?

MR. FANTAUZZO: I suggested a fence because we're looking directly behind them. It is very unsightly. I'm sitting on my deck, and like I say, I'm looking at a garbage -- a big dumpster sitting there. I am looking at a greenhouse. I am looking at excess -- again, excess stuff that they would want to

dump there when they're doing some maintenance work, and like I said, what surprises me, they now have a -- if you go back there, you will probably see this green tank along the truck -- it must be a fertilizer truck. Now, what I worry about is there -- what happens if there is a leakage? I was a corporate traffic manager for 43 years and we dealt with chemicals. When we had a chemical facility, we had to have a drain. We had to have a take-up area, and this was taken by the Fire Department and checked regularly that if there was a leaky drum, it had someplace to go instead of in the environment. What are we doing in the case of these two gas tanks?

JOHN NOWICKI: They are already said that. They have that under control. There is self-containment on these tanks.

MR. FANTAUZZO: So in other words, they have a 2,000 containment?

JOHN NOWICKI: Yes.

MR. FANTAUZZO: I hope the Fire Marshal makes sure that is done. I think one of our ladies over here, she talked to her insurance company as far as fire.

UNIDENTIFIED WOMAN: The insurance company, I talked to them about a year ago and they said any time there is a fire in our village, Mayflower Village, it affects everyone's insurance. It is like everybody had a fire. It does something to the insurance rates. I don't really understand it, but --

KAREN COX: Is that because there is a Homeowners' Association?

MR. FANTAUZZO: No. In other words, she is worried about if there was a fire at the college, on the property of the college, the building, that --

UNIDENTIFIED WOMAN: If it caused a fire in one of our homes.

MR. FANTAUZZO: Her insurance company was saying hers would go up, too. I don't know why.

JOHN HELLABY: She is correct, though. The classic example is 9/11. I don't know if you noticed or not, but a lot of companies have gone out of business because of the insurance, they can't afford it any more. It has nothing to do with your complex. It is anywhere. It is a law of averages, so it is regardless whether the fire is there, next-door, or ten blocks away, it is a law of averages.

MR. FANTAUZZO: I would like the Board -- I appreciate the Board, if they would just look into this matter to see that there is some type of a fence and some hedges, and that the drainage is taken care of. There is a lot of stagnant water back there. When we get heavy rains, the trees do not take up all this drainage. It just sits there. And like I say, it -- I guess I will give somebody else a chance to speak here.

RAY BLEIER: I would like to ask Mr. Grier a couple questions. What is the outside storage of materials? What are you doing out there anyway?

MR. GRIER: For a period of time, there was some lumber and things that were stored outside. We tried covering them. It doesn't work. We moved them off site so that they wouldn't be -- be able to be seen by anyone. They're off site in another building temporarily.

As far as piles of stone or anything like that, that was only used for what was used on the existing site for work that was done there. So nothing was brought in that we're using anywhere else across campus for that.

RAY BLEIER: Can you live with the condition that there be no outside storage of materials on this particular parcel?

MR. GRIER: We can certainly look at that. I don't envision that that would happen, so we could certainly see if that would be the requirement.

RAY BLEIER: What about this noise, the jackhammering noise? Are you tearing something up there? What is it?

MR. GRIER: The only time that I am aware of jackhammering occurring was during periods of construction on the existing facility. There were two times when we did some work --

Someone in the audience stated, "No."

RAY BLEIER: Please. Look it. Listen. Let's let him talk. You will get your opportunity in just a minute, okay?

MR. GRIER: There was two times when we did work specifically that may have involved a jackhammer. One internal to the building when we were repairing some floor in the building, and then also when we had to install some lines under an existing floor and had to remove the concrete to get to

that. Jackhammering is not a normal operation. Those things are being done as we try to make improvements to the facility. When the improvements are done, the jackhammering stops, as well. Certainly jackhammering does not happen every day. It just doesn't happen every day. I don't know how else to say that.

JOHN HELLABY: If I could -- is there presently somebody in those houses? Are those houses vacant?

MR. GRIER: There are three homes. The larger home that is closest to -- it doesn't show up on that plan there, but --

MR. ED MARTIN: It is. It is very light.

MR. GRIER: The one house is occupied by one student currently and they're moving out sometime in June.

JOHN HELLABY: Is it conceivable that some of the noise was generated from them?

MR. GRIER: I don't believe so. I haven't heard them make any noise. I won't blame it on them.

JIM POWERS

COUNCILMAN POWERS: A couple questions. Dominic (Fantauzzo) said about everything you could say.

I have some pictures that I took, Ray (Bleier), of the -- in fact, I think it is from his backyard, maybe. This is a letter that we sent to Dick Grier probably -- oh, at least a year ago, and we did sit down, myself, Mr. Albright from Realty Performance -- it has been a year, close to it, and that is the letter, the things that have been brought up here tonight. I'm sorry to say I agree with Dominic (Fantauzzo) that I don't think Roberts Wesleyan has been the best of neighbors. A lot of things that they're coming in here tonight, with the plan, the preliminary, they have already done.

I have a question on the fuel tanks. I don't know. Maybe I'm interpreting 3415 wrong, but in that J, I think it is, in that section it mentions above-ground storage tanks, facilities. Are they prohibited or not when you're using a flammable liquid in those tanks?

DAVID SAUR: I would have to tell you above ground is fine. The Fire Department has them. Size wise, I don't know, if there is a certain capacity, but, yes, we use diesel tanks like they're describing at the Fire Department.

COUNCILMAN POWERS: This particular section doesn't mention any size, shape or anything else. It just says they're prohibited.

DANIEL KRESS: "Shall be prohibited except as specifically provided for in this chapter." And it relates to existing installations provided they do not constitute a hazard.

I mean the other problem, quite honestly -- the reason why I can't necessarily give you an answer at the moment is I have got a chapter here that refers to the old State building construction and fire code that no longer exists. Most of this chapter, quite honestly, needs to be rewritten. So I honestly can't tell you if this should still remain in effect. It may have been superseded by the new State code that went into effect January 1st. I can certainly tell you that according to the new State code there are provisions that provide -- as I was trying to explain to Mr. Nowicki before, provide certain requirements are met, above-ground storage tanks are not necessarily a problem. That doesn't mean locally we don't have some additional authority to regulate them, but we don't really get too into State code.

COUNCILMAN POWERS: Will these tanks be hooded at all?

MR. ED MARTIN: I had don't believe so. There will be a closed top in case of -- in case the cylinder -- but in terms of the secondary structure over it, I don't believe so.

MR. GRIER: At the current facility that we operate across the street, we have put an open roof over the top of them. Anything that we would do related to the tanks we're going to do -- going to go for a building permit to make sure we're in compliance with all of the regulations. We don't want anything going in that is not in compliance.

COUNCILMAN POWERS: Will they have to get DEC approval for their salt storage over on this property? Do you know, Don (Faso)?

DON FASO: On a private, I don't think so, Jim (Powers). There are rules and regulations, but I don't think they need a permit for it.

LARRY NISSEN: I think they need a DEC permit for salt storage.

COUNCILMAN POWERS: My concern is that the fertilizer and possibly the salt -- if we agree to hook into their drainage system, into our -- that 24-inch pipe, um, that feeds into -- well, that is

the first pond and the time it would go down through all three -- I know when they put those ponds in, the DEC required that we do certain things in those ponds and if the salt gets into there and the fertilizer into that drainage system, I am concerned what might happen within those ponds.

I think the people along Lilly Pond would welcome a fence. I think they would welcome more trees and some of the pictures will show you that some of the lower limbs on those trees are up now. They don't go to the ground any longer. It might require some hedging of some sort to fill in there.

And if you put the nice side of the fence towards us, I think Dom (Fantauzzo), you and I would go out and paint the darn thing, wouldn't we?

MR. FANTAUZZO: Yes.

KAREN COX: If it is pressure treated, you wouldn't have to paint it.

COUNCILMAN POWERS: That is true.

JOHN NOWICKI: Some questions in regards to the pictures?

COUNCILMAN POWERS: Yes. That was from a backyard. I believe -- was it your backyard?

Someone in the audience stated, "I don't know. I didn't see the pictures, so I don't know."

JOHN NOWICKI: Some of them don't look like they're from the backyard. They look like they have been taken on the Roberts property.

COUNCILMAN POWERS: One was that shows the greenhouse, very explicitly.

JOHN NOWICKI: These here (indicating). If you notice in these pictures, whether or not all of these trees are on the Roberts property or not, there are some very mature trees there. There are quite a few evergreens.

COUNCILMAN POWERS: That is the driveway going up Buffalo Road where they will U-turn.

This particular picture I took right from the edge of the parking lot.

These I took from way back next to the house.

JOHN NOWICKI: Look at the size of those mature evergreens.

COUNCILMAN POWERS: Those are along the side of the road.

JOHN NOWICKI: Okay.

JAMES MARTIN: They're not shielding Lilly Pond?

COUNCILMAN POWERS: No.

The Board discussed the photos with Jim Powers.

JOHN NOWICKI: We need an inventory what is in there, and then we can have a plan for in between plantings or even some type of fencing and plantings. Rather than one solid fence, you might be better off to get a better screening process. There are some beautiful, mature trees there. Do you know what I am saying?

COUNCILMAN POWERS: Yes, I understand. It might be a win/win situation for both sides, where you folks come out with a better deal screening wise. You would save trees, put some new plantings in, and maybe a section of fencing here or there, but not a continuous fence.

I would hope when and if they move forward with their project, that they do meet with the residents, the folks on Lilly Pond and come to some mutual agreement as to what would satisfy them. They have not done so. And -- they have some upset people along Lilly Pond.

KAREN COX: John (Nowicki), I don't think it is unreasonable to ask Roberts to meet with the neighbors considering the many meetings that we required of Mr. Iacovangelo when he was doing his Park Place Subdivision. There were a lot of meetings there, and they worked really hard to please the neighbors. To me it seems a similar situation, as long as there is give and take on both sides.

JOHN NOWICKI: I hope we're not ignoring what is already there. When you look at the pictures, let's not ignore what is already there and work with what you have got to improve it. Don't tear down what you already have. You have some beautiful mature trees in the area. Holy cow.

MR. ED MARTIN: I don't think it has ever been Roberts' intention to remove any of those trees. In fact, the landscaping plan calls for, as I mentioned, under story planting to fill in the low areas.

JOHN NOWICKI: Yes. There are some projects around the area that have used plantings

with a section of fencing. Not a solid fence, but trees, a section of fence, other types of plantings, whether they're high or low, to block off some very, very difficult industrial sites, and they have worked out very, very handsomely to the benefit of the property owners around these things. So I think it is going to be a win/win for the people and you folks to do something like that, to take a look at it.

COUNCILMAN POWERS: I know that they do want an easement across our property, so I am sure we can sit down and work something out.

JOHN NOWICKI: Work something out. Work together on it. Solve the problem together. That would be great.

MR. FANTAUZZO: That's all we're asking for.

JOHN NOWICKI: I think that is what we would like to see.

JIM GREEN, 1 Pleasant Street

MR. GREEN: I would like to see exactly where the fuel storage tank is going to be located on the map.

MR. ED MARTIN: You're probably right here (indicating). This is Pleasant Street (indicating). The storage tank is going over here (indicating).

MR. FANTAUZZO: It is by my house.

MR. GREEN: If you propose the fence, where would it go? On the south side or the north side

--

MR. ED MARTIN: The ditch runs just on Roberts property. It is on your property actually?

MR. GREEN: I don't think so.

MR. ED MARTIN: Well, the fence, by code, would be required to go on our property, on the immediate north side of that property line.

MR. GREEN: If the ditch is on your property, is on Roberts property, where would the fence go? It would go close to the trees to the north of the ditch?

MR. ED MARTIN: The ditch right now would go right here (indicating), through there. Which is close to where the swale is. There is a swale just south of this tree line. So we would keep it on our property.

MR. GREEN: Where would it go, to the road, to Pleasant Street?

MR. ED MARTIN: We would take it from about here (indicating), wrap it around almost halfway up this property line there (indicating).

MR. GREEN: What kind of storage tank is that? Is that double-hulled?

MR. ED MARTIN: Yes. The hull and the outside storage provides 110 percent of the storage, so there is --

MR. GREEN: So 10 -- 1,000-gallon tank is about 2100 gallons?

MR. ED MARTIN: 2200, yep. Well, the 2,000-gallon total tanks would have 2200 gallons of storage.

MR. GREEN: What do you plan to do with the ditch?

MR. ED MARTIN: We will not disrupt that flow at all. We'll channel it right into this --

MR. GREEN: The wooded area?

MR. ED MARTIN: We'll grade this to form a detention pond so the water will go in there, and this pipe is going to reduce the outflow (indicating).

MR. GREEN: Another thing I wanted to know. We have been living there for about a year, and Roberts really hasn't been a very good neighbor. You know, we had a problem with 53-foot tractor-trailers -- our house is directly south of the building, and a 53-foot trailer comes down the road, trying to back in. He can't back in. Several of them had to back out on Buffalo Road, on the blind side. Somebody is going to get killed. The gentleman here was speaking about the vehicles crossing the road. They're not all lawn mowers. They're Gators. My son has a little Honda Elite. Maybe I would just let him ride it with no plates. They don't bother Roberts, don't do anything to us. If that is the law in North Chili, one do it, all should do it. You see what I am saying? My wife, she just about witnessed an accident, one of the little Gators crossing the street, and a car had to swerve and just about had an accident. You know the traffic is a big problem. It is a very big problem. What do you plan to do about the west end of the building? You know, that is -- you see a lot of trucks in and out. They're fueling up over there automatically anyway, since we have been there.

MR. ED MARTIN: If you're referring to the existing building, there is no intention other than the

discussed fence to go in there. There are no plans to do anything in that area of the property.

MR. GREEN: Trucks back in, and one of the --

JOHN NOWICKI: Can I ask a question? What you're saying is if we can get this somehow moved ahead and approved, that the activity over by this gentleman's area is going to cease into the interior? Are you saying no? How is that going to work?

MR. GRIER: The loading dock is on the west side of the building.

JOHN NOWICKI: Southwest.

MR. GRIER: Southwest. You can see where the building jogs there.

JOHN NOWICKI: Where it is notched out?

MR. GRIER: Yes.

MR. GREEN: This is Pleasant Street (indicating). The trucks come down off Buffalo Road to Pleasant Street. They go down. Pleasant Street is not a straight street. I drive trucks myself. A 53-footer can't back in there. They're all in my yard. I put a rock out there. We have kids on that street. If one of my kids, you know -- summer -- school is out in a couple weeks. My kids can't ride their bike up and down a dead-end street. I moved on the street for quietness and safety. If my kids can't ride a bike up and down a street, dead-end street with seven houses on it, where can they ride? Safety is one of my biggest issues. A 53-footer came in -- the gentleman, the gentleman at the end of the street was blocked in for about ten minutes. The guy couldn't back into the loading dock. You can't turn around in the cul-de-sac. He backed out on the blind side to the east. Somebody is going to get killed. That is the second time it happened in the past couple of weeks. I haven't seen any lately. I don't know if you solved the problem or not, but I haven't seen any large trucks. The small trucks, I don't have any problem with that. But the large one, they leave the diesel engine running. Our bedroom is right there. It is noisy. My wife works at night, and they start just when she get home. She can't sleep. She couldn't sleep. They don't shut the engines off. They race the engine. It takes them 20 minutes to back in. You know, we have a problem. I confronted Mr. Grier about it, but nothing was done. I haven't seen any trucks there lately. Did you solve the problem with the large trucks?

MR. GRIER: We haven't made any changes in our delivery schedule or anything. The deliveries come in just on -- based on orders. There is no regular deliveries that come in. It is just based on whatever materials are being ordered.

MR. GREEN: Something should be done about that. You don't have to be a rocket scientist to know you can't have a 53-foot truck turn in a cul-de-sac. They had to back out two times within the past month that I know about myself.

RAY BLEIER: This building was in use prior to Roberts Wesleyan, and there was truck traffic that, you know, had been using that very same building, and so that particular use has always been there. It is not a new use, as far as trucks coming in and making the turns.

MR. GREEN: But like one of the Board members said, you mention 9/11. If they deliver fertilizer right next to the house, I'm kind of nervous about closed-in trucks now. 9/11 change a lot of things. It changed the way I feel about a truck close to my bedroom, I tell you that. And, you know, something should be done. You know, changes have to be made.

RAY BLEIER: This is a permanent use, sir. It is not -- you know, it is not anything new. I would like to try to keep addressing issues that are relevant to the proposal here.

MR. GREEN: Yes.

RAY BLEIER: Not what has been -- how it has been used or --

MR. GREEN: That is one of my concerns with Wesleyan. When we moved in, they had not moved in -- I heard they owned the building, but then when they moved in, I thought they was going to be a good neighbor. But it is everything but. You know, as far as I'm concerned.

KAREN COX: If they had not moved in, I -- another company could have moved in. I believe it was a plastics company before. It might have been another plastics company and they would have been delivering the same type of truck traffic. It is not as if when you bought your house that building was not there. Maybe when you bought it, it was when it was for sale and no activity was going on. But, you know --

MR. GREEN: But times change and everything changes. It wasn't 53-foot trailers 40 years ago.

KAREN COX: Nothing was 53-foot trailers 40 years ago.

MR. FANTAUZZO: Excuse me. I was a traffic manager for --

RAY BLEIER: Look, please. We're --

MR. FANTAUZZO: In conjunction with him, Raymond (Bleier), I'm only trying to emphasize a point -- excuse me, Raymond (Bleier). Trucking was my business.

RAY BLEIER: Sir, listen, the procedure is that people in the audience address the Board. The Board will ask the proposers the question and feedback goes that way. We don't have continuous discussion between people in the audience.

MR. FANTAUZZO: Okay, fine.

RAY BLEIER: Just so we can have some flow and try to get through this here.

MR. GREEN: That is one of my concerns. Plus, too --

RAY BLEIER: It is a legitimate concern.

MR. GREEN: 2,000 -- one gallon is equal to 20 sticks of dynamite. That's a lot of fuel. Why can't you put it under the ground? You know, it would be a heck of a lot safer. You know, just like someone said, 9/11 changes a lot of things. It should change the way we do business in the future. I live right next-door to it. I don't want it burning my bed. You know, I'm right next-door to it. These people are -- Mayflower Village, they're a little bit further away, you know, than I am. I am right next-door. That is one of my main concerns, you know, safety 100 percent. You know, if Roberts wants to be a good neighbor, I will be a good neighbor. I don't have any problem with them conducting their business, you know, just --

JOHN NOWICKI: Mr. Chairman, we should move on. We have some other issues to talk about here.

MR. GREEN: Okay. Thanks a lot.

RAY BLEIER: I would like to go on to some people that haven't spoken yet.

BOB SHANNON, 8 Lilly Pond

MR. SHANNON: I'd just like to ask if the Roberts Wesleyan had a permit to put up the greenhouse that is up there now.

MR. GRIER: No, we did not.

MR. SHANNON: Good neighbor, and about a year or so ago they came to the Town Board and got approval to use that property, rezone it. They talk about that they will get a permit to do this or do that. If I put up a greenhouse, I'm afraid the Town would not be as acceptable to it as they are, without a permit, if I put up a greenhouse.

Having said that, I think it is going to be approved one way or another. There will be some modifications, but I think that Roberts Wesleyan is probably no different than a lot of us, and that is that when we are given approval, we'll stretch the limit.

Some discussion about the fence, trees versus concrete or whatever, along the expressway, there are some concrete fences. I think myself, the trees, number one, take a while to grow, and number two, are going to be hampered by the trees that are already there, so the chances of them growing aren't all that great, in my opinion, plus the time is that I don't expect to be around long enough to see them really do the job they're supposed to.

I don't like a concrete fence, but I don't know what is better. But it seems to me -- and let me say something about why the fence. You know, I guess I don't really care as much what Roberts Wesleyan does on their property, if I can't see it or more importantly, hear it.

They have to plow -- I was going to ask how many parking spaces you were going to build here. How many are you going to build?

MR. GRIER: No additional --

MR. SHANNON: Just roughly.

MR. GRIER: I don't believe there are any additional parking spaces. We're eliminating some in the back and putting them in the front.

MR. SHANNON: But every -- in the wintertime, and this winter was a great one for it. You had the plows come out at 2 o'clock in the morning. They have a nice system of backing up and blowing the horn at the same time, ringing a bell or whatever the alarm is. That is terribly annoying. The light you talk about that is on all night, you don't see it. We do. You put up fuel tanks, I absolutely am sure you're going to put more lighting up. If I were going to put fuel tanks up, I wouldn't put them out there and turn all of the lights off. I just think there is going to be a big lighting and noise factor. The noise factor is always there. Like I said, I guess I can't care as much about it if I can't see it or hear. I think before they do anything, they should put up that privacy fence of some type. I think the rest of the

things will happen, and that will be put off, and maybe we'll have to wait for trees to grow. I may not be here for that.

KAREN COX: A 6-foot fence will give you --

MR. SHANNON: I'm sorry, I guess I had also wanted to mention, I'm a little hard of hearing, but it seems like the mikes --

KAREN COX: Sorry.

MR. SHANNON: For a public meeting, it really isn't public sometimes. I'm sorry, I don't mean to --

KAREN COX: That is fine. I need to be aware of that. A 6-foot fence would give you screening, visual screening, but as far as noise screening, it is not going to do as much as having a combination of the fencing and trees. If you need noise screening, you're going to end up having to put up sound walls like the one you see on 490, which I don't think anybody would find that acceptable or aesthetic. But if Roberts takes a look at what John (Nowicki) suggested, which is a combination of privacy fencing and plantings, it will take a while for the plantings to grow. I agree with you. But --

MR. SHANNON: A year ago they suggested -- it was suggested to put up a -- to put some hedge in there and the answer was it wouldn't grow because the trees were already there and it was shaded and it would prevent the growth. I don't like a concrete fence. I don't like the idea of one, to look at, but maybe there is something else. I don't know. But I --

KAREN COX: Would you have to have a very tall fence? I mean, whatever material it was, you would have to have a very tall fence to make it work for sound.

MR. SHANNON: I think it could be tall, and I wouldn't feel as badly about it as I do looking at those lights. And I just think that it ought to be done before all this other wonderful work is being done because while that is being done, you will not tear down the house silently. Thank you.

RAY BLEIER: Yes, in the back there.

MARIA SZAFRANSKI, Pleasant Street

MS. SZAFRANSKI: I live in Pleasant Street. There is a traffic problem. Before when the plastic company was there, we didn't have the problem we are having now with -- Roberts Wesleyan College came to reside on that site. My daughter have -- almost escaped twice there. These trucks, they cannot -- this street is very narrow, and then concentrate on -- I have called them three times for them to clean that area. When my neighbor, the blue house, just beside them, their kids play in the summer there. When you are coming down that street, we always to have go slow because you cannot see the kids because of that bend. So the trucks can -- my daughter was almost twice hit by those big trucks. I will -- I have been blocked in in the morning going to work. You know, I have to stay there -- they cannot maneuver. They're too big. So with this -- I think that process is going to get worse. I also have some concern for the greenhouse, about pesticides. Are they going to be there? These are carcinogens. The fuel tank, this is going to be a threat to our safety. The value of our houses will go down immediately. That happened to a neighborhood in Genesee Park.

A chemist that works with me, they said the first thing going down is the property value of your house. Secondly, the emissions, over time, are they going to control the emissions. Will they have some -- we're going to have that problem. These people live just beside them. And also about a -- emission into the ground, what about contamination? How are they going to take care of these issues? I work in a chemical company and I know about these things.

You know, everybody is up there talking about all of the technicalities. We're going by the fire code. Sometimes I don't understand, but what about the quality of life for our street? This is a very nice quiet street and since Roberts have come there -- I don't mind them -- but with these golf trucks, but they're going farther and beyond what they initially said they are going to do. I don't want to be always -- nobody is going to fight to sell my house. Who wants to go live in a street where we have, you know -- two 1,000 gallon fuel tanks, one 1,000 is diesel and 1,000 is going to be gasoline. It is okay. They say it is approved by the EPA, but any of you guys would like to live on a street with that? You know I think that Roberts is not listening to the neighbors. They have to listen to us. We are paying property tax in this Town. We are paying for our houses. It is a Christian institution. Why don't they find a spot far from kids. After the 9/11, as my neighbor said, it is not secure. You will have to really secure that place. Anything can happen now, you know. There is a lot of crazy people around. It is a threat to live in a house on a street that way. Our street is very small, seven houses and one across. I think we

should take more into consideration the business part technicality and look at what the people say, the quality of life. I know that is progress, and everything, but listen to us. We pay the taxes here. Thank you.

EDWARD FOX, 4 Lilly Pond

MR. FOX: When they plow all their snow in that ditch in the winter, it is up halfway up the trees. That is not bad, but when it melts, it comes all of the way down into my yard. As Jim (Powers) can tell you, he has been there and seen it. The drains don't take it away. We have ducks, Canadian geese that swim in our yard. This yard, they couldn't swim there last year because all the snow as it melted, it all runs down that way. They should have that ditch -- that ditch should be made to tie into the holding pond by Freedom Pond over there or somewhere so it don't do that.

RAY BLEIER: I think that has been discussed as a possible situation to cease that problem.

MR. FOX: You see in an earlier meeting, they said that bus would be parked in the building when they got it converted over to hold the equipment. The bus is never in the building. It is always parked in the driveway over by one of the houses. The same thing with the dumpster.

RAY BLEIER: Did I see the bus there today?

MR. FOX: Sometimes they pick up that dumpster 5:30 in the morning over there. That's a lot of noise. That is the one they have to slide down and let it fall down and push it back. There should be something done with the noise. And the other -- the other side, what I am looking at, is these propane tanks are over on campus, by the campus now. Why can't they stay there? Why do you have to bring them over by us? If they're sufficient where they were, now are they afraid they're going to be close to their students and they're worried about them? So they don't care about us; put them over in our backyard. Is that the way the situation is being used? I mean they put up that -- the greenhouse was there last October. Everything has been there. Everything runs. All you got is vehicles in and out of there, all day long. That is all I have to say.

YVONNE GREEN, 1 Pleasant Street

MS. GREEN: He just asked a question I was going to ask. It really doesn't have anything to do with what we're talking about, but what about the existing property that is across from Westside Drive? What about the fuel tanks and the gas station and everything else that they are already using? Why can't they just keep it over there, because when we purchased the home, the previous owner had told us that Roberts Wesleyan was going to make that into classrooms for the students. Then I was told by an employee of Roberts that the reason why they chose not to is because they're afraid the students might get hit crossing the road, so they rather bring all their stuff over here and let our neighborhood kids get hit instead of their students. Why is that? That is the only thing I have to say.

JANE BUCKLAND, 14 Lilly Pond Circle

MS. BUCKLAND: 14 Lilly Pond Circle, and I live next to Helen Ottley who said she would be here, but she is ill. She is extremely concerned that Roberts is going to build something in their backyard and I don't know whether they can or not, but she wanted me to let you know she wasn't for it. But anyway, I'm concerned, too, about -- the noise is horrendous, and I'm two houses past Dominic (Fantauzzo) here. If I am in my kitchen, I am always looking out to see what awful disaster has happened, because I'm home all day long. It always sounds like something has exploded or someone is picking up trash and it is not trash day, and it is ridiculous. The other thing is they're talking about the water. If they're talking about putting that water and having it go into a pond, we have a pond over in Mayflower. They discussed this a little bit, too. If that water goes over to Mayflower and they get a leak in one of those gas tanks, it can destroy all of the wildlife.

RAY BLEIER: Ma'am, we went over all this before. There is assurances there is a self-containing unit and there would be no spillage. And --

MS. BUCKLAND: I don't feel comfortable with that. I'm sorry.

RAY BLEIER: I would like to get on to somebody who has something new to add.

GENE ROBINSON, 14 Foxtail Lane

MR. ROBINSON: Has there been any consideration been given to a suppression system over these gas tanks?

MR. ED MARTIN: Can you explain what you mean by that?

MR. ROBINSON: The same thing as fire retardant, the same thing as a gas station. Any consideration been given to that?

MR. GRIER: It would be our intent to meet whatever the code requirements are of the Town, State and Federal government. If it requires that, we'll put it in, or we would consider it as an option at that time.

MR. ROBINSON: That wasn't my question. Are you considering it?

MR. GRIER: Not beforehand, no.

MR. ROBINSON: Secondly, I would like a little bit of clarification as to where this -- what pond this drainage water is going into.

MR. ED MARTIN: There is a pond that is several hundred feet southeast of that corner.

MR. ROBINSON: Known as Lilly Pond.

MR. ED MARTIN: I'm not sure of the name of it. This is all lawn down here (indicating), and I can see there is a cross street down here (indicating). I was told by Dave Lindsay there is a pond in that vicinity that that pipe drains to. It would be several hundred feet south of this point here (indicating).

MR. ROBINSON: Has there been any study as to capacity going from your facility, through their maximum capacity? Added capacity?

MR. ED MARTIN: There hasn't, but I can tell you that we're -- our design does not allow the rate to increase as a result of development. Our site discharge will be less than what is occurring today, so any downstream pipes will flow either at its current rate or lower, and that is something that the Town Engineer will make us confirm with subsequent submissions.

MR. ROBINSON: My only concern. I won't get into an argument. My big concern is that the corner, the south -- the northeast corner of that pond is starting to erode very severely from flow from the houses in Mayflower now. I'm concerned about additional flow into that area, taking that pond wall back even further, and that ought to be looked at. Right now, it is caved in.

KAREN COX: The banks have caved in.

MR. ROBINSON: The banks have caved in on the northeast end, where the water comes into that pond.

KAREN COX: Where the pipe is?

MR. ROBINSON: Yes.

KAREN COX: Underneath the pipe or around it?

MR. ROBINSON: Around the sides of it. I don't know if this is from flow or wind erosion or what, but I have lived there for nine years, and that pond has receded by 14 inches in nine years. And this year, there is a big drop in that bank. It is a very steep bank, and a lot of it has eroded away. I'm not saying don't do this. All I'm saying is take it into consideration when you're looking at that area.

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: I don't live near this particular project, but I sit here and I feel sorry for all these people who do because it sounds like Roberts has played fast and loose with their rights. I'm wondering -- I have been hearing this greenhouse has been there for a year and a half.

RAY BLEIER: The greenhouse? I heard last fall.

MR. FANTAUZZO: No. It has been there a year and a half.

MS. BORGUS: I wonder if the Board could ask Roberts just how that happened? Did this just get built without a permit?

MR. GRIER: The building of it, it did not go up until last fall and we did build it without a permit. It was an oversight on my part. I should have made them do it. It just didn't occur to me at the time when we are discussing it, and so -- all I can do -- I have already talked to the Town, the Building Department, and said, "What would you like me to do? We have done this. I need to do whatever corrective action you want to have taken to make it right." So that is what I inquired of the Town.

MS. BORGUS: Part of making it right should be a hefty fine. I'm wondering how many trees are going to be removed in this process. I see in looking at the drawing there are large trees that will be taken out.

MR. ED MARTIN: There are very few -- if the Board would like me to respond directly. There are a few evergreens in this area that will be removed. These show both the existing and proposed

trees. We have some trees here in front of the existing houses that will have to come down and a few evergreens here. In where -- where you see these shapes, there are proposed plantings going in. In the developed case we'll have more vegetation than is there today.

MS. BORGUS: I am a little confused, Mr. Bleier, regarding the uses for these buildings. I was under the impression that that was what the plastics building, the old plastics building was used for now, was the use that they're talking about this new building being for. So I am wondering, is this going to be a general use for two buildings?

RAY BLEIER: Yes.

MS. BORGUS: So the same uses. It will just be two buildings for the same purpose?

RAY BLEIER: The same primary function, yes.

MS. BORGUS: I am always a little concerned when I see front parking appearing on a plan at any of the Boards. It wasn't very long ago that in Chili front parking was a very, very bad term and we discouraged it right and left, and I come to these meetings all of the time, and I am convinced now that front end parking is getting to be taken for the norm. It is very, very often that you hear this now.

RAY BLEIER: Yes.

MS. BORGUS: It doesn't seem to be such a dirty word any more, and I think we should go back to what we had. We had it that way for a reason. And I think it is very presumptuous of applicants coming in here and starting out assuming they can get front end parking. The more we grant, the easier it will be down the line for everybody to come in and want the same thing. And I know we have heard a lot in the industrial parks, the excuse there is, well, it is all the same, it is an industrial park and it is off by itself, so that is okay. Well, this is not in an industrial park, and I resent the fact that somebody comes in here and thinks they can just put all that parking right at Buffalo Road. It is wrong.

RAY BLEIER: That is a Zoning Board issue.

MS. BORGUS: I don't think we should encourage applicants to come in and just get things with the expectation they will just go to the ZBA --

RAY BLEIER: I don't think we give that impression at all.

MS. BORGUS: Well, I do.

RAY BLEIER: I disagree with you.

MS. BORGUS: I think it's bad. It's bad. It is not what we need in this Town. We have worked long and hard to make improvements and we're giving things away now because this is getting to be the norm.

I'm wondering if Roberts ever plans to go to a greater height with any of the these buildings? I have not heard that addressed.

MR. GRIER: No. There are no plans to go to a greater height.

MS. BORGUS: Does this plan meet setback requirements?

KEITH O'TOOLE: Yes.

MS. BORGUS: And I just had -- I would just like to say that Chili has a motorized vehicle law that has caused no small amount of ruckus in Town. It has been applied to people who own many, many acres of land and they're currently in court because they would like to be exceptions to it. Well, I don't think Roberts should be either. If these motorized vehicles, namely Gators, are going across Buffalo Road and being used as road vehicles, it is certainly illegal in Chili, if it is not, illegal by State law. It is not a lawn mower. I know lawn mowers are exempt, but a Gator is not a lawn mower. They should be licensed if that is what they're going to do with them.

RAY BLEIER: I'm not an expert on that issue.

MS. BORGUS: I know that. It is brought up. I just want that clarified, they are not lawn mowers. They do fall under our motorized vehicle law in Chili.

KEITH O'TOOLE: Actually, they don't. Landscaping equipment and agricultural equipment is exempt.

MS. BORGUS: Well, maybe that is something we need to take another look at then. If it is very strict in some ways, then -- this is certainly a case in point where we should be taking care of this.

The other thing is these people all pay taxes. I hope the Planning Board hears them loud and clear, because Roberts doesn't.

RAY BLEIER: Thank you.

The following speaker did not identify herself by name for the record:

ROBERTS WESLEYAN GARDENER: At the risk of -- I am the landscape gardener. I am the one who has the greenhouse and drives the Gator. I am the one who parks the tank in the lot. Excuse me. The only thing that 500-gallon tank has ever carried is water. 100 percent water. I'm not a public speaker. Forgive me for shaking.

We have no chemicals I'm aware of that are illegal. I am -- I live behind One Step. Need I say more? Nobody asked me what One Step was carrying before they decided to put their operation behind my house. I use 20/10/20 fertilizer. That is it. I have a very small little operation. I don't use fungicides. I used to run a greenhouse for my brother-in-law.

Excuse me, sir, if I have said something to offend you. Excuse me. That was very rude. Excuse me. I'm sorry. I realize both of my bosses are here, and please, I need my job. I like my job. I am sorry if I have offended you.

I have a greenhouse. It has been up for March, April and May, sirs, and before that we had a dilapidated structure that these wonderful people made me out of out used up material that was in another building. We put a modern structure up and the fans have been running for two months.

As soon as the plants are out you will not hear the tanks. I believe the propane tanks you are referring to are heating my greenhouse. I know they can be an eyesore and I know you probably don't want to see them, but they're not presently running right now. And they will only run from April, May, and we don't need it any more than that. I was told at one point in my life we would have electric heat, too.

So if you have any questions for me, I would be glad to answer them. I have a DEC pesticide license, classified 3A. I follow all of the guidelines that I'm aware of. I'm sorry if we're doing something -- the reason I came tonight is I wanted to see. I have only heard rumors of people not liking us, and that bothers me greatly. I would like to improve that. I don't know what to do to make it better for everybody.

I also live in a bad situation with One Step behind me. There are things you have to learn to deal with, and believe God is going to do the best for you whatever situation you're in. And that is where I am coming from.

Like I said, I apologize, I'm not a public speaker.

RAY BLEIER: Thank you very much for that input.

ROBERTS WESLEYAN GARDENER: I'm sorry. I told my bosses I wouldn't speak, but I'm sorry.

RAY BLEIER: Okay. I think we have beaten this one to death for this evening.

We have to address the issues here.

Actually, I think these should have been reversed in order. We should have considered the subdivision before we considered the site plan.

Well, what is the Board's pleasure? Are there any -- I haven't heard anything to warrant postponement on the issue of subdivision; am I correct on this here?

JOHN NOWICKI: You're correct on that. I think we should move ahead on Application Number 2.

RAY BLEIER: All right, that being the case, I guess I would like to read this one input. It is from a neighbor to the site here.

"To whom it may concern, my name is Martin Michaels, 21 Pleasant Street, and I am unable to attend this meeting because I am confined to a wheelchair and recovering due to a serious motorcycle accident. I strongly oppose Roberts Wesleyan's plans to construct a fuel storage facility at the location specified. These plans have potential to cause serious health, environmental problems which would affect all of the residents of this street and their families. This would also significantly decrease the value of each homestead property. We do not want to live in constant fear of the threat that the storage of these fuels could accidentally -- I guess explode at any time due to natural or unnatural causes. Sincerely, Martin Michaels."

For Application #2, Ray Bleier made a motion to declare the Board lead agency as far as SEQR, found this to be an unlisted action and made a determination of no significant environmental impact, and the Board all voted yes on the motion.

RAY BLEIER: Should we grant final on the subdivision? Preliminary waiving final.

DECISION ON APPLICATION #2: Approved by a vote of 5 yes with 1 abstention (Don Faso) with no conditions.

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

RAY BLEIER: Preliminary site plan approval, a lot of issues have been brought forward, and I really feel that we did not really have enough information to warrant a decision being made on preliminary site plan this evening. I think there are a lot of major issues that have to be addressed, and my personal preference is to table this until we do have more adequate information.

KAREN COX: I move that. And assurance that Roberts has met with the neighbors and tried to address a lot of their concerns.

JAMES MARTIN: I would like to see when they come back before the Planning Board building elevations and I would like to see minutes or notes from a neighborhood meeting. I would like to see a list of all of the items that have been agreed to between the two parties so we can act accordingly and not have to act out of a lot of speculation, I guess at this point.

JOHN NOWICKI: Actually if they could meet jointly with the Conservation Board they could solve a lot of problems.

RAY BLEIER: I think the two main issues are the Conservation Board issues, referring to buffering, in particular, and also the drainage issue I feel is a major concern. I think a lot of the other things can -- should be addressed, but can be worked out.

JOHN NOWICKI: Are you suggesting we table the application?

RAY BLEIER: Yes.

JOHN NOWICKI: Until you do all of the above or get copies of the minutes of the meeting? I would second that motion, Ray (Bleier), if you make that motion to table or I will make that motion.

JOHN HELLABY: I will second that.

DECISION ON APPLICATION #1: Tabled by a vote of 5 yes to table with 1 abstention (Don Faso) until the applicant resubmits with the following information:

1. Address drainage concerns, especially affecting Mayflower Village.
2. Meet with neighbors concerning appropriate screening of visual and noise impacts.
3. Meet with Conservation Board with detailed plan.
4. Show elevations and architectural renderings of proposed building.
5. Address fuel tank storage.
6. Address snow storage/removal.
7. Demonstrate "good neighbor" relationship addressing neighbors' concerns.
8. Address storage of materials outside of buildings.
9. Apply for necessary variances to the Zoning Board of Appeals.

JOHN HELLABY: I now have the pleasure of asking you to allow me to step down as I hold a lease agreement with Sprint Spectrum.

DON FASO: You're excused.

JOHN HELLABY: Thank you.

3. Application of Sprint Spectrum, L.P., 6391 Sprint Parkway, Overland Park, KS 66251 for renewal of conditional use permit for a 130' high telecommunications tower at property located at 60 Golden Road in R-1-20 zone.

Herb Glose was present to represent the application.

MR. GLOSE: Good evening. My name is Herb Glose with the law firm of Harris Beach. My address is 1 Grimsby Drive, Hamburg, New York 14075.

DON FASO: G-l-o-s-e.

MR. GLOSE: Appearing on behalf of -- I was going to say I forgot why I am here.

DON FASO: It has been a long night.

MR. GLOSE: I'm here for Sprint Spectrum for the conditional use renewal for the 60 Golden Road site. I'm here to answer any questions that the Board may have.

DON FASO: If the Board wouldn't mind, I am recently back on the Board after about an eight-year absence, and I would like the Director of Planning and Zoning to give me a brief update as to why we are at this stage right now.

You knew I was going to do that.

DANIEL KRESS: Let me try to do that briefly.

Back in December and January, the Omnipoint T Mobile organization made an application to collocate on the tower that is located at 60 Golden Road. The Board had a discussion with that applicant regarding items at that and other Sprint sites which perhaps should have been taken care of and had not yet been taken care of, conditions of prior approvals. And to make a long story short, by the end of that discussion, when the applicant finally got their approval to collocate, it was made clear that a couple of items in particular, namely a gate to be installed at the end of the driveway, and a replacement of some dead vegetation that was on the site plan was to be taken care of promptly. This was also an ongoing issue with shielding for propane tanks on that and a number of the other sites.

Since that time, propane tank shielding is in place at 60 Golden Road and, in fact, at the other several Sprint sites where there are propane tanks.

T Mobile has not moved ahead any further with collocating on that tower. Not entirely clear in the last couple of days whether they think we're waiting for them or we think they're waiting for us, but in any case, that has not moved any further.

And in the interim, what I have done is to communicate to Sprint the Board's remarks and request back in December and January that it would perhaps be a good idea for Sprint to come back and review the status of things to be done at this and the other Sprint sites, and since we happen to have a conditional use permit that had expired anyways, I thought this was a good opportunity to have that discussion and convey that to the Sprint people.

MR. GLOSE: I'm prepared tonight really only to address 60 Golden Road. It is my understanding those applications for those other sites will follow in due course and any issues relating to those sites would be taken up when those sites are on the agenda.

DANIEL KRESS: That is understood.

MR. GLOSE: As to the gate issue, I reviewed a series of correspondence, initially a letter from March 12th, from you, Mr. Nowicki, to T Mobile indicating that the vegetation was an issue and that the gate was an issue to be addressed immediately. And then there was a subsequent letter to Mr. Joseph Lu, the Town Engineer, from Clough, Harbour & Associates setting forth the plans for the gate and subsequent correspondence to that, again to Mr. Lu's office from T Mobile, requesting final approval so that the building permit could be applied for.

That is the end of the trail in our file. So I don't know where T Mobile is on that. My office wasn't aware of this meeting until yesterday, so we have not had a chance to contact T Mobile and get their explanation of why that is halted. I think your comment was are they waiting for you or are you waiting for them. I don't know the answer. But it is our view that it is their obligation to get this gate installed.

JOHN NOWICKI: It is still not installed?

MR. TROTT: No. As a matter of fact, if I can just quickly speak, I had to call the police yesterday because there are people down there. I mean you're a lawyer. They have blanketed the barbed wire fence and the kids are climbing up the cell tower. Somebody dies, who is going to be

liable?

DON FASO: They are blanketing the fence?

MR. TROTT: They tape a blanket. I went down there, took the liberty of going down there, arrest me. The kids have put a blanket over the barbed wire fence that is lined on the top of the fence, that is near the cell tower. And so obviously they have an interest in going over on the other side of the fence. Me being fairly young, I could say that I would try to climb up the tower, too. You know.

DON FASO: You're not that young.

MR. TROTT: I know, I wouldn't try.

KAREN COX: I can't do it now.

MR. TROTT: I can't do it now, either. But -- like I said, I had to call the police yesterday.

MR. GLOSE: Did they respond?

MR. TROTT: Yes. They responded and kicked the people out.

MR. GLOSE: They should have arrested them.

MR. TROTT: You know, granted my understanding from the police officers, they were just a young couple. They have made drug busts back there.

JOHN NOWICKI: Is this on the record? Is this all on the record?

MR. TROTT: This is going on. All I want is a stupid little fence.

KAREN COX: Why aren't the sheriffs arresting them?

JOHN NOWICKI: Why are we allowing this to go on like this?

KEITH O'TOOLE: This is all interesting speculation, but why don't you get down to what you want. If you want the gate, tell the man you want the gate.

JOHN NOWICKI: We told the last applicant we want the gate. I don't want this applicant to get anything until we get what we asked for before.

KEITH O'TOOLE: One, Sprint is the master tenant. Two, my recollection was we had asked Sprint to put up this gate for their original proposal. So whether Omnipoint puts it up or not is neither here nor there. If you want a gate, make the condition, give them a short term renewal. Give them to the end of the construction season.

JOHN NOWICKI: I'm not giving him anything, Keith (O'Toole).

KEITH O'TOOLE: Do what you want to do. I will give you my advice.

JOHN NOWICKI: He should go back to Sprint and say put the gate in like you were supposed to and get it.

KEITH O'TOOLE: I'm suggesting you give them 120 days. If they get everything up with a certificate of compliance from Mr. Kress, then they can ask for an executory extension to two or three years or if they don't come through, they're stuck coming back here this fall.

KAREN COX: 120 days, that is too long.

JOHN NOWICKI: Way too long. 45 days max.

KAREN COX: It will be summer, with all of the kids out of school.

JOHN NOWICKI: What is it with these big corporations all over the country that are jamming this stuff down our throats all of the time? What is going on here?

DON FASO: Come on, John (Nowicki).

JOHN NOWICKI: All you have to do is put a gate up.

DON FASO: Take a deep breath.

MR. GLOSE: Sprint has indicated they want to be totally cooperative here. I do not have authority to agree to the gate. I would have to take it back to them.

On the plantings and the maintenance, Mr. Eric Wunk was out there just before this meeting and he was not able to tell which plantings were in need of replacement, so we need some specificity from you, please.

MR. TROTT: The brown ones.

MR. WUNK: I was just out there this afternoon.

MR. GLOSE: If --

JAMES MARTIN: It is easy to do. You can see them from 490.

DANIEL KRESS: I would be happy to meet you out there and point out the two I saw.

MR. WUNK: I can go on the site myself. I didn't look that closely. I went down the road and turned and saw heavy vegetation.

DON FASO: What is your name, sir?

MR. WUNK: Eric Wunk, W-u-n-k. I live at 78 Woodstock Gardens in Batavia. I'm a subcontractor for Sprint, one of the Construction Managers in the area.

DON FASO: I thought I saw a Planning Board letter saying by --

KAREN COX: There have been a lot of Planning Board letters.

DON FASO: I'm looking for previous conditions.

MR. GLOSE: There is a Planning Board letter to T Mobile talking about the gate.

MR. TROTT: If I can enlighten. Back when the Sprint -- the first time we discussed the gate was the first time that you guys came for the propane tanks.

MR. GLOSE: It wasn't me, but okay.

MR. TROTT: That was with Oltec Engineering. They assured me they would immediately put up a gate. They don't know how it got overlooked. I can only speak from that point on. The point previous when the cell tower was built, I was under misjudgment that was way farther back and there would be a gate there. I never attended the meetings at the time because I had a child that was ill at the time.

Past that point, I had talked to Mr. Oltec every time I would call the police, trying to be a good neighbor and kick the people out, and each time he promises me that the gate would be in, and then finally towards the end, he told me, "Well, Sprint doesn't want to put a gate in. They don't want to spend any more at the property." Just for -- I don't understand how hard -- why it is so hard to put up two poles and another pole going across it with a lock on it. I mean you --

MR. WUNK: I agree.

MR. TROTT: You said in your statement you probably picked up garbage last year and probably this year, too, unless because the grass is so high you can't see.

MR. WUNK: I'm not involved with the paper trail with the gate. I have just become aware of it myself. My capacity with me, they want a gate there, tell me. I will find somebody to get a gate there.

MR. GLOSE: I guess the response is we were under the impression that T Mobile was putting in the gate. We had correspondence to the effect that he had submitted drawings to the engineers asking for approval of the gate. Why they are not putting in the gate, I don't know.

DON FASO: Was there an application prior to April 10th, 19 -- this is not for a renewal. This is for conditional use to erect the tower, and there are no conditions on this letter.

Why did the gate come in when T Mobile came in and not Sprint?

DANIEL KRESS: Apparently it was -- although I was not here at the time of the original approval, the gate apparently was not specifically listed as a condition of that approval. It was specifically listed in the letter that went out to T Mobile when their collocation was approved in January.

MR. TROTT: Mr. Oltec gave me --

JOHN NOWICKI: He is catching the brunt of it.

KAREN COX: T Mobile caught the brunt of it.

JOHN NOWICKI: They were supposed to get it done.

MR. TROTT: Sprint, when Mr. Oltec said -- when he came up for the propane tanks, he said that he put the gate in. They did not make it a condition of the propane tanks, because of it being a generator, and they felt that that wasn't -- there was some kind of -- well, we can't make -- because of the generator, they made it unofficial. He was like, "No problem, we can do that right away."

So it wasn't made part of a condition. Had I known in hindsight now, I would have demanded that to be a condition for them to put the generator.

MR. GLOSE: Who is Mr. Oltec you're referring to?

MR. TROTT: Oltec Engineering. I wish I still had his card. He was -- my impression, he is the one that built the site, managed the site for Sprint. O-l-t-e-c.

MR. WUNK: I believe he was Construction Manager for Sprint years ago.

MR. GLOSE: I don't know that he had the authority to bind Sprint, nor that he advised Sprint that he had made that statement, and as I said, we're operating under the -- what we know, and what we know --

MR. TROTT: It is 11 years that I imagine he was just snowballing me.

MR. GLOSE: What we know is that T Mobile had started the process of submitting drawings to you for the gate, and I think that --

MR. TROTT: They promised me that it was going to be in this spring.

JOHN NOWICKI: Don't we have on record a letter from the Planning Board on file with the

conditions setting for T Mobile, discussing the gate -- we went through this with them.

DANIEL KRESS: Yes.

JOHN NOWICKI: Have they will followed through to get a permit to install the gate, or no, they haven't done it?

MR. GLOSE: He submitted drawings to the engineer in March of this year and requested the sign-off to get the permit.

LARRY NISSEN: We wouldn't sign off on them. I don't know that T Mobile has authorization from Sprint to install the gate. It is not their property, correct?

MR. WUNK: It is on their --

MR. GLOSE: It is part of their co-locator.

KEITH O'TOOLE: They're a sub-tenant.

DON FASO: This gentleman is here for a renewal for Sprint.

JOHN NOWICKI: Do we have any -- the previous conditional use, did that have conditions on it?

DON FASO: Not that I see in this packet.

KEITH O'TOOLE: Keep in mind that we had applications concurrently for site plan and special use permit. And as the law tells you, those are virtually identical things when you're dealing with a commercial site. The conditions may well have been double stacked, or they may have been all dropped on the site plan. I don't recall. I do recall that the standard practice of the Planning Board at the time was to require a gate for Sprint or anyone else who was putting up any one of these towers. I also recall there were some conversations about certain gates being located out in the middle of nowhere and why would we put a gate when there was no fence extending around on either side. So I don't know that we required a gate on every site, but generally speaking we require gates. My best guess is we required it here.

Notwithstanding all that, we do have a provision under our local law, part of the renewal of conditional use permits, added not too long ago that says if the conditions don't work, we can tinker with them. Well, here we are.

MR. GLOSE: Mr. O'Toole, this is obviously new information to me, and it would have been nice if you could have shared that with me when I called you this afternoon.

KEITH O'TOOLE: As I --

MR. GLOSE: So I could address this.

KEITH O'TOOLE: Let's not play that game. No. I gave you the courtesy of my response. I told you to call Mr. Kress. It is not my fault that your client called you yesterday. So don't please drop it on my head.

DON FASO: Right.

JOHN NOWICKI: Do you want to table this one until we get the right information?

MR. GLOSE: I would ask to at least get a temporary renewal, 45 days or 60 days, and allow us to -- allow us or allow your counsel to go back to T Mobile and the engineers to go back to T Mobile and say there was a start at this, why is it not installed. I don't think it is fair to penalize us.

DON FASO: I am going to exercise Chairman's privilege here and I am going to ask the Board to table this. And the Chairman's privilege is to compel the appearance of T Mobile. I want T Mobile here in 30 days, or at our next meeting, which will be July.

JOHN NOWICKI: Have them both here.

DON FASO: July 8th. They will both be here. Renewal for them, but I'm compelling T Mobile. I want them here.

JOHN NOWICKI: Absolutely. 30 days. Then we can waive everything and get them out of here.

DON FASO: This way you will have time to prepare. You mention Clough Harbour, with a site plan. If you need Clough Harbour here, get them here.

MR. GLOSE: That is T Mobile. We will let T Mobile know that.

KAREN COX: Get whoever is involved here.

DON FASO: I want to see the team here.

MR. GLOSE: Besides the trees and the gate, is there anything else?

JOHN NOWICKI: Mr. Kress, this gentleman is asking is there anything else besides the gate and the trees that he has to be concerned about on this site.

DANIEL KRESS: My understanding, those are the two issues that need to be addressed. The propane tank shielding after years of requesting, that is in place.

MR. GLOSE: And we're on record as saying we'll take care of the plantings. So it is really just this gate, and...

JOHN NOWICKI: Thank you.

DON FASO: On the motion to table?

DECISION: Unanimously tabled by a vote of 6 yes to table until the July 8, 2003 meeting for the following reason:

1. The Planning Board is requesting that a representative of both Sprint and Omni Point (the co-locator) attend the July 8, 2003 meeting.

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: Can you fill me in? When did this conditional use permit run out?

DON FASO: I assume it is expired now, Dan (Kress), correct?

DANIEL KRESS: It is expired.

DON FASO: It is expired.

MR. TROTT: It was only a two-year conditional use permit.

MS. BORGUS: When did it expire?

MR. TROTT: Two years after they built the place.

JOHN HELLABY: '99.

DON FASO: '99.

MS. BORGUS: It expired in '99? And we are just getting them in here now?

DON FASO: It appears that way, Dorothy (Borgus).

MS. BORGUS: Oh, I thought things were better in that department.

MR. TROTT: They are. They're in here now. Believe me.

MS. BORGUS: I wonder how many more are expired, though. That is my next thought.

Maybe somebody better check all these conditional use permits on all these towers.

DON FASO: I think that is what Dan (Kress) is doing.

DAN KRESS: We have already done that.

MR. GLOSE: On the other three Sprint sites I can speak to. The applications will be submitted within the next 30 days.

JOHN HELLABY: Excuse me. Excuse me. Just a point of clarification. There are four other sites that are owned by Sprint in this Town. The one that I hold a lease on is not on this list.

DON FASO: Really.

MR. GLOSE: There are five all together. I wasn't aware of that.

JOHN NOWICKI: Interesting.

DON FASO: Dan (Kress), can you research all five?

DANIEL KRESS: Which one did I miss?

JOHN HELLABY: I can answer all your questions on your gates and everything else, because I know these things inside and out.

DANIEL KRESS: Ballantyne Road address?

JOHN HELLABY: Yes, sir.

DANIEL KRESS: That was my oversight.

DON FASO: But Dan (Kress) will research it.

JOHN NOWICKI: We're making progress Dorothy (Borgus), slowly.

MS. BORGUS: One more question. Not necessarily relevant to this application. Don't we have all these conditional use permits on a computer?

DON FASO: I thought they were on a database.

MS. BORGUS: Could we clarify that?

DANIEL KRESS: Every address in the Town is in a computer. However, if I have got an approval for something and a permit has been issued and it has never been closed out, there is no C of O to start the clock to the renewal of the conditional use permit. And since C of Os were never issued

for any of these sites, mainly due to the issue of the propane tank shielding, which only got done in the last couple of months, that is why the clock never started. That is why when T Mobile came in --

DON FASO: I think Dan (Kress) is on top of this. I know Dan (Kress) is on top of this.

MS. BORGUS: Aside from cell tower -- cell towers, are all our other conditional use permits on a database and we have a handle on them?

DANIEL KRESS: Yes.

DON FASO: I would say yes.

MS. BORGUS: Thank you.

DON FASO: Dan (Kress) is doing a good job.

KAREN COX: We're not doing stuff with index cards any more like three years ago.

MS. BORGUS: I thought we were past this kind of a --

JOHN NOWICKI: He wants to leave and go home.

DON FASO: "This is to inform you that the Chili Town Board has passed a resolution at the March 5, 2003 Chili Town Board meeting considering construction of a drainage improvement in an area of the Town of Chili located northeast of Hillary Heights Subdivision and immediately north of the CSX Westshore Railroad tracks to benefit the properties located in the Hillary Heights Subdivision, said to be known as the Chili Drainage Improvement Benefit Area Number 1, Hillary Heights Subdivision. It is anticipated that the drainage improvement shall consist of a retention and detention facility and all necessary appurtenances and equipment.

The Town Board hereby declares itself lead agency for SEQR review purposes. This is your notification as an affected agency. If you have any objection to the Chili Town Board being lead agency for SEQR, please respond by May 16, 2003 to Richard Brongo."

Do you have any objection to the Town Board being lead agency? I really don't.

The Board indicated they had no problem with the Town Board being lead agent.

DON FASO: Okay.

The meeting ended at 9:40 p.m.

A meeting of the Chili Planning Board was held on July 8, 2003 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 Don Faso.

PRESENT: Ray Bleier, John Hellaby, Dario Marchioni, Karen Cox, James Martin, John Nowicki and Don Faso.

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

Chairperson Don Faso 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.

DON FASO: A couple of announcements. Those that are here for Application Number 4, Joseph Karpinski for change of use to convert a dwelling to a dental office at 3181 Chili Ave, they have asked to be withdrawn for tonight and also for August. They will make a presentation in September. So if there is anybody here for that, they will not be here.

The second thing I have is -- this is for the Board. Last month we tabled for one month the application of Sprint Spectrum to be here tonight. Everybody had a conflict, so they are not here, but we need to retable that to our August meeting, so with that, I will entertain a motion to retable that until August.

JOHN NOWICKI: Move it.

JAMES MARTIN: Second it.

DON FASO: Okay. Thank you very much.

PUBLIC HEARINGS:

1. Application of Debra McClarin, owner; 21 Berry Lane, North Chili, New York 14514 for conditional use permit to allow a two-family dwelling at property located at 21 Berry Lane in R-1-15 zone.

No one was present to represent the application.

DON FASO: No one present to represent the application on Number 1. I will declare that the first call. They get three calls and then that will be tabled also. We'll move on.

2. Application of Gerald Testa, owner; 3252 Union Street, North Chili, New York 14514 for preliminary subdivision approval of two lots with site plan on one lot to be known as Testa Subdivision at property located at 25 Greyson Road in RAO-20 & FPO zone.

No one was present to represent the application.

DON FASO: This will be the first call for Applicant Number 2. We're batting a thousand. It will be a short meeting. I hope we don't run into problems because the engineer asked me for a time estimate because he had a conflict before the meeting.

3. Application of Forest Creek Equity Corp., owner; 3240 Chili Avenue, Rochester, New York 14624 for final subdivision approval under incentive zoning, of 51 lots to be known as Park Place Sections 4 & 5 at property located at 3800 Union Street in PRD zone.

Bernard Iacovangelo was present to represent the application.

JAMES MARTIN: Mr. Chairman, I would like to excuse myself at this time.

DON FASO: Mr. Martin is excusing himself because he is the immediate neighbor to this subdivision.

MR. BERNARD IACOVANGELO: Good evening, Mr. Chairman, members of the Planning Board. I'm Bernard Iacovangelo, the President of Forest Creek Equity Corporation.

We're making application this evening for final approval of Sections 4 and 5 of Park Place Subdivision. Park Place Subdivision was a community that was submitted under the incentive zoning regulations and approved by the Town Board. Sections 1 through 3 have been approved. Maps have been filed, and Sections 4 and 5 have been prepared and submitted to the Town for your approval and -- in compliance with all of the preliminary drawings and all of the conditions of the original preliminary approval of the overall subdivision. Mr. Nissen has reviewed those on behalf of the Town, as a Town Engineer, and has issued a letter which indicates that he reserves right to make any adjustments in the final -- prior -- you know, signatures, and also that his approval is based on the developer meeting all of the new regulations regarding storm water drainage precautions that are -- you know, have been instituted in the State of New York.

DON FASO: Do you have a copy of Larry's (Nissen's) letter?

MR. BERNARD IACOVANGELO: Yes. I left it in the office. I do have a copy of. Those were the only two items he mentioned in there, that I recall. There were no other items. Larry does that have that clause in his letter that he had in the last letter so he can review all final calculations, all plans prior to signature just to ensure that everything has been placed on the drawings.

In Section 4 and 5 currently we have a haul road which was required by the -- Joe Carr from the Highway Department. That will be moved as we improve those sections and then that haul road will be relocated down in the southern end of the project.

All of the grading needs, utility needs and everything have been worked out on the plan in compliance with what we did on the preliminary. Not much has been changed. One of the things that I would like to mention to the Board on this application, and one of the conditions that we had on our preliminary was working out the Wadsworth drainage issues. On the Wadsworth drainage issues, we have been working with Mr. Martin, Mr. Englert to resolve them. We have come to -- Joe Carr has been heavily involved, and --

Mr. Baker arrived, also present to represent the application.

DON FASO: Do you want them up on the board?

MR. BAKER: Sorry.

DON FASO: First two applicants didn't show up.

MR. BAKER: Sorry.

MR. BERNARD IACOVANGELO: What ended up happening is we got most everything resolved, all we want to do, with the drainage from all parties, the Town, most of the homeowners except for three. Three have all of a sudden decided it doesn't improve the value of their home or doesn't affect their yard or anything so they have pretty much refused to buy in. Where we are right now is we have had signatures by, I believe it is seven out of twelve landowners for the creation of a Drainage District. That is more than 50 percent of the signatures that are required. The Town is now reviewing it to ensure that those seven signatures are also 50 percent of the land area involved.

Once it meets those two tests, then they can present it to the Town Board to create a Drainage District. Once we have the Drainage District, then we'll go through and get everybody to individually sign the easements. Then we'll go in and make the corrections as designed. That is where we are with that. We could have gotten it done sooner had we had these other people buy into it, but that was one of the big issues from the last preliminary part, but we have that resolved. We have got the issues done in the southern part, resolved with the DEC. We have got some redesign on the pond that is going to be built in the lower section, which will be back in -- actually sections -- this area here (indicating), there will be a redesign of this whole area that we submitted. But these are the two sections currently that we're seeking approval on (indicating. Section 1 (indicating), Section 2 (indicating) and Section 3 (indicating), these three sections have final approvals on them (indicating). We wanted to get 4 and 5 only because it makes -- we'll do the improvements on 3 and 4 at the same time, only because now it creates the loop all of the way around for safety vehicles.

Then we'll do 5 as needed. If sales continue, we may do all three sections at the same time.

With the current interest rate environment that we have, affordability index for people buying homes has made the new home construction, you know, very energetic of late. So for us, we're hoping that continues for at least another 18 to 24 months. But that is where we are. Everything that we have got on there as far as engineering design -- and Walt Baker from DSB Engineers is here tonight. He is the one who prepared the plans, but as I have indicated to you, everything that we have had agreement on with the incentive zoning and the preliminary, this is just the final design, which is just putting on a few additional parts, but 90 percent of what was in preliminary. So that is --

DON FASO: It is looking good. The berms look good.

MR. BERNARD IACOVANGELO: Thank you.

RAY BLEIER: How much of the first three phases are developed and sold right now, would you say, percentage?

MR. BERNARD IACOVANGELO: Right now Phases 1 and 2 are improved; roads, utility, sanitary, everything, phone, cable. All that is in. Phase 1 is 40 -- we have 49 lots in Phase 1. Of those 49 lots, 6 lots are not sold right now. Three of them have topsoil piles on them, so we can't sell them until we get the topsoil, you know, moved onto lots after construction. We have got -- the other ones -- another one has a hold, so we have basically two lots available.

Out of Section 2, which has 35 lots -- or 34 lots, we sold 11 for Homearama, and we have 22 lots available for sale in there.

Section 3, we haven't even put the improvements in yet. So that is --

DON FASO: With a little luck those should go in the next couple of weeks?

MR. BERNARD IACOVANGELO: We're hoping we're blessed. But we have made an agreement, just so you know -- one of the things I have been sensitive to as a developer in Homearama in the past, we have given the opportunity for the other builders, since they have made a substantial investment not only in dollars, but also time, energy and resources to put on a home show of this magnitude, that they get to purchase at least another lot in Phase 2. Otherwise, sometimes it --

DON FASO: Is that typical?

MR. BERNARD IACOVANGELO: No. Generally a developer won't let have you another lot. They reap the benefits of the show, but I felt it is only fair to compensate them. They go through the whole show and sell a house. If they get another opportunity to sell another house from the show, I think that would make it worth their while. That is part of our program we had presented to the Rochester Home Builders Association. It has to happen within 90 days of the close of the sale. We're opening Phase 2 for show. We didn't -- of the 11 homes in there right now, 8 Homearama homes are sold.

JOHN NOWICKI: The show starts this Saturday.

MR. BERNARD IACOVANGELO: This Saturday.

JOHN NOWICKI: Open to the public.

MR. BERNARD IACOVANGELO: Yes. From the 12th to the 27th.

DON FASO: Just out of curiosity, not part of the subdivision approval, but how do you plan on handling the traffic for Homearama?

MR. BERNARD IACOVANGELO: Traffic for Homearama, we have now the new road paved

in Section 1. Traffic will come down into the new section, down through here (indicating), and what we have done is we have created parking for about 180 cars between the cul-de-sac here and the tents and entry here, so we created about 180 car parking there. We created another 120 car parking here (indicating). Parking here and here (indicating), and then back into this area (indicating). So we have tried to accommodate about 500 car parking. Now, the traffic will be on paved roadways, so it will be nice getting in and out of the site.

Secondly, they will have staff helping with the parking.

Thirdly, we have been able to put down millings so that, you know, we should have a stable base for the cars to park on in the event of rain or anything of that nature. And plus along the road here, if people wanted to park there along the road, there is quite a bit of roadway there. So that is what our plan is, just easy ingress and egress right through the main parking.

RAY BLEIER: I just had a question for Larry Nissen. These two phases here, impact on drainage? Is there enough drainage in place to handle this once -- you know, once it is fully developed?

LARRY NISSEN: The drainage needs to be -- well, the basis -- Phases 4 and 5 are impacted by the Phase 2 storm water regulations that were passed in January. My understanding is that basically you have a new set of storm water design criteria that will need to be adhered to. It will require the construction of a storm water management facility, basically a retention pond. My understanding is that Joe Carr at least has mentioned that the Town may wish to make a portion of the land, of Town land available to the north available to the developers of this subdivision to construct the required storm water management facility there. Basically, 4 and 5 will drain to the north, and what is there now is not adequate to address storm water needs for Sections 4 and 5.

KAREN COX: So that storm water retention facility would be a temporary thing during construction?

LARRY NISSEN: Permanent.

DON FASO: I think Joe (Carr) is thinking of enhancing Town property, right?

LARRY NISSEN: That is my understanding.

JOHN NOWICKI: This doesn't impact the Wadsworth area then, as far as 4 and 5?

LARRY NISSEN: I think I will let the applicant's engineer address that question.

MR. BAKER: The only drainage that is going to be discharging through Wadsworth -- the grade breaks through here (indicating) so we have a couple backyard areas here and here (indicating) that will be draining to the south. Basically by us improving what we did, we took away from existing drainage previously by developing this, so we in effect at this point of the development, decreased the runoff. We'll have a little runoff this way (indicating), but it is only backyard drainage. It is not the roads and all that.

MR. BERNARD IACOVANGELO: Could you explain to us exactly the changes that occurred with the new drainage regulations since we have had preliminary approval?

MR. BAKER: Basically --

JOHN NOWICKI: Where did these regulations come from?

MR. BAKER: New York State DEC.

KAREN COX: The Phase 2 storm water regulations.

JOHN NOWICKI: That SPEDIES permit?

MR. BAKER: Yes. They have always had a SPEDIES permit, but now they have taken it to Phase 2, up a level. They look when -- the first flush, first runoff during a rainstorm, they want you to control that. So basically the pond we have we could be modified slightly to control the outflow structure to take care of the first flush, the first one hour.

DON FASO: Is that supposed to be the most intense?

MR. BAKER: Yes. That is when you will get the surface runoff, any impurities.

KAREN COX: When is the pond scheduled to be built?

LARRY NISSEN: Which pond?

KAREN COX: The one to the north.

LARRY NISSEN: Walt (Baker) has mentioned they think they may be able to work with the existing pond and revamp it.

MR. BAKER: Joe Carr has offered to work with us.

KAREN COX: If he can't make it work --

MR. BAKER: Yes.

LARRY NISSEN: So it will be built as a part of Sections 4 and 5?

MR. BAKER: Right. So again, the new regulations versus our original approval have to be adhered to now. It is basically like I mentioned, just a -- we do have a detention facility that is sized for that whole runoff. We designed it during preliminary design and it just happened to be built in the beginning, so it is in place and usable. We just have to make some slight modifications for the State.

KAREN COX: That is all I had.

JOHN NOWICKI: The only thing I wanted to touch on here was a note, something about entrance signs to Park Place. Did you want to discuss that tonight?

MR. BAKER: Monumentation signs.

MR. BERNARD IACOVANGELO: Oh, yeah.

JOHN NOWICKI: That wasn't on the drawings, I don't believe.

MR. BERNARD IACOVANGELO: No. Right now at the entrance to Park Place -- we have put berms all of the way down Union Street, and currently we have put -- you know, berms here (indicating). We have put stone walls up, and we want to put on 30-square-foot signs just -- entry graphic signs indicating Park Place. We have the pictures here for you to give you an example what these signs will look like.

Bill Areno arrived to also represent the application.

DON FASO: You're not late. We're early.

MR. BERNARD IACOVANGELO: Pretty much, this is what they will look like. 10 foot long, 30 to 40 inches high.

JOHN NOWICKI: Low profile.

KAREN COX: Are those wood?

MR. BERNARD IACOVANGELO: It is a new material. It is a type of a plastic material.

KAREN COX: So they won't --

MR. BERNARD IACOVANGELO: They won't warp or change or anything like that. We used to use the cedar, but over time they would deteriorate.

JOHN NOWICKI: Stone behind them.

MR. BERNARD IACOVANGELO: That is all field stone. That is already built. It wraps around the berm.

DARIO MARCHIONI: Will it be lit?

MR. BERNARD IACOVANGELO: Here are pictures of the walls that have been built already. They will be lit. That is what it will be adhered to. That is both sides of the berm.

MR. ARENO: I will pass them around.

MR. BERNARD IACOVANGELO: So we're asking for approval for these signs as part of our Section 4 and 5 approval. We will do this at the second entry, down here (indicating) -- the second entry down here (indicating), we'll do the same thing. We'll repeat that again, stone sides with the two signs. We'll end up with four signs. Pretty similar to what we did with Autumn Wood with the two signs coming in, so you can see on both sides coming in.

KAREN COX: They will be lighted?

MR. BERNARD IACOVANGELO: Yes.

KAREN COX: Who pays for that?

MR. BERNARD IACOVANGELO: That is tied into the house on the corner.

JOHN NOWICKI: Maintenance wise.

MR. BERNARD IACOVANGELO: We're doing low maintenance. We're coming along the front with a small little area and we'll fill it with stone, you know, the colored stone that people use for landscaping, landscaping stone and we're going to put the light in there so there is not a lot of landscaping, and we'll grass right up to that, so that you will just mow -- in fact, we have that all -- if you see from the pictures, right now we have got that all ready to be hydro seeded.

JOHN NOWICKI: I did want to compliment you on Blueberry Hill. The landscaping over there

is beautiful.

MR. BERNARD IACOVANGELO: Thank you.

JOHN NOWICKI: As long as I feel comfortable that the drainage is going to be worked out and the SPEDIES is all right, the signs look pretty good to me and good luck on Homearama this weekend.

MR. BERNARD IACOVANGELO: Thank you very much.

JOHN NOWICKI: It should be quite attractive. If you folks haven't been out to see it, try to see it. There are beautiful, beautiful homes that you will really be impressed.

MR. BERNARD IACOVANGELO: John (Nowicki), I want to thank the Board, too, the Planning Board, because without the partnership that we have had over the years and without the kind of work we have put in planning this community, okay, I don't think we would have been able to be selected as a site.

DON FASO: I think this is a huge feather in Chili's cap.

MR. BERNARD IACOVANGELO: No question.

JOHN NOWICKI: It is interesting. At home, I have a pile of paperwork on this project that has got to be 2 1/2, 3 feet high.

KAREN COX: You can start a bonfire.

JOHN NOWICKI: I never seen anything like that. But you're right, cooperation from many, many people to get to this point has been really a study in itself.

MR. BERNARD IACOVANGELO: That is why I want to thank the Board also.

JOHN NOWICKI: We thank the developer, too.

DARIO MARCHIONI: I don't know what to say. You have done a good job. Thank you.

CHARLES ROBINSON: Just a couple. Bernie (Iacovangelo), how long are the signs going to be up, the signs that you are proposing? For the duration of the project?

MR. BERNARD IACOVANGELO: Yes. Forever ad infinitum.

CHARLES ROBINSON: They won't be heavily landscaped?

MR. BERNARD IACOVANGELO: The berms -- that is why when we did the berms, we got them planted up. You know, hopefully we don't lose too many plants during the summertime, you know, but that is -- they will grow in just like Autumn Wood.

CHARLES ROBINSON: The only reason why I ask, the Conservation Board had approved the plans in the past, so I want to ask you two things: Is it possible that perhaps you could update your plans and include these signs just so it is depicted on there?

MR. BERNARD IACOVANGELO: All right.

CHARLES ROBINSON: The other thing, the Conservation Board had approved one ornamental tree and one street tree per lot with the exception of the Homearama. You know, we have no problems there whatsoever because we think you are doing an excellent job. If you could do that, the Conservation Board has no issues whatsoever.

MR. BERNARD IACOVANGELO: Just so you know, Mr. Chairman, what we did -- in order to comply with that portion of two trees per lot we had agreed on in our approval -- we sat down with Mr. Schickler and Pat (Tindale) and we went over the fact that, A, we're going to be putting the street trees between the gutter and the sidewalk, okay, that we had talked about and depicted to the Planning Board earlier on. In fact, we went through a whole exercise with Joe Carr insuring we would put them in areas that wouldn't interfere with utilities. Then there were planting plans going on for each one of the Homearama houses. We asked if that ornamental tree in front of every house could be used as the tree in that requirement, and they said yes, rather than just having another ornamental tree in front of the home. But we will -- when we do the rest of the homes with the homeowners, we'll have one tree out in the front like we have been doing and secondly, we'll put the other tree in front of their home, an ornamental tree and we'll try to tie it into where they will do their landscaping.

Also, we met with Pat (Tindale) and Dick Schickler. We also discussed putting in a variety of trees. There was an article in the paper that said they used to put one species throughout the whole neighborhood, but if there was a problem, everything went. So what we did is came up with a pattern where -- in which we're going to go so far with one type of tree, then change it over to another one. We went over and discussed the different species of trees which they agreed with, and approved. So

we had a nice planning session with them, just so it came up to their acceptability. Plus what we're going to be doing is putting mailboxes -- the mailboxes that are up there at Homearama is the same mailbox going through the whole community so they're all the same and we'll give everybody a housewarming gift of a mailbox so you don't have all these different mailboxes.

JOHN NOWICKI: Individual boxes per house?

MR. BERNARD IACOVANGELO: Yes. The postmaster doesn't want them ganged. I think that it is good. Sometimes five on one mailbox, and you then have five of them laying on the ground.

CHARLES ROBINSON: The Conservation Board has no issues with Bernie (Iacovangelo) and his past promise. As we stated, we have every confidence that he will follow through.

BILL ARNOLD: One question in regards to safety. How deep is that pond estimated to be that you're proposing?

MR. BAKER: It is a dry pond, so it -- the pond is dry. It is just graded, so it will be grass-lined. During the storm event it will stage up 3 feet.

DON FASO: Not retention, just detention.

MR. BAKER: That is right.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: I have two comments. One is on the sign, the signs. The signs themselves are all right. What I would object to was the print on the lower part. I don't believe if these signs are going to be here forever that we need "Another Faber Community" on the bottom of it. What is the point in that? Let's make it a nice sign that we'll be proud of forever, if it is going to stay there forever. I don't know of another builder in Town that puts his permanent name on a project and expects it will stay there forever. It cheapens the sign, it is tacky and I think that part should come off. You know the line I'm talking about?

DON FASO: Uh-huh.

MS. BORGUS: It is not necessary. It adds nothing, and it detracts.

The other thing I would like to address, I understand the difference in the drainage issue, because of the state regulation, but I think it is overly generous of Mr. Carr to offer to give a developer Town land.

LARRY NISSEN: Let me qualify. He is not offering to give the developer Town land. I think he is offering them -- possibly offering them the ability to construct a facility on Town land.

MS. BORGUS: That --

DON FASO: It would enhance the Town park.

MS. BORGUS: A pond?

DON FASO: Uh-huh.

MS. BORGUS: I would offer that -- I have been around this Town within the last month collecting petition signatures for the upcoming elections and I have yet to see a pond in this Town that is an addition, that is a credit, that is a benefit. They are all grown in with cattails. They're a mess. The one in Whispering Winds I do believe you could walk on. You can't even see water for scum.

DON FASO: The pond in my backyard looks like Wellington.

MS. BORGUS: The one in my neighborhood does not. I would beg to differ, because I was through the -- the subdivision that is on the Pikeut farm, and those are all growing in. There are cattails. They're messy. They're a disgrace. So I would take exception to anybody in this Town government, especially somebody who is not even an elected official, offering the Town's land to do anything with it. Just let the developer take care of his needs on his own land and leave us out of it.

DON FASO: I am sure if it is required that they have to do this, that Mr. Carr will make his case to the Town Board. They have to give their final approval.

MS. BORGUS: I appreciate that, Mr. Chairman, but I also don't think it is right for him to just assure a developer that he is going to get this cooperation down the line, and he obviously has. Especially since he is not even elected here. He is an employee.

DON FASO: Your comments are noted.

MS. BORGUS: Thank you.

JOHN NOWICKI: Do you want to add the signs?

DON FASO: Any comment about the wording on the sign?

No comments were offered.

DON FASO: We're amending the application to add the approval for the sign.

Don Faso discussed conditions with the Board.

DECISION: Approved by a vote of 6 yes with 1 abstention (James Martin) with the following conditions:

1. Pending approval of the Town Engineer.
2. Planning Board has approved the addition of a subdivision sign to the landscaping plans and approved the sign as presented to the Planning Board.

DON FASO: Back to Application Number 1.

Debra McClarin was present to represent the application.

MS. McCLARIN: Debbie McClarin, 21 Berry Lane, North Chili.

DON FASO: Brief history. Apparently you have purchased this house.

MS. McCLARIN: Yes, in 1998.

DON FASO: In '98.

MS. McCLARIN: Yes.

DON FASO: How did you discover that it was an illegal use?

MS. McCLARIN: I was refinancing to get a lower interest rate, and when the appraiser came through, he came to file the forms in the Town, the ESL called me back and said it was listed as a one-family, not a two-family dwelling, and that was the first I had any knowledge of that.

DON FASO: Do you have a tenant in the second space?

MS. McCLARIN: Yes, I do.

JOHN NOWICKI: You bought it on the assumption it was a double?

MS. McCLARIN: Yes. I have some information here that says it was used as a double from the previous owner. He owned it for 20 years.

KAREN COX: The bank didn't flag that when you first bought it?

MS. McCLARIN: No.

KAREN COX: That is interesting.

MS. McCLARIN: When I get my tax papers, it says double on it, from across the hall. I bought it in 1998. August 1998.

DON FASO: It is on the tax rolls as a double?

MS. McCLARIN: Yes.

DON FASO: But not in the Building Department?

DANIEL KRESS: Apparently not.

MS. McCLARIN: No. I have talked with Dan (Kress) a few times.

DON FASO: Okay. It doesn't surprise me. We're finding a lot as we computerize the Town.

DARIO MARCHIONI: How many square feet is that bottom unit, the first floor?

MS. McCLARIN: I don't know. You have two bedrooms.

DARIO MARCHIONI: I was wondering if it met the required square footage for two bedrooms.

MS. McCLARIN: I live in the bottom part.

DON FASO: The minimum requirement for two bedrooms?

DARIO MARCHIONI: Yes.

DON FASO: Isn't it like 12, Dan (Kress)?

DANIEL KRESS: Well, according to our zoning, and I can tell you there is, if not a very similar requirement in the State Building Code, which I don't know off the top of my head, but according to our zoning for two-bedroom apartment, you would be looking at minimum of 850 square feet.

KAREN COX: For the whole unit?

DON FASO: For the whole unit.

JOHN HELLABY: That is right on the borderline.

JOHN NOWICKI: If you look on the dimensions of the tape location map -- 840?

DARIO MARCHIONI: 10 square feet.

DON FASO: Let's not lose sight of the fact that she is legalizing a preexisting, nonconforming.

JAMES MARTIN: Since you have a two-family dwelling there, any issues with parking? Is it adequate?

MS. McCLARIN: It is adequate.

JAMES MARTIN: Off-street parking?

MS. McCLARIN: Very large driveway.

RAY BLEIER: How many cars?

MS. McCLARIN: Just mine and my tenant's, two.

JAMES MARTIN: That is all I have.

JOHN NOWICKI: I'm trying to see what we have here. This property, have you filed this property or made application to put this property in a Drainage District?

MS. McCLARIN: Not at this point. They did give me a form, but I need another one, I'm sorry to say.

JOHN NOWICKI: Why is that?

MS. McCLARIN: Because I misplaced it.

JOHN NOWICKI: Mr. Kress, if the Board approves this conditional use, will the Building Department have to issue a permit for this?

DANIEL KRESS: Yes. I have yet to make a complete inspection of the interior, but I have already had conversations with the applicant about the fact that building code requirements that apply to two-family residences, you know, we're basically going to have to do a walk-through and figure out if there are any -- particularly what I'm concerned about are fire safety type issues such as fire separation, smoke detectors, that sort of thing, that need to be integrated into the structure at this point.

KAREN COX: As part of that, do you check things like the fuse box, whether it is set up for two washers, two dryers, you know --

MS. McCLARIN: It doesn't have two washers and two dryers.

DANIEL KRESS: Quite honestly, to answer your question, you know, I suppose according to the absolute letter of the law I could require that the entire structure from top to bottom be rebuilt according to requirements for a two-family dwelling. What would seem to me to be a more reasonable approach would be to look at the issues, given that this is clearly a preexisting situation, look at the issues that are clearly safety issues and ask that those things in particular be addressed. Because, quite honestly, if I didn't have a cooperative person to work with, who chose to appeal my requirement that the entire structure be rebuilt from top to bottom, I can tell you with the preexisting situation such as that, the appeal would likely be successful any ways. So we're going to go for the big stuff and try not to worry about the relatively minor details if they are not safety type issues.

JOHN NOWICKI: So you're saying that you're going to apply some common sense rather than the new weight of the codes?

DANIEL KRESS: I suppose our understanding of what is common sense is subject to some discussion, but I am not inclined to apply the 100 percent of the letter of the law, no, because it would probably require the entire rebuilding of this structure and that does not seem to be a reasonable approach to take here.

JOHN NOWICKI: I would be concerned or interested that the second floor occupant, the safety precautions would be taken -- you know, given some serious thought, because again, on inspection -- I would assume you would do it, Fire Marshal or somebody?

DANIEL KRESS: Safe means of egress, proper fire separations, smoke detectors and the like will have to be properly addressed. That is sort of the gist of what we have already talked about.

JOHN NOWICKI: How old is this house?

MS. McCLARIN: 1955.

JOHN NOWICKI: Going back to the zoning code, and for this zoning, which is R-1-15, according to my tape location map here, there are requirements for setbacks. And I don't believe these setbacks here meet the zoning requirements. Could you check that?

DON FASO: The dwelling probably predates the zoning code.

JOHN NOWICKI: Well, again, I don't know. I want to make sure she is legal here.

DON FASO: It predates the code. It is legal.

JOHN NOWICKI: As long as it is on the record and somebody wants to make a statement. We have it for the record. Are you satisfied with that statement?

DANIEL KRESS: Yes, I am.

JOHN NOWICKI: Okay. That is the only question I have. Again, my concerns would be for the safety of that occupant on the second floor.

JOHN HELLABY: How long has this been used? Naturally you have used it as an apartment for the last five years. Do you know when it was converted --

MS. McCLARIN: Yes. The owner before me bought it in 1982. He never lived there. He rented out both the top and the bottom. Before that, the family that moved in there in 1955, they changed the upstairs to be a mother-in-law apartment, and in an approximate -- in approximately 1956. So they didn't rent it, but she lived upstairs.

JOHN HELLABY: But the tenant you have there now is not a family member?

MS. McCLARIN: No. She is a college student.

JOHN HELLABY: The only other question I have is, have there ever been any complaints as far as parking or noise?

DANIEL KRESS: No. I specifically checked the file, because I anticipated that question and that was a concern of my own and I have no record of any complaints related to this address.

RAY BLEIER: You mentioned college students, the present person that is in the upstairs apartment. Is it generally rented out to college students, and if so, what is the change-over?

MS. McCLARIN: The lady that I have right now is a college student, but she is in her late 20s and she has been there for two and a half years. In the five years I have been there, she is my third tenant. The first was a married couple. Then the next was a single person and then her.

DON FASO: I think it would be a fair statement to say if it weren't for the two-family dwellings in North Chili, there wouldn't be adequate housing for Roberts Wesleyan College.

BILL ARNOLD: As long as the fire and building code requirements are met, I'm satisfied.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: I think that's a poor rationale for allowing illegal dwellings is we have a shortage if we didn't have them. I think with all of the computerization that the Building Department has access to, we better check and see because I think there are many of those in North Chili.

DON FASO: I agree. I said that with tongue in cheek and find it humorous.

MS. BORGUS: I don't. I don't think it is safe for college people to be living there if there was a fire. I am wondering in this particular case how a person would exit and enter this apartment.

MS. McCLARIN: She goes through the front entrance.

MS. BORGUS: Through the front door. Very, very, very unsafe, which the Building Inspector I'm sure will deal with. These people need a way in and out in case of fire. These houses were never meant to be used for this, and it is a sad fact that prior to this, we haven't been able to do more about a very bad, bad situation safety wise.

STEVE GINOVSKY, 19 Hubbard Drive

MR. GINOVSKY: I'm familiar with the subdivision. It is Charlie Glidden's tract and originally

when he built those houses, the only time you could have a second family was live-in mothers, fathers and such, in-law apartments, period, for the whole subdivision. I live at the end of Berry Lane over at 40 Sunny Side, and next-door was Mr. Perry that had that. And that is how that whole subdivision was set up. There are many illegal apartments in that subdivision. It has been brought before the Town Planning Board a number of times. People have complained about it. This poor lady happened to get caught on it on a refinance. I feel sorry for her, but that happens to be the truth of the whole area.

DON FASO: Steve (Ginovsky), this question arose probably 20 years ago as a deed restriction. I remember it very well. I was on the Board back then. The legal opinion at the time was that it was an illegal condition. That covenant should not have been placed on any deeds.

MR. GINOVSKY: That is how Mr. Glidden had it. I tell you that now because I did work for Charlie (Robinson).

DON FASO: But the standards, when it came before the Board X number of years ago, the advice of our legal counsel at the time stated that that covenant should not have been on the deed.

MR. GINOVSKY: You sign it. What can I tell you?

DON FASO: No. You are right in some respects. That was a condition. I do remember that, now that you mentioned it. My memory is not that bad, but I do remember that, and I do remember the outcome.

Anybody here remember that on the Board?

KAREN COX: I wasn't here 20 years ago.

DON FASO: There are a couple guys that go back that far.

BEVERLY NEDER, 82 Attridge Road

MS. NEDER: I didn't hear the answer if this apartment met the requirement for size of 850 square feet.

DON FASO: Al (Hellaby) has calculated it at 840.

JOHN HELLABY: That is rounding it off. Not including the inches. If I took the inches into account, it would be right on the money.

BOB EVERETTS, 85 Ramblewood Drive

MR. EVERETTS: I don't know this lady, but I sympathize. I live in the general area. I don't see where a decision can be made tonight because apparently the data collection to see to what extent the house complies with safety issues is valid at this point. But I think we all know that in that area of North Chili/Ogden, there is a lot of this stuff going on. I don't think it is fair to single this lady out because she tried to come forward to try to comply with things. It is very disturbing to me people want to try to make issues of something like this. I would be more inclined to rely on the inspection done by Mr. Kress down there from a practical point of view and not try to hold somebody for a situation that exists all over the Town to today's standards.

DON FASO: Typically we can't catch them unless it is sold and advertised as a two-family dwelling. Sometimes the Assessor will catch it, it is advertised for sale as a two-family, but on the tax rolls it is not. So we do catch them occasionally.

Dan (Kress), the drainage application has not been proposed?

DANIEL KRESS: I talked to the Town Clerk a couple days ago. He didn't have --

JOHN NOWICKI: She mentioned she needs a new form to fill out. That is before any permits are issued.

DON FASO: Pending approval of the Building Inspector.

Don Faso discussed the proposed conditions with the Board. There was discussion whether this application needed to come back in the future for further approvals.

DON FASO: Would this be commercial property subject to annual inspection by the Fire Marshal?

DANIEL KRESS: No. That is multiple dwellings, three apartments or more, not doubles.

DARIO MARCHIONI: It is still a single-family home. If it didn't have a kitchen, it would still be

a single-family home. That is the only difference between two-family and single-family.

JOHN NOWICKI: I would be comfortable with the inspections.

Don Faso made a motion to declare the Board lead agency, found this to be an unlisted action and made a determination of no significant environmental impact, and the Board all voted yes on the motion.

RAY BLEIER: This particular issue seems to come up about every five years, and we go through this time and time again. The bottom line is we have been looking at it favorably, and not encountered problems with the situations. So I am voting in favor of the proposal.

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

1. Pending approval of the Building Inspector.
2. Pending approval of the Fire Marshal.
3. Petition the Town Board (through the Town Clerk's Office) to include this parcel in the Chili Consolidated Drainage District, if not already done so.

DON FASO: Is Mr. Testa here? Second call for Gerald Testa, Application Number 2.

JOHN NOWICKI: I make a motion we table it.

DON FASO: I will give him three calls. Is there anybody here for Application Number 2, specifically?

No one raised their hands.

4. Application of Joseph Karpinski, Jr., DDS, owner; 68 Main Street, Scottsville, New York 14546 for preliminary site plan approval for a change of use to convert building to dental offices at property located at 3183 Chili Avenue in G.B. zone.

DECISION: Unanimously tabled by a vote of 7 yes for the following reason:

1. Tabled to September 9, 2003 at the applicant's request.

5.

No one was present to represent the application.

DON FASO: I did have a conversation with the engineer. The engineer had another presentation at another Board, but he was first on that agenda, so I think he told me he was starting at 7 and I told him that we would probably get to this one about 8:30. I guessed wrong. And Application Number 5 has asked to be withdrawn -- or 4.

DON FASO: We'll take a short recess, ladies and gentlemen. I apologize for the inconvenience.

There was a pause in the proceeding.

DON FASO: This is the third call for Gerald Testa. Is Gerald Testa here? Third and final call.

JOHN NOWICKI: I make a motion that we table it.

JOHN HELLABY: I will second it.

DECISION: Unanimously tabled by a vote of 7 yes to table without prejudice for the following reason:

1. Applicant failed to appear at the public hearing.

DON FASO: Even if he shows up, we will not hear it. Tabled for one month.

5. Application of Pride Mark Homes, owner; 2024 West Henrietta Road, Rochester, New York 14623 for preliminary site plan approval to erect 25 apartment buildings totaling 154 units at property located at 4416 Buffalo Road in RM zone.

Bob Cantwell and Jim Barbato were present to represent the application.

MR. CANTWELL: Thank you, Mr. Chairman. My name is Bob Cantwell. I'm with BME Associates. Here tonight on behalf of Pride Mark Homes. Jim Barbato will hopefully be along shortly. He has some of the architectural elevations of the proposed units for the project.

As was mentioned, the property is located on Buffalo Road, on the north side of Buffalo Road. It is approximately 1500 feet west of the Union Street/Buffalo Street intersection. The proposal is for the development of the 19.4-acre site, as was mentioned, for 154 apartment units under the existing residential multi-family zoning. This yield is, in fact, consistent with what the existing zoning allows.

Other features and aspects of the proposal include a one-story clubhouse and pool area, which is along the entry road to the south side of the parcel. A landscaped median through the center of the site which serves as the focal point of the community and just a little bit more of an aesthetic treatment for access to the project. We have also provided landscaping and lighting improvements on plans that were submitted with the application. We also have 20 freestanding garages which support the units on the eastern side of the project, and those back up to the proposed storm water management facility which is behind the existing plaza. We have also included with the application a maintenance building. That is again along the eastern portion of the site. We have also included significant common green areas which will be maintained by the applicant as the owner and manager of the project. And we also have provided for public sewer and water connections as well as drainage improvements.

In addition to the parking shown on the site plan, it is also to be noted in the notes, the site plan is to be noted that the two additional parking spaces per unit for Buildings 110 through 230 are also included as parking. Those units have one-car garages incorporated with the design of the unit, and there is also one space, one driveway space outside of the garage.

The total accounts for approximately two and a half parking spaces per unit, which again is -- is in excess of what the code allows. That would allow for visitor parking, you know, on an as-needed basis.

With regard to the specific product of the project itself, there are two distinct apartment unit types. As referenced above, there is -- I will call it a townhouse like unit. Those are on the western half of the project. On the western side, or to the west of the boulevard median, those are the units which have the incorporated one-car garages. Those are either in four or six-unit clusters as shown on the site plan.

Those are Apartment Units A as shown on the site plan itself. They're labeled Unit A.

The two bedroom B units are eight units to a two-story building on the east side of the boulevard entrance road. Those units have individual private entries to each unit itself. So from the standpoint of architecture, which we now have, there are essentially no backs. You know, all four sides look almost like a front -- front of a building, and again, that is to accommodate the individual entrances for the eight units.

Each of those units also includes two baths.

The third type of unit is a three-bedroom C unit. We have two buildings of that, one along the north property line, kind of in the middle of the site, and the second is in the first phase as shown on the site plan, and it is further to the south on the right-hand side of the access road.

Pedestrian improvements for the project include a sidewalk network to parking and clubhouse areas with the center walkway through the boulevard common green. Again, that sidewalk network is being provided to promote and to allow for the walking on the site, including the individual walkways

to each unit itself.

The site planning of the project includes an entryway. That is the reason why we located the clubhouse with significant landscaping and treatment off the boulevard entrance road.

It also includes many open green areas along and around the units themselves. Again, that is to create more of a campus, if you will, for the site itself.

We have provided significant landscaping, plant materials not only as shown on the landscape plan for the site itself, but we have also shown foundation planting details around each of the units, which would be typical of what would be installed to enhance the buildings themselves, and those are on a detailed sheet within the site plan.

The coverage of the site which includes the building and parking and impervious area is approximately 16 percent. What is allowed is approximately, or actually a maximum allowed is 30 percent, so we're at approximately 50 percent of the coverage. From historical perspective, we were in front of the Board a couple years ago with a site plan for the development of this project. For old time sake, I did bring that old plan. For what it is worth, we never formally submitted it, but we did have an informal discussion with the Planning Board back in 2001.

Since that time the architects and the developer have completely reworked the architecture of the units themselves. At that time, some of the Board members may recall that those units had individual driveways and garages, but they were on essentially all four -- or two of the four sides which kind of predicated having driveways on two or three of the sides of the units. So by reworking and literally going back to the drawing board with these two different unit types, still with some incorporated garages, but with a more traditional rear yard living area for the townhouse type units, we're able to certainly provide less impervious area and more green space and more green areas for the potential residents.

With regard to access, as was mentioned several times, there is an access directly onto Buffalo Road. That would be a private access road. Again, the intent there is to provide something that is very aesthetic in its entry presentation to Buffalo Road. Ultimately we would also be including signage, entrance signage which I understand is a separate application with the Planning Board, so we would certainly have details of that at some point in the future.

With regard to drainage improvements, we understand that there have been some concerns relative to drainage on the site and surrounding areas. The current plan for drainage includes two storm water management areas. There is a south pond which is shown in an off -- lighter colored green area along off Buffalo Road. That would take care of approximately 30 percent of the drainage on the site itself. As it relates to drainage that currently flows to the west and off site, right now there are approximately six acres that run off the site from that point, and with the proposed plan, we are intercepting all of that drainage from the on-site area and conveying that to the storm water management area on site.

So that is certainly reducing the amount of runoff for the property owners to the west.

With regard to the second pond, that is along the eastern property line which again is behind the existing plaza. The Town currently has an existing storm water management facility to the north of that portion of the plaza, and we are proposing to not only provide additional storm water management on our site, but also to provide additional volume within the Town's existing facility.

And again, both of those ponds are designed and would include the recent Phase 2 storm water management guidelines that DEC has dictated. Essentially what those ponds would look like is they're wetland meadow-type vegetation that would typically be mowed a couple times a year.

With regard to sanitary sewer, there is an existing sanitary sewer manhole right along Buffalo Road on the north side of Buffalo Road. Our intent is to connect into that existing sewer and serve all of the units through the site. That would be a dedicated sanitary sewer facility.

Water service would be provided by connection to the existing 12-inch main to the north of the site, which is right by the existing water tower. That water main connection would extend to the south with a 12-inch main and then it would loop around the loop road as shown on the plan with 8-inch mains.

I did also neglect to mention that -- as far as access goes, we have shown a temporary -- not a temporary, but an emergency access road to Keith Terrace. That would have a crash gate and would

certainly support emergency equipment, but that would be a second point of access, and that is also shown on the site plan.

Landscaping improvements include shade trees and ornamental trees throughout the site. We have also provided screening trees around the periphery and, as I mentioned earlier, significant foundation plantings for all units as well as the clubhouse.

The proposal also includes a privacy fence along the eastern boundary line, and again that is behind the existing plaza. That is for the -- certainly to compliment the existing evergreen trees that are there as far as the visibility to the back of the plaza.

With regard to lighting, we have shown on the plan the lighting -- on the landscape and lighting plan the main access driveway would be lighted with an acorn style kind of historic type fixture and then individual lanterns at approximately 6 foot height would be used for the townhouse units and then the B and C unit apartments would have building-mounted fixtures for those as well as the freestanding garages. So the combination of those things, those lighting improvements would all compliment each other for the lighting of the site.

With regard to the traffic, we did provide an overview, a very quick traffic generation numbers with the application. We just also received traffic counts from D O T, as part of their improvements to Buffalo Road for the work that is proposed, I believe, in the next year.

For the a.m. peak hour, as shown in the information, we have projected a total of 80 vehicles. That is for the a.m. peak hour, one-hour period in the morning.

For the p.m. peak hour it is approximately 102 vehicles. Certainly the capacity of Buffalo Road has that ability, and D.O.T. is aware of this project and they have been provided plans to allow for this project.

We are actually meeting with them tomorrow to discuss some of the more specific details, and whether there would be some additional drainage improvements to incorporate as part of this project, as well as any entrance improvements for the access to the project.

We have received comments both from the Town Engineer and the Conservation Board. We actually attended the Conservation Board meeting last week and they have requested additional screening, plant materials to the north and to the east -- or to the west, and we certainly have relayed that comment to our client and I think we're fine with some additional plant materials to respond to that.

With regard to the Town Engineer comments, most of the comments are technical in nature. I don't know that we necessarily have a particular challenge with any of those comments.

We have also, as shown on the site plan and as referenced in the cover letter, noted that we have applied for a variance for a setback to the interior private road. The Chili code requires 40-foot setback from pavement to the building. We are requesting less than that, and that again is to allow for more green space in and around the units, and also to shorten some of the sidewalks to the individual units themselves for the benefit of the residents.

We have also requested consideration for a waiver of final site plan, the step, so to speak. The reason for that request and the justification we feel is that we have provided the final site plan plan level of detail, so if the Board saw fit, we would certainly like to ask permission for that waiver.

So with that, I would be happy to answer additional questions.

DON FASO: I'm sure the Board is probably anxious to hear the audience, but before we go to the audience, anything?

RAY BLEIER: On the plans you have here "pool to be designed by others." Other who?

MR. CANTWELL: The pool would be designed by a pool supplier. They typically have a selection of pool sizes and configurations based on different applications, so that is fairly routine for a commercial project such as this.

RAY BLEIER: Will the pool be enclosed, fenced in?

MR. CANTWELL: It is my understanding it would certainly have to be fenced in because of the Chili code requirements for pools. So the answer to that is whatever is required by Town code, we would certainly need to do that, and actually I think that even if there was not a fence requirement, I think that that, from a safety standpoint, certainly that would be provided.

RAY BLEIER: Being close to Buffalo Road, it could be accessible to people other than the residents of this community. And I have a concern there. I think that safety is a very important issue in

that particular instance.

RAY BLEIER: What about other recreation facilities within this project? Are there any?

MR. CANTWELL: There are no other recreational facilities shown. Again, if you go back a couple years ago, we had shown a possible future tennis court, and I think our research has found that that is not as popular as it once was, so there are no other facilities shown on site at this point.

RAY BLEIER: Since you do have some -- a lot of two-bedroom units and some three-bedroom, I anticipate that there might be some children that will be in this facility, and I was wondering where all these children are going to go for recreation since you're not providing anything interior to the project. Any answer to that?

MR. CANTWELL: Well, if you're talking about a playground type of facility, there certainly is Town parkland right adjacent to the site, which is a ball field.

We quite frankly do not expect an awful lot of school-aged children from the facility.

RAY BLEIER: I did have some concern about the drainage, but I think Larry (Nissen) is on top of it.

The road is not dedicated throughout the project?

MR. CANTWELL: That's correct.

RAY BLEIER: Therefore, I assume you're responsible for all of the snowplowing and storage?

MR. CANTWELL: That's correct. The management of the site would include snowplowing, grass mowing, landscape maintenance, routine maintenance certainly of the buildings themselves, maintenance of the ponding areas.

RAY BLEIER: What is going to be the rental of these various units you anticipate?

MR. BARBATO: The rents would vary based on the unit style. The attached garage units, the rent range would be 925 to 1100; and the detached garage, two and three-bedroom units would range from 11 -- I'm sorry. Three bedrooms 1150 to 1250, and the two bedrooms would start at that 900 mark, 925 to 1100. So 925 to 1250 would be the total range.

RAY BLEIER: You say that is about comparable to Blueberry then?

MR. BARBATO: Yes. I have not checked Blueberry specifically. It was based on our feasibility study as well as a similar project that was recently built by Mark IV which is relatively close.

RAY BLEIER: Buffering is a big concern. I think the Conservation Board is on top of it, and I'll await Charlie (Robinson)'s comments.

DON FASO: One of the County Comments was if there is a swimming pool, it needs Health Department approval.

Number 7 on the County Comments, State D.O.T. did not participate in a coordinated review of this application. The applicant shall contact D.O.T. regarding permit process. The Board may wish to supply Board all correspondence related to access from the D.O.T. This will ensure the Board is aware of any D.O.T. concerns and what is necessary for compliance to maximize road carrying capacity and safety. Have you had any correspondence with D.O.T.?

MR. CANTWELL: Actually we're meeting with them tomorrow. That is part of the discussion. We had initial discussions and sent the plans to them. Again, they need the full traffic report before they will formally respond in writing, and the counts that were available as of last week as part of that report that would be done.

DON FASO: Bob (Cantwell), I have a real concern with the drainage for the western property. The placement of the buildings and the sheet runoff, I think you will have a tough time getting all that backyard drainage down to that pond. I really do, looking at the grading plan.

MR. CANTWELL: This plan itself -- this plan demonstrates the difference between the existing runoff which is highlighted in green. Essentially the line that goes down through the site reflects that if the rainfall hit to the west of that line, it would flow off site in this location (indicating), so all of this drainage flows to this point (indicating) and then across the back of Mr. Bloser's and Mr. Fowler's property and then ultimately flows down to Buffalo Road.

The red line (indicating) reflects the proposed grading improvements and drainage plan, so all of the drainage that falls similarly on this side of that line is now captured by grading improvements, over land swales and then piped into the south pond again along Buffalo Road. So that is the difference between the proposed and the existing conditions.

DON FASO: Your contours are still tight on the west property line, about halfway up.

JOHN NOWICKI: What kind of a fall do you have on that, what percent fall?

MR. CANTWELL: The swale itself or the graded?

JOHN NOWICKI: West property line.

MR. CANTWELL: From the north side of the site probably all of the way down to the south, it is probably 4, 3 to 4 percent, I would say.

JOHN NOWICKI: Is it all grassed area or paved inverts or anything like that, or is it all seeded?

MR. CANTWELL: It is just seeded.

JOHN NOWICKI: Mowable?

MR. CANTWELL: Yes. The slope is three to one, which is the maximum for maintained mowable.

JOHN NOWICKI: So you're looking for sheet flow down through a drop inlet about a third way up, halfway up?

MR. CANTWELL: That's correct.

JOHN NOWICKI: The drop inlet will pick it up and take it down to the pond?

MR. CANTWELL: Yes. We have shown an end section to keep the pipes shallower. There is some flexibility with regard to the depth of that so we could do an inlet. An inlet would provide more maintenance challenges as opposed to an end section. An end section has greater capacity, so our initial design had an end section as opposed to an inlet. So I think that is one of the things that we need to work out with the Town Engineer.

KAREN COX: A couple of things. I think that you really should plan on having units with kids in them. I thought the Mark IV apartments would not have any kids and there are actually more families with children there than I figured. So some type of recreational area should be planned for that.

Second, can you give me an idea of approximately how the brightness of the lights in this development will compare with the current plaza now?

MR. CANTWELL: That is very difficult to compare the two. We have shown photometric plots on the landscape and lighting plan, and it is under-lit as it relates -- it is not over-lit, shall we say. The foot candle plots on there go to .25 foot candle, so it is not a significant lighting situation.

KAREN COX: Some of the people in the surrounding properties may be concerned that they're going to have lights spilling into their backyards; whereas, now they're used to darker backyards, more privacy. I mean to me it looks as though most of the lights are concentrated in the paved area, but will there be lights, for example, on the back of the buildings on the north side of the property that would be shining into the residents' yards?

MR. CANTWELL: Those, each individual entry to an apartment will have a, you know, light just like any residential home. So again, those would be low-level lighting, so any place that there is an entrance which does include some of the buildings on the north side, there would be individual building mounted lighting.

JOHN NOWICKI: It would be very similar to a subdivision really when you think about it, because you can't compare it to a commercial aspect on the corner because of the density and the height of those lights. It doesn't compare to that at all. It is more like residential subdivision type lighting.

KAREN COX: True, but I think people here may be concerned that there is going to be a large amount of light in their backyard. Maybe I am wrong, but that was all I had.

JOHN HELLABY: Cut and fill balances? Do you have a handle on that?

MR. CANTWELL: Yes. We're balanced.

JOHN HELLABY: Is it balanced?

MR. CANTWELL: Yes.

JOHN HELLABY: Can you walk us through some sort of timing and/or phasing proposal?

MR. CANTWELL: I can take a stab at the phasing. Maybe Jim (Barbato) would like to talk about the construction timing itself. We have shown essentially two phases of the project. I think we have shown the phasing line on the subdivision plan. The first phase would essentially include these

buildings (indicating), and I think up to this section (indicating), as well as the clubhouse. And the second phase would include the area to the east (indicating) as well as the area to the north (indicating) and certainly the ponding improvements and probably most of the earthwork and grading on the site would be done up front so that could be seeded and established for the future.

MR. BARBATO: We anticipate a two to four-year build-out time.

JOHN HELLABY: You didn't mention about the sewer connection. I think one of the concerns of the Planning Board was -- a couple years ago was the capacity. Have you got documentation from Pure Waters as to capacity and whatnot at this stage?

MR. BARBATO: I have gotten confirmation that there is capacity.

JOHN HELLABY: You could share that with us?

MR. CANTWELL: Yes.

JOHN NOWICKI: I just want to say this, because it is -- it is really very enjoyable to sit here sometimes and when I see the combination of BME, Bob Cantwell and Pride Mark come together, and when you get a set of drawings like this and people come in here and have done their homework, it makes it a heck of a lot easier to address the concerns of the community and the Planning Board. So first I want to compliment you on the very professional presentation and the quality of the drawings you have presented. You have done a great job.

MR. CANTWELL: Thank you.

JOHN NOWICKI: The questions that have come up -- we did have you in here a couple years ago and went over a lot of the issues. My notes have been covered pretty much complete. What I would like to explore with you, if I can, a little bit, is the drainage behind the plaza on your east side.

That is all mowed area? Again, is that mowed area that is just going to receive the initial rainstorm and then it is going to drain down and siphon off? It is not holding water there, it --

MR. CANTWELL: It would hold water temporarily, and there may even be some minor -- what they call micro pools, but as I said earlier, um, it would typically be mowed twice a year. The type of seeding is a flood tolerance seeding which -- and a wetland type seeding, which would flourish during wet conditions, and again, that would provide some level of storm water quality protection itself.

We have also shown a subtle berm, if you will, between our portion of the pond and the Town's pond. That is to allow for additional protection of the pond on the Town's property so that the water would build up and then slowly rise to a level during a storm event and then flow to the north, and the existing Town inlet or outlet is to the east side of that pond, and that is ultimately where the drainage would be flowing towards.

JOHN NOWICKI: So from the ponding -- the ponds that are being proposed here, they really don't present any kind of a hazard in any kind of a way, do they? Is there a -- from a depth perception.

MR. CANTWELL: They're not deep water, open water areas.

JOHN NOWICKI: They're mowable ponds?

MR. CANTWELL: Yes. And again, a lot of that is dictated by DEC with their new requirements.

JOHN NOWICKI: By doing it this way, you have sort of eliminated any contact with the plaza in that regard; is that correct?

MR. CANTWELL: Yes. There was some discussion I think a couple years ago about a pedestrian connection, and I think that can certainly be accommodated. Not that that is something that Pride Mark wants to necessarily promote through the site. But for the residents on this project, that is available.

JOHN NOWICKI: Because I do want to explore a little with you, when you drive in the plaza -- it is very noticeable that there are a lot of uncontrolled human beings that go back there and cause some unsightly conditions, and -- I don't know what other way to put that.

JAMES MARTIN: Old tires and things like that.

JOHN NOWICKI: I don't think it is senior citizens, but...

Now you're proposing a fence; is that correct?

MR. CANTWELL: Solid board fence, 6 feet.

JOHN NOWICKI: Is that something that is going to be maintained by the property owners, yourselves?

MR. CANTWELL: That would be the project sponsor, that's correct.

JOHN NOWICKI: Plantings along that line?

MR. CANTWELL: There are some evergreen trees that are actually close to being on the property line now. Those would be retained as much as possible, and then I think we also have some additional plant materials to supplement the project.

JOHN NOWICKI: That would hopefully prevent movement between the plaza and the apartments or townhouses.

Other than that, the architectural -- John Fahey was the architect?

MR. BARBATO: Jim Fahey.

JOHN NOWICKI: Very well done. I don't have anything else on this at this point. Again, congratulations on a good presentation.

JAMES MARTIN: A couple of issues. I guess I would like to add my concern also about the fact that there really are no recreational areas included for children that may live in this particular development. Certainly I think that that is something that should be even closely studied by the developer to see what could be done to accommodate that particular need.

Obviously you don't know the answers yet from the State D.O.T. standpoint what is going to happen with the Buffalo Road/Union Street project. Obviously that is something that is going to happen sooner or later, hopefully.

I have a great deal of concern about another 80 to 100 cars trying to go through that intersection on a daily basis. That is a significant issue. And I think hopefully by the time it is all said and done between the State, yourselves and everybody else, that that won't exacerbate the situation over there which at this point in time is an unacceptable intersection from all measurements that you can understand.

So I really think, again, you're talking about a four to five-year build-out, so hopefully by the time the build-out is complete, assuming it goes forward, the State will have done something to correct that intersection. So those are the only comments I have at this time.

DARIO MARCHIONI: Bob (Cantwell), it is a nice looking project. One thing. Did you say anything about the disposal, refuse storage?

MR. CANTWELL: I didn't. That is a very good question. We have shown individual trash refuse rooms in each of the freestanding garages, so there is essentially four rooms for that, and that is, you know, what would be used for that. And then obviously the owner would be responsible for contracting directly with a hauler on site.

KAREN COX: So the people who are over in say Building 150, which is on the westernmost side of the project, would be expected to walk their garbage all of the way over to those trash rooms?

MR. BARBATO: No, I'm sorry. Where there are attached garages we would also be able to allow for small toters for garbage pickup where they have a garage to store their toter. So as part of it, those residents would be able to use garage pickup just like any resident would with a toter, and in this area they would use the trash rooms.

KAREN COX: Okay.

JAMES MARTIN: Other apartment complexes have large dumpsters in enclosures. Is that what is going to be here?

MR. CANTWELL: The intent was not to have the dumpsters. I think we talked about that a couple years ago, and we never wanted to see that on the site.

DON FASO: So residents will be required to haul their trash to the edge of the road on trash day?

MR. CANTWELL: Exactly.

JOHN NOWICKI: Is that for all units, the townhouse as well as the B, C units?

MR. CANTWELL: The townhouses would have the toters, because they have the individual garages, but the B and the C units would utilize the refuse rooms, the four refuse rooms.

KAREN COX: Garbage cans in them, or dumpsters?

MR. BARBATO: That would be more a dumpster style, but it would be enclosed inside a garage facility, instead of out in plain view.

JOHN NOWICKI: I don't know if you're familiar with what Mark IV is building over on Union

and Chili; they have those buildings that are separate. Is that what you're thinking of, like a small garage?

MR. BARBATO: Yes.

JOHN NOWICKI: They have the totes inside, and the refuse people come by and pick them up out of the garages.

MR. CANTWELL: Each of the units is 10 by 20 approximately.

DARIO MARCHIONI: This whole project will be managed not on site, right? From your main office?

MR. BARBATO: Yes.

DARIO MARCHIONI: How is the management of this?

MR. BARBATO: We would have an on-site manager on the property that would be living there as well as management, you know, financial and bookkeeping from our office.

DANIEL KRESS: I'm not going to reiterate the point you already raised about the importance of improving drainage along the western boundary since we seem to have a little bit of a preexisting situation there.

I do wonder if it would be appropriate to talk a little bit about screening on the northern side, particularly along the backs of the property, whether some sort of landscaping or fencing or something else is appropriate there.

DON FASO: The neighbors on the north side are a lot closer than neighbors on the west side.

MR. CANTWELL: The Conservation Board identified that similarly as a concern, so I think our sense is we would certainly add to what is shown on the plan through the way of evergreen plant materials along that northern property line, so we would include that with any other modifications to the plan based on Town review.

CHARLES ROBINSON: To be copacetic to what Bob (Cantwell) is referring to --

DON FASO: Start over.

CHARLES ROBINSON: Just to reiterate what Bob (Cantwell) is saying, the Conservation Board actually requested that pine trees or similar variety be planted on the north and the western side ranging in height from a minimum of 12 feet to 14 feet in height.

JOHN NOWICKI: Easy. It says 12 to 14 foot on center.

CHARLES ROBINSON: Correct. On center.

JOHN NOWICKI: Height would be a different ball game.

DON FASO: That would be an expensive tree.

KAREN COX: Monster.

LARRY NISSEN: I wanted to ensure that the Board understood the situation with the proposed outfall at the southeast portion of the site. We're attempting -- or the applicant is attempting to construct a new storm sewer outfall piping basically to drain the new proposed pond on the east side of the development to Buffalo Road, and I just would like the Board to understand that at this point that is not confirmed and has not been designed and we're not even sure that it can be built. It can only come with the approval of New York State D.O.T.

DON FASO: Did the calcs -- there are drainage calcs.

LARRY NISSEN: There are drainage calcs, but it assumes, correct me if I am wrong, the construction of a 15-inch outfall to Buffalo Road? You may want to clarify that situation for the Board. We're proposing to construct a 15-inch storm sewer to the road, but it has not been approved by New York State D.O.T. and it may not be.

DON FASO: Worse-case scenario if it is not approved? Bigger, deeper pond?

MR. CANTWELL: Let me clarify, Larry (Nissen). Are you talking about the outfall through the plaza to the east?

LARRY NISSEN: I'm talking about the proposed outfall at the southeast corner.

JOHN NOWICKI: That is through the plaza, right?

MR. CANTWELL: That is part of the discussion with D.O.T. tomorrow.

LARRY NISSEN: I just wanted to make sure that the Board understood that situation is still up in the air.

JOHN NOWICKI: It has nothing to do with the Town property, right?

LARRY NISSEN: I believe it does. Well, it could. It depends -- it has to pass through either Towne Plaza property or Town property in order to reach Buffalo Road. So it could have something to do with Town property.

JOHN NOWICKI: It could end up going across the Town property.

CHARLES ROBINSON: Just one comment. Whatever screenings or plantings also need to be updated and included on the drawings.

BILL ARNOLD: The secondary access you talked about, the emergency roadway, is that going to be maintained by the property owner, plowed, et cetera, to be available?

MR. CANTWELL: I'm sure that that would be done, yes. Essentially it is a stone base that would have to be -- I mean it is in their best interest as owners of the property to make sure it was plowed and accessible through the winter months, as well.

BILL ARNOLD: My only concern is a complex of this size, there is only one way in and one way out typically, and two ways in and two ways out would be better, but as long as you can assure that that would be fine.

Where does it plan on coming out on Buffalo Road in relationship to the other roadways that are

--

MR. CANTWELL: The access point is right along the Town land for the existing park land.

BILL ARNOLD: Near Attridge Road?

MR. CANTWELL: Yes.

MR. CANTWELL: Just west of Attridge.

BILL ARNOLD: As far as water supply into the complex, is there just one main water supply, or does it plan on being looped?

MR. CANTWELL: We would connect to the 12-inch main from Keith Terrace and it would be looped around the site itself, but we are not making a second connection to any other water authority system.

DON FASO: Joe Carr has informed me that this is in between two water systems. Can you elaborate on that --

MR. CANTWELL: Yes.

DON FASO: -- for Bill? Where is the other -- I think it would be serviced by that standpipe, but no, it is not. Half of it is, half is not. Correct me if I am wrong.

According to the water authority, it is two independent water systems and they will not allow looping, those two systems.

JOHN NOWICKI: Really, I never heard of anything.

DON FASO: So Joe Carr informs me.

MR. CANTWELL: The system on Buffalo Road does not have the pressures to supply the fire or domestic service for the site, so that is why we're connecting into the Keith Terrace system.

JOHN NOWICKI: Didn't they push that waterline up Buffalo Road some time ago?

DON FASO: I don't recall.

BILL ARNOLD: My concern again is one water feed into the complex, if you were to have a major fire in there, there is no secondary supply and it is basically a dead-end system.

JOHN NOWICKI: Well, let's explore that for a minute. You're saying there are no water lines on Buffalo Road?

BILL ARNOLD: They don't plan on coming off Buffalo Road, right?

JOHN NOWICKI: But they still have water lines there?

BILL ARNOLD: Yes. But for us to run hoses through people's property --

JOHN NOWICKI: You're talking where are the hydrants, for example?

BILL ARNOLD: Yes.

JOHN NOWICKI: If you come off Keith Terrace, you will loop your way all of the way around, so you will have hydrants through your project plus the hydrants on Buffalo Road?

BILL ARNOLD: There is access to the hydrants on Buffalo Road?

JOHN NOWICKI: We have to find that out.

KAREN COX: But --

JOHN NOWICKI: I understand the one source, okay, but you still have the second source on

Buffalo Road.

DON FASO: As a backup.

JOHN NOWICKI: As a backup.

KAREN COX: If the hydrants are close enough.

JOHN NOWICKI: So that is the point I was just trying to make. So we have the hydrants there; they just have to be located.

BILL ARNOLD: As long as they're accessible, that is fine, but heavy winter weather and such like that doesn't make it easy to access those hydrants. Other than that, the only other concern I have is you mentioned garbage rooms, I guess, instead of dumpsters. I have seen plenty of dumpster fires and I would be concerned about people storing garbage inside enclosed buildings.

DON FASO: Dan (Kress), the new code, how does that affect it? Will these have to be self-closing doors, fire-rated walls? Do you know that off the top of your head without looking at the book?

DANIEL KRESS: I don't know anything of that nature is necessarily going to be required. It seems to be the simplest solution is we need some kind of commitment for routine trash pickup so it can't pile up for weeks at a time. If somebody is in there once or twice a week to pick it up, it shouldn't be a problem.

DARIO MARCHIONI: They will have a manager on site.

DANIEL KRESS: I think the more important question I am trying to say is how often will the manager tell the trash company to tell them to come pick up the trash.

JOHN NOWICKI: Let's put it this way, if I had my druthers between dumpsters, which are in our Town and a lot of them are not in dumpster enclosures like they are supposed to be, I would rather see what Mark IV did at Park Place with refuse garages which are very neat, clean and orderly and are being picked up every week by a refuse company. Let's use our heads here.

BILL ARNOLD: I would agree with that, but I was concerned about the maintenance issue. How close are these rooms to the other structures?

KAREN COX: Not close. 20 feet.

MR. CANTWELL: Well, the refuse rooms, again, are at the end of the freestanding garages on the east side of the site, so the closest buildings are approximately 70 feet from those -- the front of those rooms.

BILL ARNOLD: Okay. That is all I had.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

RALPH SIMOLO, 16 Keith Terrace

MR. SIMOLO: Ralph Simolo, 16 Keith Terrace, which is the street immediately behind the proposed project. Like Mr. Martin, I have some serious concerns about the traffic situation. If we look at what has been happening lately in that immediate area, there are two to three new tracts that have been put in on Union Street. There are two on Paul Road near Union Street. There is a new tract on Buffalo Road by Westside Drive, one block essentially from Union Street and there is a large tract on Attridge Road.

The net result of all this, for anybody who lives in that area, such as I do, is that it has created a lot of traffic and a lot of congestion particularly at the Buffalo Road/Union Street site that Mr. Martin indicated. There is back-up at the lights. The people in the area who live there now have to contend with this every day, and try getting out of the post office, anybody who lives in the area. You can't do it. It is very difficult.

If this project is approved, in my estimation -- this is my opinion now, the 154 units, I figure maybe a car and a half for each unit would be a safe figure. That comes to about 230 cars. There is no place for this traffic to converge other than on Buffalo Road and Union Street. The traffic is not going to go to the west. That is going away from the city, and so forth. It had to come there in order to have access to the expressway or to have access down Buffalo Road into the city.

The second problem is that at Westside Drive and Buffalo Road, the next signal light, the very next signal light is a very hazardous situation. If you are trying to make a left-hand turn, because of the

angles, you run into situations where some of the people are trying to come around you on this side (indicating), some are trying to come around on this side (indicating) and there is a stalemate and nobody knows which way to go. I addressed this issue with the previous supervisor, Mr. Kelly, several years ago. We talked about it and he agreed completely and said the State is dragging its feet. Anybody tries to take their life in their hand if they make a left-hand turn.

DON FASO: I do that daily.

MR. SIMOLO: I don't know anything imminent proposed for that area.

DON FASO: Not Buffalo and Westside, no, sir.

MR. SIMOLO: So we have those two situations adjacent to each other in the immediate area. All the traffic on Union, they have no place else to go but through those areas. So the people in that area are captive to those two signal lights because you can't go any other way to get towards the city.

So it just seems to me that the Board needs to be very cautious and it would seem that we need to have consideration for the current residents who live there and their needs to live and get out and do things, and it would seem to be prudent for the Board to wait until the infrastructure is completed and to see whether it could withstand even additional traffic from such a large complex as indicated here.

Thank you for your consideration.

DON FASO: Thank you.

BEVERLY NEDER, 82 Attridge Road

MS. NEDER: I also have concerns about the traffic living on Attridge Road. It is difficult enough now to get out onto Buffalo Road. There is no signal light there, and I don't believe we probably ever will qualify for one being so close to Union Street. But I can't see a couple of hundred additional cars going in the morning. I know there are improvements for that intersection, but from the maps I have seen, it doesn't really straighten that intersection out.

It is very similar to the situation at Westside Drive. School buses have a difficult time getting out onto Buffalo Road from Attridge, and I think it is something that has to be addressed with D.O.T. before this goes ahead.

I also would like to know if the applicant has any market study done. There was a newspaper report recently that showed with the current low interest rates that many families who once rented are now able to purchase a home resulting in an overabundance of apartment units, and I was just wondering if they have done a market study on this.

MR. BARBATO: Yes, we have.

DON FASO: Can you supply that to the Board?

MR. BARBATO: Yes, we can.

MS. NEDER: What is their record of how long they retain ownership of a property? We have had experiences in the Town where the ownership of apartment units turns over quite frequently, and sometimes it is not to the betterment of the property. Do they have a long-standing record of owning their units that they build, or do they build and sell out to somebody else in a short period of time?

MR. BARBATO: It is our intention to keep it.

DON FASO: Can you give us an example of some of your other complexes?

MR. BARBATO: Currently we're not operating apartment complexes of this style. We're in the development phase of three of them. It is our intention to own them and maintain them long-term, no plans to sell them.

MS. NEDER: How long have you currently owned the one?

MR. BARBATO: We don't currently own something of this style. We act as property manager while we're in the developer stages -- but we have three plans underway for projects that we plan to own and maintain.

MS. NEDER: But right now, you don't own any current complexes?

MR. BARBATO: Not apartment complexes of this style, no.

MS. NEDER: Of any style?

JOHN NOWICKI: Pride Mark is Pride Mark Homes and Townhomes.

MR. BARBATO: As well as office.

MS. NEDER: So this will be an experiment.

DON FASO: I wouldn't call it an experiment.

MRS. NEDER: On their part it is. It is something new.

I also have concerns about the drainage and my neighbor, Mr. Kirchener of 101 Attridge Road asked me to speak up for him tonight because he is recovering from a heart attack and is unable to attend. He is concerned about the drainage onto his property. He has already a lot of drainage from Buffalo Road onto the back part of his property and a great portion of it is wet throughout the year, and it is only maybe late July or so when he can get back there and get the rest of it mowed. And he -- this is his direct quote. If he has any more difficulty, he will not hesitate to consult a lawyer and bring a lawsuit.

KEITH O'TOOLE: Good for him.

MS. NEDER: I may have an outdated copy of zoning, but the one I have regarding apartments said that 10 percent of the units should be efficiency apartments.

Is that still in effect?

DON FASO: What section are you quoting? Efficiency or handicapped?

MS. NEDER: Efficiency. It is Section or Subsection 115-3, Item 7 under unit size of apartments.

DON FASO: 115-3?

MS. NEDER: 13. Units -- Subsection 7.

MR. O'TOOLE: There was a local law about six years ago which amended the size -- I believe there was a local law roughly six years ago that amended the size of the units and the percentages, so I don't know what copy of the code you're reading off of. I'm not aware of any minimum percentage.

JOHN NOWICKI: It is not in the code here.

MS. NEDER: It is not in the code. Okay.

JAMES MARTIN: There is a 10 percent restriction on three bedroom or larger units.

MS. NEDER: The copy I have says right above that --

JOHN NOWICKI: What color is that?

MS. NEDER: It is an old code book.

JAMES MARTIN: This was 6/4/97.

MS. NEDER: To get back to the drainage, I was wondering what size storm these ponds are rated for? Is it 10, 25, 50-year storm or whatever?

MR. CANTWELL: 100-year storm.

MS. NEDER: Issue of topsoil, will it be removed from site, sifted on site? What do you plan to do with it?

MR. CANTWELL: The intent would be to stockpile it for spreading after the units are built. If there is excess material, then it would be removed from the site. The intent is to replace 6 inches.

MR. BARBATO: Minimum 6-inch coverage.

MS. NEDER: What are the hours of operation going to be when they start building?

MR. BARBATO: Oh, we -- um, I don't know exact hours. We abide by whatever the Town restrictions there are.

MS. NEDER: Well, I know when they started down on Attridge Road there was a lot of controversy with the neighbors because they promised they would not start before 8 in the morning and a lot of mornings they were out there at 6 with the construction vehicles and trucks and also working on Saturdays and Sundays, so I think that is something that should be addressed by the Board.

JOHN NOWICKI: Sometimes you have to take advantage of the weather. What are you going to do?

MS. NEDER: I know you mentioned that you didn't want any direct connection to the plaza. Well, if you don't have a direct connection to the plaza, I would recommend a sidewalk along Buffalo Road to connect to the plaza because in my experience with the units down on Attridge Road, there are many young children, and I'm talking young, four, five, six, maybe in the care of a ten or nine-year-old that walk across -- up Attridge Road and cross Buffalo Road to get to that plaza, and some day there is going to be a fatal accident there.

JOHN NOWICKI: Both sides?

MS. NEDER: Just one side.

KAREN COX: It was both sides, but then the historic property is on the north side and it kind of got in the way.

But as far as Attridge Road, as long as we're on that subject, those plans also show making Attridge Road a 90-degree intersection instead of the angled intersection that it is now.

MS. NEDER: I know. I looked at the last plans they had, and it is not a 90-degree.

KAREN COX: Then that must be an older set of plans, because --

MS. NEDER: This was at the meeting they held just recently at the college maybe a couple months ago.

KAREN COX: Well, I mean it will be coming into Buffalo Road. It should be coming into Buffalo Road at a 90. Now you're going -- there will have to be a curve obviously to match the existing alignment further south, but --

MS. NEDER: The first plan they had showed that they were going to acquire property from the gas station at the corner. The second plans and the latest ones I saw showed that they weren't going to do that, and when I talked to Howard Russell of the D.O.T., he said that the scope of the project didn't warrant them condemning the land to straighten out that intersection. Now, if there is anything after that, I don't know about it.

DOUG OSBORN, 27 Slate Drive

MR. OSBORN: And I was just wondering what your target clientele are. If you are having two and three-bedroom apartments at that kind of price range, you will have a lot of kids. Where are these kids going to go to school?

DON FASO: Churchville-Chili.

MR. OSBORN: Our school is pretty full now. They just put a huge addition on there. If you have an average of two and a half kids per household, that is another classroom for every grade level that we have got. Where are you going to put them?

DON FASO: I don't think you will get that kind of generation of kids.

MR. OSBORN: How can you not? Who is your clientele? Who are you going after?

DON FASO: Blueberry Hill did not generate that type of numbers. They're not there.

JOHN NOWICKI: They're at that price range. These are high-end apartments as far as rentals go. Blueberry Hill is not generating those numbers.

MR. BARBATO: The three bedrooms is a small percentage of the project. It is not the majority.

MR. OSBORN: Two-bedrooms will have kids.

MR. CANTWELL: There are 16 three-bedroom units.

MR. BARBATO: So approximately 10 percent.

KAREN COX: You will have some kids just as you have some units with kids in the apartments at Union and Chili, but I don't think you can assume every unit is going to have a family with kids.

MR. OSBORN: But you have to look at the scenario, what if you do? Is our school system able to accommodate it? Where are the kids going to go? Where are they going to play? They will either be in the plaza or on our streets. There is no place for them to go. What does that do to our property values that border it? I mean right now I look out my back window and I see trees and grass and all that. Now I will be looking into the back of a townhouse. And they're going to be sitting there looking at me. What does that do to my property value? I mean we were just reassessed and now my property is worth more. To you is it worth more? Are my taxes going to start going up more because of this? Or are my taxes going down because they're going to share the load?

DON FASO: They will be paying taxes.

MR. OSBORN: But will my taxes be reduced because they're picking up the load?

JOHN NOWICKI: I don't think you will see taxes going down. Not in this country.

DON FASO: I know -- I will make a statement and I know it will get groans in the audience, but ladies and gentlemen, denying this application on the grounds that it is going to put too many kids into a school district will end up in court and we will lose. We cannot base our decision on the number of kids that will be generated into a school district. State law says the school district must provide an

education for every child in the district. Whether it is one person, one child per apartment or two and a half, the School District has to provide the education, and we cannot sit here and say you are denied because you're generating too many kids and your taxes are going to go up. It can't be done.

KAREN COX: It was pointed out to the applicant that we feel there may be more kids than they think, and we have asked them to take a look at possible recreational facilities for them. And I think they're going to follow through on that.

MR. CANTWELL: I think we can certainly also do comparables to the Blueberry Hill and similar projects and see what numbers are. There are others that we can certainly pull out fairly readily.

DON FASO: I'm sure the market analysis also has numbers of what you're doing.

MILDRED TELFAIR, 40 Hubbard Drive

MS. TELFAIR: I just want to know what the census possibility is here. If you have four persons to each unit, could you have a possibility of 626 people living on 19.4 acres?

DON FASO: I doubt you would generate four people per unit.

MS. TELFAIR: You don't think so?

DON FASO: No, I don't.

MS. TELFAIR: Have you walked through any units in Chili Meadows or --

DON FASO: Yes.

KAREN COX: Different type of demographic.

MS. TELFAIR: You think it will not generate four people?

DON FASO: In a two-bedroom apartment, I doubt it.

MS. TELFAIR: How many, then?

JOHN NOWICKI: What is the point? So you have 600 people, what is the point?

MS. TELFAIR: Well, you have 600 people coming and going. That is 19.4 acres, and a lot of people live on an acre and there is only two people there.

JOHN NOWICKI: That is the choice we have in this country.

MS. TELFAIR: Oh, come on.

JOHN NOWICKI: If you want to live in an apartment, you live in an apartment. If you want to live on an acre, you live on an acre.

MS. TELFAIR: But it is going to ruin the neighborhood.

JOHN NOWICKI: That is your opinion on it.

DON FASO: This is a high-end --

MS. TELFAIR: Well, let's speak up then everybody. Jump up.

NANCY JEAN OSBORN, 27 Slate Drive

MS. OSBORN: I have been in public education for 20 years. But I disagree with the fact that this won't generate young children in the units because if you worked in a public school lately and you have looked at registers and you look at apartments, they draw young families starting out and single-parent families, and my issue is not where the kids are going to go to school because being in public education, I know what happens. We build and we take them in. But my issue is what are we going to do with them? They're going to be at the water tower, the plaza, they will be hanging out. We need to provide for them.

On a personal level, I don't want 500 people in my backyard. No thank you. But you're right when you said this is a free country because we have already made some decisions based on what happens here tonight. And that is our right as an American, but what I want to request is that the Planning Board very seriously consider this proposition because have you listened to it for a couple years. I have listened to it just tonight.

I listened to many, many presentations. I am at every board meeting for the district I work for and for the district I worked for before. I'm not impressed. Please don't take that personally, but I have not heard specific details. I have heard are you going to put more greenery on the north side. Yeah, we could do that. Well, that is not specific to me. What will you do about drainage? What are we doing about traffic? Right now I go west on Buffalo Road -- well, not right now with the

construction. It is very crowded. That area by Buffalo, Union and Attridge is going to be very crowded. All the time. So what I want to request to the Board is please take this request very seriously. And please consider it very seriously and the impact it is going to have on residents of Slate Drive and Keith Terrace because if this goes through, we won't be residents of Slate Drive, but there will be people in that house and they deserve a nice backyard and a quiet neighborhood just like we have had for 18 years.

CINDY KELLOGG, 92 Hubbard Drive

MS. KELLOGG: I was upset a minute ago when someone in the audience asked the question about what hours the building would be taking place during, what days and what hours, and I heard from up there, um, well, in good weather. Well, if somebody is going to be building in my backyard for four years, I would like a little bit of say about when they're working. Four years is a long time to have a lot of noise and dirt blowing and everything else in your backyard. And I think you should care a little bit about the quality of our lives, the people that already live in Chili, not the people that aren't here yet. The ones that have been here for 30, 40, 50 years.

CAROL BLOSER, 108 Hubbard Drive

MS. BLOSER: I will ask you the obvious question no one has asked. How many of you want this in your backyard? Anybody on the Board, let them answer or at least think. I like that Cindy (Kellogg) talked about the quality of our lives, because we live there. We moved there 17 years ago. We moved out of the city to a place where we had some room to let our kids go, and I am just -- I have so many, so many concerns about this, that we could sleep overnight and I wouldn't get through them.

I want to say that Bob (Cantwell) said near the beginning on page 2 of my 13 pages of notes, certainly Buffalo Road has the capacity in relation to the traffic problem. Then he turned around and said D.O.T. reports are not complete. I have heard other statements that are not substantiated like blanket statements that we can put up greenery. I am hearing statements thrown out off the cuff. I would like to see them in writing. If he doesn't know Buffalo has the capacity, it shouldn't even have been brought up.

RAY BLEIER: First of all, you all have to realize that the zoning for this property is multiple residence which allows this type of construction.

The second thing is, the applicant is not asking for any relief in the number of units and amount of coverage on this property. He is not asking for any exception to that. There are a lot of other details that, of course, will be considered, but you have to understand those basics, first of all, and it is very difficult to turn down an applicant when he is in conformity on those issues.

STEVE GINOVSKY, 19 Hubbard Drive

MR. GINOVSKY: First of all, I would like to make a comment. The notes for this evening's meeting happened to be on a power pole wrapped on it. It is a little tough reading. I think we do have it the way the signs are supposed to be met.

KAREN COX: The what?

MR. GINOVSKY: The sign for your meeting this evening, does the Town put the sign up or the applicant?

DON FASO: The applicant.

MR. GINOVSKY: Well, wrapped around a power pole? I don't think that is the way it is supposed to be done. That is a surprise to me when I went by there, it was kind of hard to read. That is one of the deficiencies.

Second, there is only one egress from what I am understanding next to the community center. The one in the back by the water tower, that is just for fire and emergency only. I come out of Hubbard Drive every morning, 6:00, 6:30 in the morning. It is early. I can barely turn left. You're going to put in an additional -- let's say you have 154 units, general principle, you say there is 2.5, just say double the amount, 300 cars coming out. How are 300 cars going to be coming out? Is there any cut way? I haven't heard nothing on that.

DON FASO: Is there a what?

MR. GINOVSKY: A cut way, like a widening of Buffalo Road.

DON FASO: You mean like an acceleration lane, turning lane?

MR. GINOVSKY: A turning lane, for short. That thing has not come up.

Also, with the ponds, I will tell you, Mr. Kirchener, I know him on Attridge. His back is swamped. It is all off Hubbard and this property here. It has been doing that for years and he has a gripe, I will tell you. That is the gospel truth on that.

Also, there are a number of neighbors that would like to see it as an R-1 or single-family. Mr. Bleier mentioned it has to be multiple. Well, I am a firm believer that over in that area, patio homes and group home type situations for seniors would be more applicable for seniors, because we have the IGA, the drugstore. Doctors' offices and a community center. I think it would be a better application for that given area. It would be a real good plan. State, on the highway, hasn't given approval and they want to go for the final approval this evening. I don't think this is the real time for it.

Nothing against apartments, but we don't need another "Ghetto Brook." College Greene, those poor people are getting busted into and everything else and that is what is going to end up happening. I don't want to see it in my backyard.

DON FASO: What do you mean "busted into"?

MR. GINOVSKY: Houses are getting broken over into on College Greene. That is why you have two patrols, two shifts dedicated for Meadow Brook right now.

DON FASO: Steve (Ginovsky), I have not heard that.

MR. GINOVSKY: Well, that is what the County Sheriff Department -- there are two shifts going through there.

DON FASO: College Greene is getting broken into?

MR. GINOVSKY: Yes. I will tell you that right now.

KAREN COX: The demographic for that is way different than this one.

MR. GINOVSKY: Well, if you want to do apartments for 900 to \$1,200 a month, I think patio homes and --

DON FASO: I will call the Captain tomorrow.

MR. GINOVSKY: I think that would be a better application. It would be a better deal, for a senior thing. I think they deserve it. There is enough of them here. They are going to be moving from their homes because they can't take care of their yards. This would give them an excellent location, and guess what, you're still in home, still in the Town of Chili to raise your family.

BOB EVERETTS, 85 Ramblewood Drive

MR. EVERETTS: The one question, something Steve (Ginovsky) mentioned, typically when I see a Planning Board meeting, I see signs on the property, and as I go by them I'm well aware there is something going to happen regarding that property. I drive by this parcel many, many times a day back and forth. Didn't know we had a meeting tonight until somebody put a flyer in my mailbox this week, because what you have there -- and I question seriously if the applicant has complied with the letter of the law regarding notification so the people in the area know about it. These people do. You have a telephone pole this big around (indicating), and the sign was wrapped around a telephone pole, and even after I read the notice, I drove by it twice trying to find it crawling along, and I had to pull over on the shoulder to notice it and be able to read it. So I think it would be unfair to make any kind of a decision tonight when the neighborhood hasn't been properly notified it is even going on.

JOHN KELLOGG, 92 Hubbard Drive

MR. KELLOGG: I believe it was mentioned earlier that there was a request that -- if the final approval be given that there might be some changes in the site plan, or did I misunderstand that? What I would like to know is if an approval is given tonight, to a particular site plan that was shown to the Board, is that the site plan, or can they come back and make a change in the site plan after that approval has been given?

DON FASO: No changes can be made on the plan that the Planning Board approves. If the Planning Board grants preliminary and requests changes be made, those changes will be made and the

applicant will be back for final approval to the Planning Board at another meeting and another publication.

ZOI CHRISTANIS, 31 Hubbard Drive.

MS. CHRISTANIS: Earlier you said you cannot deny an application because of the children factor in the unit. What is the reason that you can deny? Does the disagreement here against this provide --

DON FASO: As Mr. Bleier pointed out, there is a code that the applicant has to comply with to be granted approvals, whether it is multi-family, single-family, commercial, industrial, whatever. If the applicant meets all of the criteria as indicated by the Town and by the State, the State code, we would be hard pressed to say no. That is why there is a code.

MS. CHRISTANIS: So our opinions are basically nothing?

DON FASO: No, that is not true. We are listening to your concerns. The valid concerns will be incorporated into the design. One of the concerns that was mentioned was drainage. We can make sure that the drainage will be taken care of. We can't control the number of kids that will be moving into the subdivision. We can't deny it on the number of cars that will be generated.

MS. CHRISTANIS: I understand that.

DON FASO: We will control the things in our power to control.

MS. CHRISTANIS: Okay. What about people cutting through Hubbard Drive instead of going through the intersection of Buffalo and Union? A lot of people are going to use that to avoid that intersection to get from Buffalo to Westside. They will use my neighborhood to make a cut-through.

DON FASO: Right on Buffalo, up Hubbard, Westside and down? We can't control that either.

MS. CHRISTANIS: That's a big concern of mine.

DON FASO: Whether it was multi-family, single-family, or whether that was a senior citizens' complex, we can't control it.

MS. CHRISTANIS: But with that large number of units, it will be even more of a chance of something tragic happening. It is a nice quiet neighborhood right now. I don't want to see it change. I don't want to see this. I don't think anybody here wants to see that. And that is my opinion, too.

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: I have a couple of questions, yet I'm still not clear, I guess, on this refuse situation. The tenants will bring their refuse to one of these refuse garages or buildings. Then who pays to get it picked up? The complex?

MR. BARBATO: Yes.

MS. BORGUS: Okay. I have heard several comments here about the fact that, you know, children are not supposed to inhabit these high-end apartments. Well, I heard the same thing about the apartments at Union and Chili, and I can tell you since I come through there a couple, three times a day, during school season I sit there and I wait for the school bus to pick them up and drop them off, so all those suppositions didn't hold true.

KAREN COX: But I don't think it is a whole lot of kids.

MS. BORGUS: They're not finished. They're just starting.

KAREN COX: But I don't think it is a kid per unit. I go by there in the morning and it is not -- it is not a handful of kids waiting at the top of the hill there.

MS. BORGUS: They're only a third built out. We'll see. We'll see.

KAREN COX: But five kids for a third?

MS. BORGUS: I did hear it said here if there are children, the suggestion of the developer's representatives, well, there is a Chili park there. Well, I for one am darn tired of having developers come in here and think they can just create these problems and not deal with them and think that the Town can assume the responsibility for all these kids and the recreation that they supposedly deserve. It is up to these developers to take care of some of the their own issues when they come in here.

The other thing I would like to ask is I have not heard a definite breakdown how many one-bedroom, two-bedroom apartments will there be. I heard 16 for the three-bedroom, but I didn't hear any other numbers.

DON FASO: Did I read that in your letter?

MR. BARBATO: The current plan show -- it is really simple to clarify. The current plan shows 16 three-bedrooms. The balance is two-bedroom right now, and we're considering a one-bedroom unit, but it is not on the plan as shown.

MS. BORGUS: So we're not looking at any one-bedroom now?

MR. CANTWELL: Eight units of one-bedroom.

MR. BARBATO: I'm sorry.

MS. BORGUS: Are we sure we know? Are we sure we know here? I don't know myself.

MR. CANTWELL: It is the same footprint as two-bedroom.

MS. BORGUS: One bedroom, two bedrooms make a difference. So that is a total 24 one and three-bedrooms and a total of 100 and --

RAY BLEIER: 132.

MS. BORGUS: And 130 two-bedrooms. Okay.

I heard Mr. Martin say with regard to traffic that hopefully by the time two to four years had gone by, by the time this was built out, that the State would have come up with a solution for the traffic problem. By my own notes here, this gentleman has said it would be two to four years, not four to five.

JAMES MARTIN: I said two to four.

MS. BORGUS: So let's not get too optimistic here.

Now, the other thing that I think should be clarified for some of the people in the audience who are not regular attendees at this meeting such as I am, the implication has been made by the Chairman that the -- you know, changes can be made in this plan after preliminary and that then that will be taken into account when they come back for final. That much is true. But one wise man once said, a truth that isn't complete is a lie. And you haven't quite told them the truth. The truth of the matter is for all these people sitting here that when this comes back for final, you won't get another chance like you do today because they don't give you another say at final. So what you say you're getting, you're getting right now and I don't think it is very fair for the Chairman to imply you can come back and have a second --

DON FASO: Final will be a public hearing.

MS. BORGUS: It never has been in the past.

DON FASO: It always has.

MS. BORGUS: No, it has not. It has not. John Cross when he was Chair refused to have a second -- refused.

DON FASO: It is an advertised public hearing. If the final is tabled when it is reheard, we do not have to go back to the audience.

KAREN COX: It is for conceptual.

DON FASO: Conceptual we don't have to go to the audience.

MS. BORGUS: When you promise these people a second go-around, you better make sure it comes about.

DON FASO: That is the law. That is our code.

MS. BORGUS: I'm here all of the time. Don't forget.

DON FASO: And by -- Dorothy (Borgus), changes mean if they want to change and add ten more one-bedroom apartments, that is not our control. We can grant preliminary and waive final, and they can still change that. We don't control it. It will reduce the density. Now if they want to increase the density, over-crowd, they have to come back.

MS. BORGUS: I also heard that they were going to request variances and I would like to know -- I heard that the 40-foot was the established distance for the central driveway there, and they were going to ask for a variance, but I didn't hear as to what the variance was going to be, and I didn't hear if there was going to be any more variances asked for.

KAREN COX: They said 25 feet setback.

DON FASO: I think we granted the same thing in Pumpkin Hill. Pumpkin Hill was 30, I believe.

MR. CANTWELL: I will clarify, because the code is fairly unique relative to the 40 feet. The application that was made to the Zoning Board is that -- this is a little bit lengthy, but it is fairly specific.

The variance is for the setback to 25 feet for the apartment units with garages. 15 feet to the outside edge of the interior private road or 5 feet to the face of curb for the parking areas. For apartments with detached garages, 5 feet from the travel lane to freestanding garages. 5 feet from the maintenance building to the edge of the interior drive and 5 feet from the clubhouse canopy to the edge of the travel lane has been requested. That is the specific application to the Zoning Board.

DON FASO: So it is variances for internal, what could be considered internal issues?

MR. CANTWELL: Absolutely.

MS. BORGUS: What other variances are being requested? Because I'm also here enough to know that the Planning Board doesn't concern themselves with how many exceptions to the law the developers are asking for. They feel it is not in their province to find out. I think it is very much applicable as to what this applicant is going to go to another Board and ask to be forgiven for that you people don't take into account. I would like to know what other variances are planned.

KEITH O'TOOLE: Mr. Chairman, I seem to recall that there is another Board that deals with these exceptions to the law. I think they call it the Zoning Board of Appeals.

MS. BORGUS: All they know is the word yes so you can just count on getting anything you ask for there.

DON FASO: Dorothy (Borgus).

MS. BORGUS: Please, I would like the applicant --

DON FASO: I want to answer your question if you would let me. The applicant has shown -- what did you say for the main road, the setback, 25 feet?

MR. CANTWELL: That is 25 feet for the apartment units with garages.

DON FASO: The Planning Board can sit here and say we don't like it, move it back to 40 and he wouldn't have to go to the Zoning Board. But if the Planning Board said, yeah, it looks good, and it probably will work, then you go to the Zoning Board of Appeals, is the correct title. The Zoning Board of Appeals. He is appealing a condition that appears in the code book for relief. We can't grant it. The Zoning Board grants it, Dorothy (Borgus). You know that as well as I do. Don't say we're not concerned about it. We are concerned about it. If we -- if --

MS. BORGUS: I would like you to get it straight with the applicant what other variances he is anticipating.

DON FASO: I think he has made it clear.

MS. BORGUS: One? One? On these setbacks. That's all.

DON FASO: Right. Your aggregate coverage, units per acre all meet code?

MR. CANTWELL: Yes.

JOHN NOWICKI: All on the drawings.

MS. BORGUS: My last question is how far is it from those apartments on the norm to the back property line of the people on the adjoining street?

KAREN COX: 40 feet.

MS. BORGUS: 40 feet.

DON FASO: To the property line. That is rear setback.

MS. BORGUS: From the apartment.

DON FASO: Apartment wall to these people's property line.

MS. BORGUS: That is the Town code?

DON FASO: Right.

MS. KELLOGG: How about the west side?

DON FASO: Same setback.

MARK BREWER, 67 Ramblewood Drive

MR. BREWER: Has the Board considered our water supply problems? What if we have a drought? With this high density subdivision here, who is going to get the water? I think we may have a potential problem three or four years down the road. Have you considered the electrical substation that will have to be enlarged and some of other services that will have to be enlarged such as the Police Department. You have 700 people in that area. That is equal to at least one half to one policeman extra for this Town to have, or for the County to have. But it all comes down to us, the

taxpayer who has to pay it. I think some of these natural resources, we only have so much of, like our water supply system -- I understand we had a problem south of Chili with hooking up water and everything else, in the past two years. What is going to happen if we have a water shortage?

DON FASO: Everybody can share the natural resources --

MR. BREWER: 700 people can share that, right? That will not cut the cake when people are without water.

BRIAN BRADY, 28 Keith Terrace

MR. BRADY: I have a concern about the walk-through or the gated part there to Keith Terrace and what that really involves as far as is there really going to be traffic there? Is there going to be --

DON FASO: No. It will be a crash gate for fire and police emergency.

MR. BRADY: How about pedestrian traffic and illegally parked vehicles there? I can't see from here where the water tower is compared to that crash gate type thing. I would be concerned about the pedestrian traffic, especially if there are children in this area that will be not having a recreational facility, that they're going to be riding their bikes right up through there into Slate and Keith (Terrace) and those other streets and potentially, you know, more kids in that neighborhood, et cetera. And if that crash gate is going to remain a crash gate.

STAN ROGERS, 106 Hubbard Drive

MR. ROGERS: The real issue with this -- we have to look at the drainage problem. That is the number one problem before they can go anywhere else with it. If they can't take care of the drainage here properly and keep it healthy, what is the sense of starting with it?

DON FASO: That is one of the issues we can address.

MR. ROGERS: There is enough wetland back there now. We do not need any more water for the people that are living there now from this new complex.

Another thing, will they put a privacy fence around the entire complex, or just part of it?

DON FASO: Privacy fence or what?

MR. ROGERS: Around the entire complex.

DON FASO: They're not planning on it.

MR. ROGERS: Well, I would think you would do it all of the way around, or you're only doing part of it. The rest of the people have to view this complex, if they're not going to do it. These are a couple of big issues here. The lighting thing, that is no big deal, but the water problem is there, it is real. They have to fix it. If they don't fix it, us as the residents will have to suffer for it, which we are suffering for it now because nobody has done anything about it. They're going to come in here and build this and shed more water on the private owners there now.

CLIFFORD FOOTE, 4422 Buffalo Road.

MR. FOOTE: I live closest to anybody. I want to ask -- 4422 Buffalo Road. Can you put the map down, please, the top one?

You can see better on the top where I live, right next to where I live, to the east right now is a wooded lot, and it appears as though he is going to take out all of the trees. I live the closest of the whole -- and it looks like I get the swamp, the swimming pool and the lodge all in my backyard. It is sort of like throwing everything in my face and I'm the closest one of anybody as far as my home goes. And since all you can do is request changes, I was wondering if we could request that they maintain the trees along the border between my property and theirs, that are there now? Instead of tearing them all out and making it all swamp. And maybe put some more in there to fill it in so -- you see, there are several other areas that they plan on putting -- they are going to put trees, have trees here and everything, and all this is is a playground, nobody living here (indicating). Over on this side, nothing (indicating). This is my property on this -- there are trees in here right now (indicating). According to this, it looks like they plan on tearing them all out and putting a swamp in here. And then next door to that, they will put a pool so they're all going to be running around this thing, and if they can't go around the swamp, they will go through my property here to get over here (indicating) to go up Buffalo Road to the school or whatever.

Then the community house. I'm just wondering if those two pieces of property, which is the most active and loudest of the whole thing can't be put in the middle of that property rather than on the outside next to my property line. So I'm requesting that they move those entertainment areas into the center of the community that is going to be using it, and also maintain the trees along that side and put some more in to finishing it in. I think that is reasonable.

DON FASO: Okay.

DARIO MARCHIONI: How about a picket fence there?

MR. FOOTE: Picket fence.

DON FASO: Not picket. Board on board.

DARIO MARCHIONI: Board on board.

MR. FOOTE: There are some trees there already. There are some that are in good shape, but there are a lot of old trees right there, and first of all, it is a shame to be tearing them all down. They have been there longer than all of us have. And it would help between the two borders. And then possibly -- there are some trees in this area here (indicating) is where I am talking about. They run from about here down (indicating). This is a wooden lot. This is pretty much vacant here (indicating). If they could put some trees in here (indicating) to block out the rest of it. You see they plan on leaving these here (indicating). There are trees already here (indicating). So they plan on leaving these (indicating). This here (indicating), if they could put some trees here (indicating) and leave the older one, I would be happy and wouldn't need any fence or anything like that. But the biggest -- on top of that is the concern about the -- running a water swamp over to my property line. I just as soon have it over just a little ways. And if they could move the entertainment areas to someplace else so they're not playing on my property and entertaining me all of the time, it would be appreciated.

MR. FOOTE: I didn't get my response. I was waiting for some kind of a response from --

DON FASO: We'll talk about it. We're in the question-and-answer phase right now.

MR. FOOTE: I have asked a question. I'm waiting for an answer.

DON FASO: We'll get the answers.

MR. FOOTE: When you get the answer, do you get back to us on this?

DON FASO: Absolutely.

MR. KELLOGG: Earlier there was a comment made in the presentation, and I don't know if it was you or the applicant that made it in regards to part of the application dealing with a D.O.T. study. It had something --

DON FASO: I read the County Comments.

MR. KELLOGG: I don't know. But in effect that was part of the application or I got the --

DON FASO: No. As part of the County review, the County has all of the involved agencies. They meet and go over a set of plans, and apparently when the meeting took place, the representative from the State D.O.T. was not at that meeting, so the County or the State D.O.T. has not had any comments regarding this plan as yet.

MR. KELLOGG: They need to comment prior to this approval?

DON FASO: No. No. Not prior.

MR. KELLOGG: Wouldn't you expect that that would be a good idea?

DON FASO: Yes.

MR. KELLOGG: For the D.O.T. to say this is a good idea as opposed to saying we can't handle that traffic?

DON FASO: Let me make a statement.

MR. KELLOGG: I'm saying before you approve.

DON FASO: We could sit here and say the applicant needs a turning lane, deceleration lane and must show it on the plans.

MR. KELLOGG: We're not talking his property. We're talking the State land, the State road. I'm going back to the fact that all these extra vehicles coming on a minimum of 150 -- I mean if you have one driver in every apartment, that is 150 vehicles turning onto Buffalo Road. I'm sorry, I think the D.O.T. should in some way influence your decision if the D.O.T. says Buffalo Road can't handle that, there are safety hazards at Union and Buffalo, there are safety hazards --

DON FASO: Can I speak now?

MR. KELLOGG: Those are situations you should be considering before you give an approval.

DON FASO: The State has design criteria. They have the final say, not the Planning Board.

The entrance -- the ingress and egress is on a State highway. There is design criteria that has to be met. If the State determines that --

MR. KELLOGG: Are you saying they met that?

DON FASO: No, I'm not saying that.

MR. KELLOGG: That is what I am saying. If they have not met it, how can you give an approval?

DON FASO: They have to be granted ingress and egress to their property. How it is handled is up to the State, not the Planning Board.

MS. BLOSER: Can you approve them and the State turn them down?

DON FASO: Yes.

MS. BLOSER: So it could be dead at that point?

DON FASO: Yes. But don't count on it.

MR. KELLOGG: All I am saying is that to me it would make sense that if the D.O.T. is going to for some reason say this is going to create a dangerous situation, then that is something you should know prior to your granting approval to this particular development.

DON FASO: Amount of trip generations cannot be a determining factor for denial. Let's just say there are two cars per unit. We cannot sit here and say that is too many, we're going to deny it.

MR. KELLOGG: You can't?

DON FASO: No.

MR. KELLOGG: No. But wasn't -- earlier on didn't you say there was some type of D.O.T. input that was in the application?

DON FASO: Yes. The D.O.T. has final approval over that curb cut. Just like the Health Department. Just like Pure Waters.

MR. KELLOGG: Has the D.O.T. input that --

DON FASO: I have no comments from D.O.T. They're meeting with D.O.T. tomorrow.

MR. KELLOGG: If it is a requirement that there be a D.O.T. approval of some sort or a D.O.T. report of some sort, in the application --

DON FASO: It is not --

MR. KELLOGG: If it is not there, how can you approve it?

DON FASO: If the applicant submits his plans to the County in good faith and the State does not have a representative there, when the plans are reviewed, that is not the applicant's fault. He can still come before the Planning Board. He can still grant preliminary approval. He then takes it to the State and the State says we want a turning lane.

MR. KELLOGG: You can grant, but you don't have to grant approval if the State has not had its input.

DON FASO: Correct.

MR. KELLOGG: You don't have to grant approval if the State has not had its input.

DON FASO: That is right. We don't have to.

DAVE BROWN, 28 Slate Drive

MR. BROWN: And not to beat a dead horse.

DON FASO: Thank you.

MR. BROWN: This room is 40-foot wide, so here is the people on this side of Slate Drive, their property line and there is that building. I think it is imperative if you approve this project, which to me sounds like it probably will be, and this will go for the Hubbard Street residents also, that some type -- some really nice landscaping be put in there to divide the property to try and shield it so these people still maintain their backyards without having to look at that building right there. You could throw a baseball that far. So 40 feet is not a large setback. You said it was the code. You know, if anything, it would be nice if they were forced to increase the setback, but that probably won't happen.

The one thing, the property owner on the corner here that spoke, they get the building behind

their property, they get the building on the side off it and the access road along their property. That really is a violation -- to me it is a violation of their property, and any -- and any type of improvements that the Board could come up with or the proposed owner could come up with would probably help them out to a certain extent.

MR. FOOTE: Thanks.

UNIDENTIFIED SPEAKER, 42 Keith Terrace.

UNIDENTIFIED SPEAKER: Going back to the Drainage District issue, who assumes responsibility if the drainage doesn't work and the basements of Hubbard Drive are flooded? Is it an insurance company or the company?

DON FASO: Who assumes financial responsibility for the private property on Hubbard Drive if it occurs, the homeowners. Flooding shouldn't occur. Our Town Engineer --

UNIDENTIFIED SPEAKER: This is not an exact science. Whose responsibility, the homeowners insurance company or the developer and is the developer willing to put up a bond --

DON FASO: It is not required by law.

UNIDENTIFIED SPEAKER: I was just wondering. Whose responsibility is it if it damages private property?

DON FASO: The homeowner.

UNIDENTIFIED SPEAKER: Okay. That is my final question.

VERNA NELSON, 5 Slate Drive

MS. NELSON: I'm down at the north end of that little drainage thing. The Town of Chili does not do anything with that. The water comes down Slate, goes through a pipe, into the pond. They come and when I scream and holler and jump up and down and act like an idiot, they come and they open up the little pump to get the water out to Union Street. I have been there for eight years almost, and I have gone through this 50,000 times. There is all brush right now, "skeighty-eight" feet high and nobody comes to clean it out. The mice, well, thank goodness we have three or four cats that live around us. We have mice, rats, snakes, whatever, moles, voles, that come out of that pond. Not much water in it, though. Just a total mess full of garbage. Now, is he going to take care of that, or is it still going to be the Town of Chili that doesn't know it is there?

DON FASO: The Town of Chili's property will be maintained by the Town of Chili. The part on the private land will be the responsibility of the developer.

MS. NELSON: It looks like it will be a little bigger now. Is that all Town of Chili?

DON FASO: No, there is a distinct demarcation line.

MS. NELSON: They sure don't know it is there now. It is a mess. Every spring, April, I spend all -- well, the girl next-door and myself, trying to get them to come out. It took three guys to open up that little tiny pump and you could hear the water go "whoosh." Took an hour and a half, and the pond was empty. You have to call them. They don't come. They cut it down. I can't cut it with my mower. It is Town land, but it is too far down for my mower to go. If not, I would cut it. It keeps the mosquitoes away. But it is garbage, nothing. Once in the eight years I have been there they have come and trimmed it.

DARIO MARCHIONI: Did you know that the Town of Chili has a Drainage Committee that meets once a month?

MS. NELSON: I scream and I holler. That is what worries me, that it is going to be even worse now. You have that much more dumping into it because we're down at the bottom. There is a hill there. It comes down from Hubbard.

I think I'm going to move. Have you ever noticed that pond being there?

DON FASO: Oh, yes. I have walked the site.

MS. NELSON: Have you really?

DON FASO: Yes, I have, ma'am.

MS. NELSON: My backyard walks back out there, and I have not seen you.

You have the plaza, okay, you have all their trash. I mean your plastic bags and all this stuff. Nobody ever comes out and cleans it. They wait until the weather gets real bad and it all blows into our

yard and we clean it because there is nothing there. All of the kids go through my yard to get to the plaza because they can't walk down Union Street because there is too much traffic. You know, I think oh, brother, I'm too old. I'm too old. And then they have the audacity to raise my assessment for \$15,000. Well, you know what I would like to tell them?

MS. KELLOGG: Looking at the drawing, I was trying to decide on the west side, if the green that I see, that looks like plantings of some sort. Are those plantings you will put in, or are they existing, some of the existing trees that are there that you will leave?

DON FASO: I think they're going to do some clearing and grubbing to allow for the sheet runoff of drainage.

MR. CANTWELL: The trees that are reflected here in the darker color that have the squiggly line, these are existing trees to remain (indicating), so that is essentially the limit of the proposed clearing.

DON FASO: It shows on the plan I'm looking at here. Why don't you run your finger along the original tree outline.

MR. CANTWELL: There are scrub trees that run from here (indicating), across the site, probably about 30 feet in width and bubbles out a little bit, and then there is a treed area for the most part in this area again (indicating), and there are a lot of scrubs and a hole in the vegetation there (indicating).

DON FASO: Did that answer your question?

MS. KELLOGG: Yes, it does. Thank you.

MARK BARRY, 102 Hubbard Drive

MR. BARRY: My property lies right about in the middle there and it has an apartment, townhouse or whatever backed up to my backyard. Talking about the proposed drainage, it will run right down the property line of Hubbard. Right now we all live on natural springs. It is wet all year long. With the additional drainage they propose to move closer to our property lines, what do we do as residents when we come against situations where we can't use our backyards because of the excess drainage? I mean it is bad enough now. What will we do when we just can't use our backyards at all?

DON FASO: Well, the stream kind of meanders along your backyards now, doesn't it? It is not very well defined, but it just meanders in your backyards? Isn't that the natural flow right now?

MR. BARRY: It's deep in the center of the property now. But they propose on moving it right up, I mean 100 feet closer to my house. I mean it is bad now. What will happen when they increase the drainage in my backyard, all of our backyards.

DON FASO: The grading is supposed to be drawing it away from your property line.

I know where he is pointing to. I know where he is talking about.

MR. ROGERS: That is wet most of the time. How do they propose to get rid of it? It goes into our property, his property, my property. There are three or four of us here. It is wet all back in here (indicating).

DON FASO: They will handle their own runoff.

KAREN COX: Their drainage plan, with the red and the green on it, the green showed what you just described, this is on the second sheet. The red shows, correct me if I am wrong, on the color -- the red shows that they're actually going to be taking away, that pattern that runs on the property now.

MR. BARRY: If you flip the page over, it doesn't show it that way.

DON FASO: The existing is the green. You can see where the green arrows are indicating the drainage pattern is right where you pointed. Those green arrows are existing. That is how it goes now.

KAREN COX: That delineates the direction of the new drainage which is all going to be heading down to the pond at the southwest, so essentially they will be taking away -- you know, the stuff that runs onto that property now will be running into the retention pond down at the bottom, by use of swales.

MR. ROGERS: You're creating a health hazard there.

KAREN COX: There is a health hazard in the backyard if you're talking wet yards.

MR. ROGERS: We talked about this before, but nothing ever got done about it, and now here is another issue, they will build this complex in here and push water over here more (indicating).

KAREN COX: Not according to the grading plan.

MR. ROGERS: You have to prove it to me.

DON FASO: This gentleman has the floor.

MR. BARRY: It is just my concern, basically right now what they're doing is a hypothetical what they're looking at now, as to where they think the water is going to go. There is plenty of water back there now. By the looks of that thing, they will push it closer to our house, which could create problems for us.

DON FASO: No, no, no.

KAREN COX: They're pulling it away.

MR. BARRY: I just see a red line down there that shows they're putting a drain down our backyards.

DON FASO: But the natural flow now is in your backyard. It is west of that property line.

MR. BARRY: It is east right now of the property line. They're talking about bringing it closer west. Closer to our --

DON FASO: The way of Commissioner of Public Works pointed out to me, drew the approximate drainage pattern on the map, it was on the west side of the main property line. And it meanders back and forth.

MR. BARRY: I'm just wondering about our recourse down the road, five years from now, when this is all built, where do we go, what do we do then when this turns out to be wrong? You know, I'm shooting on down the line a little bit, but at that point it will be rather late to revisit a situation, you know, when everything is already built and as residents along that line we're basically flooded out.

DON FASO: That shouldn't happen.

GEORGE NOETH, 28 Hubbard Drive

MR. NOETH: I know what they're talking about with the water along that way. And it is -- I know that there have been problems with water in the gentleman's basement, years back there was problems there. And it still remains. And when you do have a water problem, you have got all that ground there to absorb the water. We're talking about 154 units, putting roofs on them, and where is that water going to go? Into these drain ponds? What do you do with the ponds? How many kids are going to drown in the ponds? Are they going to have drains out of there? Where do the drains go to? Where does the water go to when it gets to Buffalo Road? Can you tell me where it goes?

DON FASO: South.

MR. NOETH: South where? Where are the pipes? They have no drains. We have no storm sewers on Hubbard Drive. We have good drainage up there. But let me tell you, you add 154 units with roofs there, and you're creating all that water that ordinarily goes down and is absorbed -- a big share of it is absorbed down into the ground. And you have the hill, the whole thing over there.

No matter what there is, the drainage is a bad thing for this whole project. We keep comparing it with Pumpkin Hill and Blueberry. Those are apartment houses over there. Will these look like those apartment houses there? On Blueberry? Are we talking -- just by the railroad tracks.

DON FASO: Architecturally?

MR. NOETH: I'm -- location is the biggest thing with them. They're right next to the railroad track.

DON FASO: I don't understand your question.

MR. NOETH: Blueberry.

DON FASO: What about it?

MR. NOETH: You have Blueberry, comparing that with --

KAREN COX: This is the architect's rendering. They will not look like Meadowbrook. They will not be ugly. I mean, if you want to talk architecture, Meadowbrook is ugly.

MR. NOETH: These are all two stories?

KAREN COX: Yes. No railroad track nearby.

MR. NOETH: But they all create the drainage problem. There is no question about that.

The apartments will be in a building similar to these?

KAREN COX: This is what they plan on --

MR. NOETH: The two-bedroom, one-bedroom, whatever they build will be in a building like that. So there will be townhouse type buildings all of the way through; is that correct?

DON FASO: Correct.

MR. NOETH: The traffic to me is one of the worse things here with Buffalo Road. I have lived here for many, many years. We bought out here a lot, and we built a beautiful house on a lot, and we had very few people here. Everybody said, "North Chili, you're moving out in -- where the heck is that, that is so far away."

Well, we didn't have any water problems or anything then, and we built the place and we had a certain amount of traffic. And I have noticed the difference over the years, the increase in traffic, and this corner is unbearable. You have to wait for three or four lights if you're coming down Union Street to cross to get there, because you don't have a turn lane. You know, the whole thing. So they can't handle that now, so what do those cars do? Any cars that try to stay off Buffalo Road, they go right down Hubbard Drive and take a right-hand turn up there, and drive through there, 60, 70 miles an hour you can see the cars going down through there to get from Buffalo Road to Westside Drive.

Now, the trucks going through there, the whole darn thing. The Town puts up with it, because we brought it up with the Town. They love it. They don't take care of it. The Zoning Board or whatever the heck it is just hasn't handled the problems. Tractor trailer trucks, you know, ten-wheelers, the whole darn thing.

But that is the biggest thing, is the traffic, the drainage and most of all, all of we people who live in this surrounding area, that love the area the way it is, we don't need all of these apartments congested together and then end up with all kinds of problems with no place to play. I know it is -- to come down and play on this little ball diamond. That is all we have had as long as I have lived here. You go over to the college there maybe and play some tennis if you want, or, you know, but you can't do it right in this immediate vicinity. And I definitely think that if this thing is going to go ahead, that they should definitely have a place for the kids to go to, because the kids today, they have to have something to do where they can be watched. They know they're close to home. It is almost impossible for the kids to play on our street, which they have always been able to play on -- because of the traffic. It just keeps going in one big circle. You have the same thing over there. Those kids will be coming up and around. It is just -- there will be plenty of kids there, too.

So my comment is, how many people are against this project, raise your hand.

A large number of hands were raised.

MR. NOETH: These are the taxpayers, the people that have been here and love the area.

DON FASO: I live in North Chili myself.

Anybody have anything new to add?

BONNIE MOORE, 88 Hubbard Drive

MS. MOORE: The lighting. You probably addressed that, and I missed it. I'm not concerned about the lights attached to the apartments, but the freestanding ones that might be taller and make that entirely lit like the plaza.

DON FASO: I think he said 6 foot, average?

MR. CANTWELL: No. The lights up the median would be in the 14 foot height range, streetlights.

DON FASO: Parking --

MR. CANTWELL: The acorn would be the 14 footers. The individual post lanterns would be 6 foot in front of the townhouse units.

KAREN COX: Standard subdivision lighting.

MR. BARBATO: Residential lighting.

MS. KELLOGG: You have to keep in mind, though, we don't have any streetlighting in North Chili, so if we had lights on our street, it would be one thing. There might be some balance with some light in the front of your house and these additional lights in the back, but right now we are just kind of black all over the place.

DON FASO: The streetlighting should not be obtrusive. It should not be. It would be comparable in style and type to any of the newer subdivision streetlights.

MS. KELLOGG: But this is a condensed subdivision, 154 places. Even if they just had a normal amount of light like a house would, it is 154.

DON FASO: You may look at the right angle between two buildings and see a streetlight, but I don't think it will bother you. It is not like Roberts Wesleyan's soccer field lighting all up. I can see those lights from my house.

JASON OSBORN, 27 Slate Drive

MR. JASON OSBORN: I might have missed it, but I heard something about minimum price per unit on these apartment houses. What kind of guarantees will be written to make sure the price for the apartment units never fall below that? The economists are projecting a fallout in the American housing market in four years and with supply and demand being what it is --

DON FASO: That is one of the things we cannot control.

MR. JASON OSBORN: We could create a Homeowners' Association.

DON FASO: Can't do it.

MR. JASON OSBORN: Why is that?

DON FASO: It is against the law. We can't do that.

MR. JASON OSBORN: I'm sorry. I just graduated from law school and passed the bar, and my understanding --

DON FASO: You're saying --

MR. JASON OSBORN: I don't know, I read the New York State Housing Code. Homeowners' Associations are -- when entered into voluntarily are largely respected by the courts. It is not my understanding that is against the law.

DON FASO: We cannot sit here and ask him to form a Homeowners' Association.

MR. JASON OSBORN: Why not? Why can't you make that as part of the passage?

DON FASO: He owns it.

MR. JASON OSBORN: Why can't we ask him into homeowners' agreement with the rest of the homeowners affected by this?

KAREN COX: The homeowners' agreements usually are for residential subdivisions with houses where you want to write in certain covenants, no fences, no -- you know, something that is going to keep the property value up, so what function --

MR. JASON OSBORN: You don't think --

KAREN COX: Let me finish.

MS. TELFAIR: We could have our own Homeowners' Association.

DON FASO: How is a Homeowners' Association going to serve for apartments? The tenants don't care what the rent is. You know, you -- you cannot -- a Homeowners' Association isn't used for apartments.

MR. BARBATO: There is only one owner.

KAREN COX: Just him.

MR. JASON OSBORN: If he is going to stand up here and make a recitation about minimum price he would have for the apartment units, I would think he would have no problem entering into a Homeowners' Association with the rest of the people.

JOHN NOWICKI: Agreement with what kind of people?

DON FASO: For what benefit?.

MR. JASON OSBORN: The people sitting here right now.

DON FASO: For what benefit?

MR. JASON OSBORN: Are you suggesting that perhaps if apartments are going for 450 a month rather than 900 a month that the corresponding property value for people surrounding the apartment complex, their -- their property value is not going to go down?

DON FASO: Are you saying that we should be able to control the price of a house on a private street? We should be able to tell a homeowner that he can't sell his house for \$40,000 when it is -- when in reality it is 80 or 90 and he wants to sell it and move out? Is that what you are saying?

MR. JASON OSBORN: I'm saying the Board is in a unique position to negotiate with developers to get a homeowners agreement with surrounding property owners to make sure the property values are not affected.

DON FASO: Can't do it.

MR. JASON OSBORN: Fair enough.

RAY BLEIER: Do we proceed with this application?

DON FASO: What is the Board's feeling?

JOHN NOWICKI: You want my opinion? I think that --

DON FASO: Table or --

JOHN NOWICKI: I don't think we should table it. I think we should go ahead. We have enough information in front of us to do preliminary subject to the conditions we impose on the preliminary and let them come back at the next public hearing.

KAREN COX: I would like to see what the outcome of the meeting is with the State D.O.T. tomorrow. There are a lot of issues that may come out of the meeting.

JOHN NOWICKI: There are other conditions, Conservation Board. Town Engineer has drainage issues we want to deal with. We have to see that corrected. We have to change landscaping in certain areas. Do a prelim. subject to these conditions coming back for final at a public hearing.

RAY BLEIER: The most serious issue here in my opinion is the drainage issue. I'm not comfortable yet with Larry's (Nissen's) position. I think even Larry (Nissen) has some serious concerns, and -- he has concerns and I have concerns. I can't see going on to even preliminary, because --

JOHN NOWICKI: Why?

RAY BLEIER: I still feel that you are making some commitment if you grant the preliminary.

JOHN NOWICKI: First of all, the gentlemen who have made the presentation, according to the code we go by, have met all of the criteria to advance this project on a preliminary basis subject to the conditions the Board would impose on it, based on what we heard from the table on the right and the audience. That doesn't mean the project has been approved. We have just moved it up to the position where the applicants have to do their own work, research, finish up with these guys, the County, the State and review the minutes of this meeting and finish it up and convince us they have met all of the criteria to get our final vote.

DON FASO: My hang-up right now is the SEQR issue. Our Town Engineer has sat there and said, you know, it may not work.

LARRY NISSEN: Let me clarify that. The applicant and their engineer has made a good faith effort to comply with drainage standards within the Town. I think they have superseded them. But there is just an unresolved issue with the proposed outfall to Buffalo Road. They have not had the opportunity to meet with D.O.T. yet, and so through no fault of theirs, it is an unresolved issue. It is a consideration I just wanted to point out.

DON FASO: So let me ask you this, Larry (Nissen). Can we handle SEQR? Can this be mitigated, in your opinion? If we neg dec SEQR, this is a mitigatable issue?

LARRY NISSEN: My understanding is that the drainage design is currently -- it exceeds Town code as it stands right now.

DON FASO: We all know that.

LARRY NISSEN: But it is predicated on the 15-inch outfall to Buffalo Road, which at this point is still up in the air.

JOHN NOWICKI: But it can be mitigated?

LARRY NISSEN: Well, not in the form that it is in today. I can't say for sure that it can't be mitigated. I can't make that statement. I think that is up to the applicant.

DON FASO: John (Nowicki), by granting preliminary, even if we withhold final and give him a list of ten conditions, that is our good faith effort, but we have to assure that all the environmental concerns can be mitigated and I'm not sure we can -- SEQR has to be taken care of early on in the process.

JOHN NOWICKI: Does SEQR have to be done tonight or can we wait until final?

KEITH O'TOOLE: You can wait.

JOHN NOWICKI: Absolutely.

DON FASO: We have to specify the issues that we want mitigated before we can neg dec it --

KEITH O'TOOLE: Correct.

JOHN NOWICKI: That is all it takes.

DON FASO: Then we will not do SEQR, and would you like to move then granting --

JOHN NOWICKI: I make a motion we do preliminary with the following conditions and we spell out the conditions, what they are going to do.

DON FASO: The Board discussed the proposed conditions.

KEITH O'TOOLE: Mr. Chairman, are we doing preliminary before SEQR?

DON FASO: That is what John (Nowicki) asked.

KEITH O'TOOLE: I guess I misunderstood the question.

DON FASO: I thought we needed to take care of SEQR early on in the process.

KEITH O'TOOLE: You have to do SEQR before you grant any form of approval. But you don't have to do SEQR tonight if you have insufficient information, and if that D.O.T. information is required for you to make an environmental determination, you send the developer on his way with a list of things to get, including some feedback from D.O.T. apparently. So sorry for the confusion.

JOHN NOWICKI: So are you suggesting a tabling?

KEITH O'TOOLE: That is your choice.

JOHN NOWICKI: SEQR with conditions?

KEITH O'TOOLE: No, I'm saying if you don't have sufficient information for SEQR, then the only alternative would be to table it.

DARIO MARCHIONI: He has to come back any ways. We can give final and preliminary the next meeting if everything is order, right?

DON FASO: Right.

DON FASO: Formal public hearing. The plans meet final criteria.

JOHN NOWICKI: They do.

DON FASO: The plans are excellent. Just we have a lot of unanswered questions, Bob (Cantwell).

MR. BARBATO: The big one is the D.O.T. right now?

KAREN COX: Yes. That is no fault of your own that they weren't at DRC.

DON FASO: I do have some other concerns that were raised by the people in the audience. Landscaping, screening, you know, the pond that is close to the property line, can we mitigate that somehow? More plantings, maybe a board-on-board fence. More screening for Slate.

DARIO MARCHIONI: And recreation.

DON FASO: That was something that I was going to raise before the audience raised it, was recreation. I would not have a problem with the developer making improvements to a Town park.

JOHN NOWICKI: Well, you have property there. What is the choice -- the choice is there, to buy the property, to improve the property, to make a donation to buy equipment.

DON FASO: Right.

JOHN NOWICKI: Utilize that and make an entranceway to the property, having a cross access easement agreement there.

DON FASO: I would suggest making an improvement to the existing playground and having an access --

JOHN NOWICKI: Access agreement between the two. We can certainly do that, we have all kinds of possibilities there.

DON FASO: I will scratch out pending engineer's approval because we're not going there. We need to look at landscaping and buffering.

JAMES MARTIN: He raised a good point, could that be relocated to the center of the complex?

JOHN NOWICKI: We're saying, make the connection to the Town property here.

KAREN COX: He is talking the community center and the pool, moving it closer to the center of the complex, is that --

DON FASO: That may or may not work.

JAMES MARTIN: I would just like them to consider it.

The Board discussed the proposed conditions.

DON FASO: 15-inch outfall, should they meet with the Town Engineer?

LARRY NISSEN: The Town, right now -- we have asked that the outfall be shown on the plans. That is basically off-site construction.

LARRY NISSEN: It will be off-site construction that needs to be added to the plans.

DON FASO: Meet with the Town Engineer and Town official regarding the Town stream drainage.

LARRY NISSEN: That would be fine.

The Board further discussed the proposed conditions.

DECISION: Unanimously tabled by a vote of 7 yes to table without prejudice until the August 12, 2003 Planning Board meeting for the following reasons:

1. Applicant shall address concerns regarding landscaping and buffering the adjoining properties.
2. Petition the Town for a cross access easement to the Town's recreation area at the Community Center.
3. Relocate your recreation facility to the interior of the project.
4. Furnish the Planning Board copies of all NYSDOT comments.
5. Furnish the Planning Board copies of your market analysis.
6. Applicant shall address the Town Engineer's concerns regarding on-site and off-site drainage.

DON FASO: So the audience has some idea, are we looking at next month? We have got August 12, September 9.

MR. BARBATO: What is submittal date?

DON FASO: 30 day for County Comments, no.

DON FASO: DRC meets 10 days prior.

DANIEL KRESS: Application deadlines are approximately 20, 30 days before predicated on the DRC meeting approximately three weeks before. The deadline for new applications for August 12th, for example, is July 11th, so about 30 days.

DON FASO: Quick Town review prior to a Board meeting which is not the 30.

DANIEL KRESS: We don't need the full 30, but don't try to come in the day before either.

DON FASO: You shooting for August or September?

MR. BARBATO: We'll shoot for the August date, but if we can't get all of the information in, we'll be in September.

MR. CANTWELL: We're a little at the mercy of D.O.T.

DON FASO: I will ask -- just to clarify, when you come back in, repost the property.

MR. BARBATO: Absolutely.

DON FASO: Ladies and gentlemen, because this was tabled, we are really not required to send out another mailing, so you can either watch Gates-Chili Post or proper posting of the property. Town website.

The meeting ended at 10:50 p.m.

A meeting of the Chili Planning Board was held on August 12, 2003 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 Don Faso.

PRESENT: Ray Bleier, John Hellaby, Dario Marchioni, Karen Cox, James Martin,
John Nowicki and Chairperson Don Faso.

ALSO PRESENT: Keith O'Toole, Assistant Counsel for the Town; Daniel Kress, Director of
Planning, Zoning and Development; Larry Nissen, Town Engineer;
Dave Saur, Fire Department Liaison.

Chairperson Don Faso 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.

OLD BUSINESS:

1. Application of Sprint Spectrum, L.P., 6391 Sprint Parkway, Overland Park, KS 66251 for renewal of conditional use permit for a 130' high telecommunications tower at property located at 60 Golden Road in R-1-20 zone.

DON FASO: First application has been asked to be withdrawn. I got a letter "In follow up to our telephone conversation this afternoon, I'm writing to confirm that Sprint's application relating to 60 Golden Road has been removed from the Planning Board. Pursuit to any telephone conversation discussion with Keith O'Toole this afternoon, it is intended that Sprint's application will be on the Planning Board September agenda. Further, as we discussed today, we'll contact you this week," et cetera, et cetera. So if there is anybody here for the Sprint Spectrum application.

MR. HUGGARD: Robert Huggard, H-u-g-g-a-r-d, representing T-Mobile. We were asked to come to this agenda. As it turns out, we only have one issue remaining at 60 Golden Road. That is to put up the gate. We need a building permit to put up our installation. There is no confusion as to the other duties or responsibilities of my company as far as this installation, so...

DON FASO: This is shirt-tailed on Sprint's application.

MR. HUGGARD: No, it is not. We already have an approval.

KEITH O'TOOLE: My understanding is that their rights are derivative of the master tenant.

DON FASO: So --

KEITH O'TOOLE: So if the master tenant bails, then they have a problem. It is not for us to do due diligence as to who has the rights to the property.

DON FASO: Okay.

MR. HUGGARD: In regard to that, so the conditional approval dated in March for our installation, meeting our requirements, the checklist that we had that we have met, the plans have been reviewed by Lu Engineering, if there is no confusion as to what we are to do at our installation, you will hold us up until Sprint clears up their conditional use permits?

KEITH O'TOOLE: I don't think that is what I said.

MR. HUGGARD: Please clarify.

KEITH O'TOOLE: I'm saying that Sprint has indicated that they want this application heard tonight, and if they -- they control the property. I'm not sure how we can proceed without their approval.

MR. HUGGARD: March 18th, I have an approval from the Town of Chili for our installation voting with conditions. Not one condition is stated that Sprint is to have approvals or have renewed their conditional use permits.

KEITH O'TOOLE: We have an application for renewal of a conditional use permit for a 130-foot high tower at 60 Golden Road. That is what is before the Board this evening.

DON FASO: So technically that conditional use has expired so your application is dovetailed on this application.

MR. HUGGARD: I don't see how. I mean our application was in before Sprint had to or was compelled to put in a renewal for the conditional use permits. My company was asked to assist the Town in getting Sprint in to put up their bullet proofing of the propane tanks and to meet other requirements they have not met under their conditional use permits. Now my installation is being delayed. The tower is there. It is a collocation. This application started way back in December.

DON FASO: We cannot grant renewal of conditional use without the applicant being here.

MR. HUGGARD: I'm not here representing Sprint. I'm representing T-Mobile for our application. We have met the conditions and we're just waiting -- but the overall riding conditions have expired. They need to be renewed. Hence the application for renewal of a conditional use. Without Sprint being here to make an application for the Planning Board to act on a renewal, I don't see how we can tell you to proceed.

KEITH O'TOOLE: I think we're arguing at cross-purposes here. My understanding is there is Sprint's application and your application.

MR. HUGGARD: Two separate applications.

KEITH O'TOOLE: All we're talking about is Sprint's application. And I know the sites are intermingled and that is great, and I understand there was some outstanding conditions which you have made some efforts towards satisfying and there are maybe one or more left over, but right now we're just talking about Sprint's application. So it doesn't harm you or help you.

DON FASO: Just for a little background.

MR. HUGGARD: I will make the question direct then. Is my building permit going to be held up until Sprint gets their renewals on their conditional use permits?

KEITH O'TOOLE: I don't have any information as to why that would be the case.

DON FASO: Why you were asked to appear here with Sprint is when Sprint was here a couple months ago, they were totally unprepared, and there was some cross questions regarding the use of the site. It was determined at that time that when we reheard the application, that both collocators be present before the Planning Board to answer any of this Board's questions. That is the reason you were requested to be here.

MR. HUGGARD: Okay.

DON FASO: Now Sprint has coincidentally asked to be tabled.

KEITH O'TOOLE: Or not coincidentally.

DON FASO: Or not coincidentally.

MR. HUGGARD: I will take this up tomorrow with the people at Sprint.

DON FASO: I think, between you and I, Sprint has a serious problem because when they appeared before the Planning Board for the first time, the gentleman that was representing Sprint admitted that it was dumped on his desk that day or the day before, if I remember right, and was totally unprepared, and couldn't answer the Planning Board's question. Hence the tabling. Hence getting the two collocators here at the meeting.

MR. HUGGARD: I will appear next month to answer any questions. Again, I would have to direct the question to Mr. Kress and the Building Department, can I pick up my permit tomorrow?

DANIEL KRESS: We need to have signed site drawings. If I can get the signatures from the Chairman of the Planning Board and other individuals involved, then you can receive a building permit.

DON FASO: And if the site meets the engineer's approval and the Town Attorney tells me it is okay, I will sign it.

MR. HUGGARD: Okay.

DON FASO: Will you be here next month to answer questions?

MR. HUGGARD: I will be happy to.

DON FASO: Okay. We'll see you next month.

MR. HUGGARD: Will you sign the drawings?

DON FASO: No.

MR. HUGGARD: Next month.

KAREN COX: He said he wants to know when you would sign the drawings.

MR. HUGGARD: For the T-Mobile. The T-Mobile drawings.

KAREN COX: The site plan drawings.

DON FASO: Who has the site plan drawings?

DANIEL KRESS: They were and have been sitting in my office awaiting tonight's meeting at which we hoped to have representatives from both organizations here to settle this once and for all.

DON FASO: If the Town Engineer approves and the Counsel approves, I will sign them tomorrow.

MR. HUGGARD: Excellent, because I mean there are letters, correspondences, they have been approved, waiting signature on them, and to answer your question, sir, once I have the permit, I will order the materials. Once they're in, the general contractors will be out doing the installation and putting in the gate.

DON FASO: All set?

MR. HUGGARD: All set. Thank you.

RAY BLEIER: Don (Faso), I have a question. Dan (Kress), are you familiar with what was going on at that site yesterday afternoon? There were three vehicles out there. Was one a Town vehicle?

DANIEL KRESS: I'm not aware of any Town employees having been out there other than myself this afternoon to verify the current status of the Sprint sites in the Town and there was some attempt being made to clear away the high weeds and grass that had overgrown much of the

landscaping on much of the site.

RAY BLEIER: This was yesterday afternoon.

DANIEL KRESS: I was out there this afternoon.

DECISION: Unanimously tabled by a vote of 7 yes until September 16, 2003 for the following reason:

1. Tabled until September 16, 2003 at the request of the applicant.

PUBLIC HEARINGS:

1. Application of Independent Order of Odd Fellows, c/o Richard Faro, 138 Culver Parkway, Rochester, New York 14609, property owner: Chili Memorial Post #412; for conditional use permit to continue use of building for recreational purposes at property located at 412 Ballantyne Road in A.C., FPO, FW zone.

MR. TeHAAR: Jack TeHaar, representing the Independent Order of Odd Fellows, Humboldt Lodge. I would like to give you a little briefing what our lodge is about.

DON FASO: Are you Mr. Faro?

MR. TeHAAR: No. He works out at Xerox. Jack TeHaar. They are in the process of searching the buildings, so he can't get out.

Under the front of the page it tells a little bit about our organization, what we do, and what we stand for. The back page shows the donations we have made to the community, national, international and some youth scholarship funds we donate to yearly. We're applying for a five-year permit for recreational usage on the property, which is not to be changed. I guess now they have a recreational usage permit that has been issued to them. We don't want to do anything but continue the usage of the property as it is now.

DON FASO: Do you have copies for the side table?

MR. TeHAAR: Sure.

DON FASO: You don't mind if we read your mission statement?

MR. TeHAAR: No. That would be fine.

DON FASO: Can you tell us a little bit about the organization? Your governing body, how often you meet, what do you use the building for? If you will continue with the bar and food service?

MR. TeHAAR: We won't be using the bar any more. We're not applying for a liquor license whatsoever. We will not be operating to the public for fish fries and that type of thing as they're doing now. It will be usable only to a lodge member or the lodge member's family. We would have maybe birthday parties, that kind of thing there, maybe anniversary parties, but lodge members and their families only. We would do fund-raisers to support the things we're supporting now.

DON FASO: A typical fund-raiser would be?

MR. TeHAAR: Could be spaghetti dinner, barbecue.

DON FASO: Open to the public?

MR. TeHAAR: Usually lodge members and family, but also sometimes the outside people will come to support us. Our lodge has been in existence for 150 years. The main office is in New York State -- New York City, excuse me. We have been --

DON FASO: You're at the German House now?

MR. TeHAAR: No, it is actually between the German House and McGregor's. 357 Gregory Street, an old city firehouse.

DON FASO: Somebody told me you were in the German House.

MR. TeHAAR: No. Near the German House, a few doors away. We want a suburban location. The area where we're at now is deteriorating. This location would suit our needs perfectly.

DON FASO: Is the post going to have any use of the --

MR. TeHAAR: Yes. They will continue to meet there, along with the ladies auxiliary, once a month. We'll give them a space to use there, offices to use there and they will continue with their meetings and stuff at that location.

DON FASO: So you will purchase the property?

MR. TeHAAR: Yes. We're in the process of purchasing the property. Of course, one of the contingents on the purchasing of the property is to get the continuing use permit.

RAY BLEIER: What other type of outside activities would you be having on this site?

MR. TeHAAR: Outside activities? As in?

RAY BLEIER: Any recreational things.

MR. TeHAAR: As time goes by, we had plans to possibly put a ball field in, maybe a soccer field to support the community organization. We're kind of youth-oriented. First we would like to get in and get situated there and see what our capabilities are and what we can do and go on from there.

RAY BLEIER: Are you planning any changes to the physical appearance of the property?

MR. TeHAAR: Not at all, sir. Right now it meets our needs just fine.

KAREN COX: I know you indicated that you were not going to continue the bar operation. At the regular meetings or at these fund-raisers, I think this may sound prudish of me, but will there be alcohol being drunk by the members, a refrigerator?

MR. TeHAAR: Generally now what we do is after the meetings we'll open a refrigerator up and it will have beer in there. Not a lot, but the guys will have a can of beer and sit around and maybe play euchre or something after the meeting. That is something that has been going on since we started the lodge. But as far as whiskey and bar setup, no.

DON FASO: Dan (Kress), no County comments?

DANIEL KRESS: No, sir, I do not have any comments from the County.

DON FASO: Well, it is a renewal of a conditional use.

JOHN HELLABY: If I am looking at this application correctly, the veterans will still maintain those two smaller pieces of property, will they not?

MR. TeHAAR: Two smaller pieces of property? I'm not aware of that.

JOHN HELLABY: There is one 50 by 181 at the left-hand side, and then the one that is 2.06 acres, 454 foot wide by 165 foot deep.

MR. TeHAAR: I'm not --

JOHN HELLABY: They're on separate tax numbers and they make no mention on this application of those tax numbers.

DON FASO: Is the Commander here from the Post?

Did you hear the question?

MR. BATCHELOR: I'm not sure of the question, no.

DON FASO: The map that was submitted to us shows three parcels that are in ownership by the VFW Post. Is the Odd Fellows just buying the one big parcel?

MR. BATCHELOR: They are buying the entire property.

DON FASO: With the two smaller parcels?

MR. BATCHELOR: Yes.

DON FASO: Thank you.

JOHN HELLABY: Is there a portion of that property that is occupied by DiGennaro's that butts up against your building where the leech fields are?

MR. BATCHELOR: Not that I'm aware of.

JOHN HELLABY: That is confusing.

JOHN NOWICKI: Now we have a good question. Maybe you can explain this a little clearer. Why are these parcels shown separately?

DON FASO: I think this was the entire instrument survey done by Avery Bonnerwith. We're just -- it is a renewal for the use. I think we're just -- just been given a print to show us --

JOHN HELLABY: I think these three lots have always been there in this configuration. I think that the veterans bought all three parcels. I think it would be a smart move, however, as they are substandard lots, to resubdivide this into one parcel somewhere along the line. Not necessarily tonight, but...

DON FASO: Are you following what we're saying?

MR. TeHAAR: No. But --

JOHN NOWICKI: Why don't we make it a condition?

DON FASO: Here is the main parcel where the building is (indicating). There is a parcel here and here (indicating). What we're suggesting is you do a resub and combine three lots into one.

MR. TeHAAR: I understand. Currently now it is all owned by the VFW.

DON FASO: So you have an offer in on all three lots currently.

JOHN NOWICKI: We'll make it a condition.

MR. TeHAAR: Okay. Thank you.

DON FASO: I know the audience doesn't have anything to see, but can you see what we're talking about? There is a lot here in the corner (indicating). Here is the building where the Post is (indicating). There is another lot over here (indicating). So there are three lots.

JOHN HELLABY: I guess the only other question I might have is how many members are you having presently?

MR. TeHAAR: Our lodge is about 127 members. There is a lady's group also called Rebeccas. They're about 20 or so. So maybe 150 or so all together.

JOHN HELLABY: You generally have a monthly meeting?

MR. TeHAAR: Weekly. We meet every Wednesday.

JOHN HELLABY: Of your membership, how many usually attend the meetings?

MR. TeHAAR: Poor attendance. Usually about 24, 22, I would say would be the average attendance for the meeting. Functions we have a full house pretty much.

DON FASO: What nights will the Post have use of the property?

MR. TeHAAR: That night hasn't been determined yet. We thought after we get a little farther into it we would pick a mutual date. We meet on Wednesday. The Rebeccas meet once a month. They could move their dates around a bit. I am sure it will not be a problem, will be negotiable.

JOHN NOWICKI: On the original conditional use they had some ideas and plans about expanding into the back properties; is that correct, into soccer fields, baseball fields and all that? Wasn't that going to be part of their long-term plan?

DANIEL KRESS: It has been talked about.

JOHN NOWICKI: I thought that was part of the approval process back then.

DANIEL KRESS: Nothing to my knowledge has been formally improved.

JOHN NOWICKI: Your intentions are not to pursue that?

MR. TeHAAR: We were of the belief they talked about it, but nothing has been put in stone or concrete. As time goes by, we may make some agreements with the Town with property across the street, but that is quite a ways down the road to pursue.

JOHN NOWICKI: Do you feel at this point, between the two organizations, that your parking is sufficient to handle all of the situations that you might run into?

MR. TeHAAR: I believe so, because there is an overflow lot with stone and stuff that is not blacktopped. I guess they're using that when they have big parties or functions there. If the need arises that we have to extend the parking lot or make it bigger, we could address that as it came about.

JOHN NOWICKI: You have a purchase agreement?

MR. TeHAAR: Yes, we do.

JOHN NOWICKI: Between you and the VFW?

MR. TeHAAR: Correct.

JOHN NOWICKI: Has a copy of that been given to our attorney for review?

MR. TeHAAR: I'm not aware of that.

JOHN NOWICKI: Again, I think that should include all three parcels.

MR. TeHAAR: Correct. Yes. I made a note of that.

JOHN NOWICKI: I think for now that is all I have got. I just want to see what everyone else has to say.

JAMES MARTIN: Just curious if you have any plans to do any additional landscaping or anything around the building? I know it is not applicable to this particular application, but I just wondered from an aesthetic standpoint if you have any plans to do anything like that?

MR. TeHAAR: Not right offhand. If there is something that needed to be done, I'm sure we would, but the thing now is to buy the property and get in there, and if something comes up that needs to be done or a situation arises, we'll address it as it comes.

DARIO MARCHIONI: Will you remove the emblem, the VFW in the front?

MR. TeHAAR: We'll probably remove that and put our signs up, but we couldn't change the size or shape of the sign at all. It would stay the same.

DARIO MARCHIONI: This is a tax-exempt organization?

MR. TeHAAR: Correct. We're also --

DARIO MARCHIONI: I'm concerned a little bit about the traffic. I'm not against this, but I'm concerned about the traffic there, that when the members get out of there, those people go 50, 60 miles an hour. You need to have some sort of a caution -- or at the end of the meeting, when you have people getting out all at once, maybe there could be some safety set up for that.

MR. TeHAAR: The meetings are small enough where I don't think they would raise an issue, but maybe if there was a function or party going. Those would be limited. Where we are now in the city, it is crazy. Cars pile up around there all of the time. It is terrible. I think we -- we have some older members, but we could address that and talk to them about be careful pulling out onto the road, making them aware of the traffic situation. I think it is 45 miles an hour there.

DARIO MARCHIONI: Yes.

KAREN COX: Posted speed limit.

DON FASO: You would be hard pressed to find somebody doing the speed limit there.

DARIO MARCHIONI: I wish you luck, but that is the main concern I have.

MR. TeHAAR: Thank you.

JOHN NOWICKI: Just a couple. What do you think your potential for growth is, for membership? What is your membership?

MR. TeHAAR: Our membership now is, like I said, 120, 127 in there. We have members that don't pay on time. They drop until they pay. So somewhere between 120, 130 members. We have grown 20, 25 members in the last four or five years.

JOHN NOWICKI: Do you have a national or regional type of meetings that you would bring other clubs into the area?

MR. TeHAAR: Yes, we do.

JOHN NOWICKI: Again, I'm trying to see how much room you have there to work with, especially if you have them come in and you have a large outside barbecue or something.

MR. TeHAAR: We would have other lodges that are in the Rochester/Monroe County area, like there is a nursing home in Lockport we support and sometimes we do a chicken barbecue for them and that would attract people. If we had to make expansions on the parking lot or whatever as time went by, that is something we would address when it came about. For now we don't have any plans of huge parties.

JOHN NOWICKI: You want to be very careful on that road. As Dario (Marchioni) is bringing out, it is a very serious situation there.

MR. TeHAAR: It is a good point.

JOHN NOWICKI: If you ever thought of parking on that road, you would be making a big mistake. While I have your attention and the Chairman's, I would like to thank the VFW for the tremendous effort they put in there since they occupied the building and the ground maintenance. I would hope you folks do the same thing, because we watch that pretty carefully.

DARIO MARCHIONI: One more. Especially at nighttime, there isn't that much light in that whole area. Is there any chance of putting up a stop sign? I know it is an inner-type precaution, stop sign at the end of the driveway before you get to the main road?

MR. TeHAAR: I don't see where that would be a problem.

DARIO MARCHIONI: So people know when you're coming out of there, you have to stop.

MR. TeHAAR: That's a good point.

DARIO MARCHIONI: I have been there. I have had tremendous fish fries.

MR. TeHAAR: We, have too.

DARIO MARCHIONI: One of the things, it gets darker in the wintertime. You're kind of going into a dark area and you don't know what to do there.

MR. TeHAAR: That wouldn't be a problem. I think that is something we could do.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

IRENE BRIXNER, 14 Hartom Road

MS. BRIXNER: I have a question. I wonder if you could tell me, when I was in Springfield, Ohio I went by this huge building with this humongous sign that said "IOOF," and I'm wondering are you connected with that organization?

MR. TeHAAR: Yes.

MS. BRIXNER: Wow, you will not be missed. The VFW is buried when you people come out. Truthfully, I have never seen such a spectacular sign in my life. I said to my husband, "What is that?" He said, "That was one time a nice place that" -- I'm sure you people do too, but I will say this, I am going to miss the VFW tremendously because we have war veterans out there, you know.

MR. TeHAAR: They will still be there.

MS. BRIXNER: I hope you people continue or do even better, increase, you know.

MR. TeHAAR: Veterans will still meet there monthly. We plan on doing some things together. They do a children's Halloween party in October. We would like to work together with them. We'll do the work, and they can still support the neighborhood kids with the Halloween party. We'll be doing things together.

MS. BRIXNER: Well, I thank you for giving me some information about the VFW because we all wondered with the articles in the paper, I didn't even know that -- I thought it was taken over, don't know if it would be taken over. Just curious. Thank you.

MR. TeHAAR: Thank you.

JERRY BRIXNER, 14 Hartom Road

MR. BRIXNER: I will make a statement, if I may.

DON FASO: Okay.

MR. BRIXNER: Thank you.

Thank you, Chairman Faso, members of the Chili Planning Board, my name is Jerry Brixner, 14 Hartom Road. I am a life member of the Chili Memorial VFW Post 412. I wish to read a statement.

The legal notice for tonight's public hearing reads, quote: "Application of Independent Order of

Odd Fellows, care of Richard Faro, 138 Culver Parkway, Rochester, New York 14609 property owner, colon, Chili Memorial Post 412 for conditional use permit to continue to use of building for recreational purposes at property located at 412 Ballantyne Road in AC, FPO, FW zone."

I question the inclusion of the words, quote, "Independent Order of Odd Fellows," unquote, in the legal notice. As background, I will quote from an editorial of April 30 that appeared in the Gates-Chili Post. Quote, "Sale of VFW Post home questioned by Florence G. Goodwin of Chili." Quote, "The rationale for selling is advanced as a lack of volunteers to keep the fish fries going. If this is so, why did we not receive an urgent request for help. As a member of the auxiliary, I have just reread many of the newsletters. Nowhere is there mention of the fact that without more volunteer help the VFW Post home will become a thing of the past. No real call for volunteers, just as usual, if you want to help," unquote.

Then came the July issue which states that, "The VFW, after much deliberation, has voted with a majority of members present at a special meeting to sell the Post home to the IOOF. How could there be much deliberation when only a handful of people knew what was going on and rumors of a sale were denied? Moreover, those in attendance were hardly a majority of members," unquote.

I, too, had questions, so on May 22nd, as is a VFW member's prerogative, I wrote Commander Carl Rohde, New York State Department Commander, providing basic information concluding with a question, quote, In conclusion, I am again asking as State Commander whether this is a, quote, full and proper notice of a small, quote, special meeting. I did not receive an answer.

I followed this up with subsequent letters dated June 5 and June 6 with a question, quote, "Is this a full and proper notice of a special meeting?" Again, I did not receive any response.

So on June 25th, I wrote Raymond C. Sisk, Commander in Chief Veterans of Foreign Wars of the United States of Kansas City, Missouri noting what I had previously asked Department Commander Rohde. Is this a full and proper notice of a special meeting? On July 9, I was copied in on a letter that Adjutant General John J. Senk, Junior at, quote, direction of the Commander in Chief, unquote, wrote to Harold M. Burke, Junior Commander, Department of New York. Adjutant General Senk requested a, quote, complete report on your findings, unquote, and, quote, within 60 days of the receipt of this letter, and also please respond to Mr. Brixner, unquote.

Approximately 44 days have elapsed, and as of today, August the 12th, I have not heard from either Commander Senk or Commander Burke. Thank you.

DON FASO: Thank you, Mr. Brixner. Can I have the spokesperson for the Post come forward for a second?

I have a question, sir.

MR. BATCHELOR: Yes.

DON FASO: Not being a member of the Post, I assume you're governed by a Board of Trustees. If you are incorporated and a not-for-profit in the State of New York, you must have a Board of Trustees with a Secretary.

MR. BATCHELOR: We have trustees. Not a Board of Trustees. We have elected trustees. Their main purpose is to audit the books.

DON FASO: I assume that the Board of Directors has enabled the Chairman to sign a purchase order or to sign the papers regarding the sale of this property?

MR. BATCHELOR: Yes. This comes about through our House Committee. Our House Committee has control of the home itself, the building, physical building. The Post itself is an organization and we cannot own property. The property is owned by the Association or the House Committee.

DON FASO: Which is duly constituted under the laws of the State of New York?

MR. BATCHELOR: I say we own the property, but we cannot manage it. We cannot manage a bar. It has to be under a separate corporation.

DON FASO: But the property owner is the one that is entering into this agreement?

MR. BATCHELOR: Yes.

DON FASO: With full legal authority?

MR. BATCHELOR: Yes.

DON FASO: So it is a civil issue?

KEITH O'TOOLE: That's right.

DON FASO: So it doesn't really affect the Planning Board as to the internal discussion going on as to whether to sell or not sell?

MR. BATCHELOR: I see no relevancy.

DON FASO: Okay. Neither do I. I just want to clear that up for the Board.

JOHN NOWICKI: I just wanted to know -- you mentioned before on the liquor license, is that going to be relinquished?

MR. TeHAAR: No liquor license. He is shaking head no.

MR. WHITNEY: It is to be relinquished.

DON FASO: So in other words, it is in the name of the VFW Post and you will not renew it?

MR. WHITNEY: Yes. It is in the process of being relinquished now.

BERNICE WILCOX, Stuart Road

MRS. WILCOX: I just have a couple of questions, a matter of curiosity, I guess.

I would like to know how many acres this property contains.

KAREN COX: The main parcel is 72, but then they have the two smaller ones.

MR. TeHAAR: I think it is like 75, 76.

DON FASO: 75 total?

MR. TeHAAR: 75 plus or minus.

MRS. WILCOX: A considerable amount. That indicates there might be some future use of that property also.

MR. TeHAAR: Perhaps a soccer field, maybe a baseball field, something like that that would support the community.

MRS. WILCOX: Would those fields be used by the members of your organization or would they be used by others?

MR. TeHAAR: It is something we -- at the time would be available to the Town, Little Leagues. If the Town has a soccer field they would support. In conjunction with the Town, we would work out something.

MRS. WILCOX: Would you initiate the work on the fields yourselves?

MR. TeHAAR: It is a little too early to look into that. We don't want to make --

MRS. WILCOX: Because as a taxpayer, I would not be in favor of the Town using taxpayer's money to help a private organization, and I believe you are a private organization.

MR. TeHAAR: That's right.

MRS. WILCOX: As to your property, you don't plan on doing any filling over there on that land?

MR. TeHAAR: Nothing at this point, no.

MRS. WILCOX: At this point.

MR. TeHAAR: This property is perfect for our needs right now. We would like to begin there, have our meetings there and move from the city. But for right now, it is perfect, just what we want. Down the road, if we get together with the Town and maybe we can work something out across the street, but these are things that have just crossed our minds, nothing we have talked about.

MRS. WILCOX: Would the Board please define these initials AC, FPO and FW for me, please?

DON FASO: AC is agricultural. FPO is flood plain overlay and FW is floodway.

MRS. WILCOX: Yes. Well, I am certainly concerned about the future of the property on the west side of Ballantyne Road, because I believe we are leading up to a potential environmental disaster with the work that is already going on at the golf links, and I certainly would be concerned about their future plans, and we would not like to see more water backing upstream on Black Creek because of the activities going on in that area. And I would like to voice that opinion now so that in the future we have some understanding that the people that are developing those lands down there, that they are not to destroy our environment. Thank you.

DON FASO: Thank you, Bea (Wilcox).

GEORGE BARTNETT, 30 Cross Bow Drive

MR. BARTNETT: I have a concern about the acreage on the south side of Ballantyne Road that is part of that parcel. I think it is 32 acres that exists on the south side of the Ballantyne Road.

JOHN NOWICKI: The DiGennaro property?

MR. BARTNETT: The original proposal by the Odd Fellows was to buy that acreage only.

DON FASO: On the south side?

MR. BARTNETT: On the south side.

DON FASO: Well, the application is for the north side.

MR. TeHAAR: And the south also, isn't it? Doesn't it include both now, the north and the south side?

JOHN HELLABY: It is all one tax account number.

DON FASO: It is all one tax account number. You're right.

MR. TeHAAR: Yes.

MR. BARTNETT: The property -- there is acreage on the south side of Ballantyne Road.

DON FASO: You're right.

MR. BARTNETT: I would have great concern if this was going to be used for overflow parking eventually with cars parked over there and people walking across the street, and I think that that should be watched in the future very carefully.

DON FASO: Okay.

MR. BARTNETT: Thank you.

DON FASO: Anything like that would have to come back before the Planning Board for a revised site plan approval.

MR. BARTNETT: There was some concern by one of your members about the parking, and I -- that is a concern of mine, that --

DON FASO: Thank you, George.

GEORGE WHITNEY, 43 Red Bud Road

MR. WHITNEY: George Whitney, 43 Red Bud Road, past Commander of the Chili Post. I speak on behalf of the Commander and the Post. I'm sure that the community is going to find that this group that is taking purchase of the property will be an outstanding group of great value to the community and I think we will complement -- I know we will complement one another. We have already discussed several schemes of things that we're going to do together that will both help the community, help our own organizations. Our veterans will continue to do as they have done in the past at that Post home. We have got no plans of going any place else. Our ladies auxiliary will be there for many years to come.

So as far as VFW Post 412 goes, the only thing that is changed is the building will not belong to us, and Dario (Marchioni) won't be able to get his fish fries there any longer.

KAREN COX: But maybe spaghetti dinners every once in a while.

MR. TeHAAR: There you go.

DON FASO: I will admit that I'm familiar with the things that the Post does for the community, and I wasn't familiar with the Odd Fellows, but looking at your sheet here, it is really impressive.

MR. TeHAAR: Thank you.

DON FASO: Good luck to you.

MR. TeHAAR: Thank you.

GEORGE GOODWIN, 33 Laredo Drive

MR. GOODWIN: In the event that this purchase goes through, or even before that, are you giving a conditional permit to the Odd Fellows regardless whether they own the property or not?

DON FASO: It is subject to -- yes. I assume that the purchase offer, like any good purchase offer, would say contingent on all Town approvals. If I'm not mistaken, the conditional use permit must be up, and the application needed to be renewed anyway, so the application is being made by the Odd Fellows for renewal?

DANIEL KRESS: I advised the Odd Fellows, the gentleman that came in from the Odd

Fellows, that since the conditional use permit was shortly to expire anyways, this seemed like the opportune time to introduce themselves to the Board, get it renewed and have a clear understanding as to what would be happening here.

MR. GOODWIN: My point then is when does this permit actually take place, take effect? When they take the property over?

DON FASO: The approval for the renewal? They are making the application for the renewal. The renewal is on the property --

MR. GOODWIN: Based on purchase?

DON FASO: Yes.

MR. GOODWIN: If that purchase goes into litigation, like say for the next two years, what happens then?

RAY BLEIER: Nothing.

MR. GOODWIN: What happens to your conditional use?

KEITH O'TOOLE: Land use is about land; it is not about people. The permit stays.

DON FASO: So the renewal goes with the land.

MR. GOODWIN: But if the land is in limbo someplace?

DON FASO: No. The conditional use would still be with the Post.

MR. GOODWIN: With the Post?

DON FASO: Yes.

MR. GOODWIN: But not with the IOOF.

DON FASO: Yes. This is a lot different than a land use variance. A land use variance goes with that particular application. When that applicant ceases to use that property, the conditional use ceases to exist. This is a conditional use, which is entirely different than a land use.

LARRY DACHILLE, 447 Humphrey Road

MR. DACHILLE: Larry Dachille, 447 Humphrey Road, Scottsville, New York, 14646. I don't know how many gentlemen were there, but I tried to make a purchase offer. I have been working with the Knights of Columbus, Council Number 178, Rochester, New York. We were interested in buying it. I was shot down by Mr. Whitney.

DON FASO: Mr. Dachille, it has already been --

MR. DACHILLE: You can't hear?

DON FASO: I can hear you, but we're going down a different path. There -- the internal workings of the organization --

MR. DACHILLE: You're not concerned with the Knights of Columbus being shot down?

DON FASO: It is not relevant to this application.

MR. DACHILLE: You will be hearing from me, too.

DON FASO: One last call for questions.

We have before us an application for renewal of a conditional use permit.

Don Faso made a motion to declare the Board lead agency, found this to be a Type II action, because it is a renewal, and made a determination of no significant environmental impact, and the Board all voted yes on the motion.

The Board discussed the proposed conditions.

JOHN HELLABY: I don't know if I would make it a condition, but a strong suggestion at some time who ends up owning this thing, a resub to get it cleared up.

DON FASO: To combine all of the lots into one for tax account purposes.

RAY BLEIER: Make it a condition.

DON FASO: I don't think we can. We can't make it a condition of a renewal of a conditional use, a resub? If they want three lots, that is their prerogative.

KEITH O'TOOLE: I think so.

DON FASO: I will recommend it, after the fact.

Dan (Kress), this is already in a Drainage District?

DANIEL KRESS: Yes.

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

1. Granted for a period of two years.
2. Pending approval of the Fire Marshal.
3. Applicant shall install a stop sign at the end of the driveway.
4. Furnish the Town a copy of the purchase agreement.

Note: Planning Board recommends the applicant resubdivide all the parcels into one lot.

2. Application of Upstate Properties, c/o Frank Webster, Atty., 800 Crossroads Building, 2 State Street, Rochester, New York 14614, property owner: M/M Ronald Easton; for preliminary subdivision approval of two lots to be known as Upstate Properties Subdivision at properties located at 3379 & 3429 Chili Avenue in R.B. zone.

Frank Webster and Ron Easton were present to represent the application.

MR. WEBSTER: My name is Frank Webster and I'm here for the applicant, and I would be happy to answer any questions. I think everybody has a copy of the map for the proposed resubdivision.

DON FASO: Let me clean out the last application here.

MR. WEBSTER: If you would like me to put a copy of the plan on the board, I would be happy to do that.

DON FASO: Please.

MR. WEBSTER: I guess it is a pretty straightforward application. There is a parcel of land that is illustrated on the bulletin on Chili Avenue, Beaver Road. It is presently into two parcels, and we would like to divide it into a parcel such as that. The larger parcel to the left as you view it would be a parcel that the Eastons and/or Upstate Properties would be proposing to sell to a church, and the other parcel in the upper right-hand corner is the present residence of the Eastons, and that would be called Lot 1. And they would continue to reside there, and the balance of the parcel would be conveyed out to the church.

DON FASO: Can you explain the dotted line that is on Parcel 2?

MR. WEBSTER: The dotted line is where the parcel is presently broken up into two parcels, into two tax account numbers. I have the old map that might address that problem a little easier for you.

RAY BLEIER: Don (Faso), it is just a resub.

MR. WEBSTER: Just a resub. There is the Easton house, the house on the corner here (indicating).

DON FASO: So you're eliminating this (indicating), combining these two and creating that (indicating)?

MR. WEBSTER: Yes.

Frank Webster explained the plan to Dario Marchioni.

DARIO MARCHIONI: The purpose for this resubdivision is to sell it to a non-profit organization; is that right?

MR. WEBSTER: I believe they are a non-profit organization. The Assembly of God Church.

DARIO MARCHIONI: So it will be off the tax role basically?

MR. WEBSTER: I would think it would be.

DARIO MARCHIONI: But the Easton property would still be part of the --

MR. WEBSTER: The tax role, that's correct.

JOHN NOWICKI: Just for information purposes here, because I see a lot of neighbors in the audience, the property is presently zoned Restricted Business. I believe that is correct? The Overlay District with the PNOD, Planned Neighborhood Overlay District. In the master plan, I want it noted for the record, so the church is aware of the intended use of this parcel or what the master plan has indicated would like to see happening. This is on page 5-5, article 5-1. "The land use designations are basically consistent with the current zoning except for the large triangular-shaped area between Chili Avenue/Beaver Road and Chili-Scottsville Road. This area has been zoned Restricted Business for a number of years and has not been developed for the permitted and specially permitted uses in that district. Since the land to the east of this site has changed in use from community commercial to public (Town Hall/Town Library), the plan update recommends that this site be developed under the recently enacted Planned Neighborhood Overlay District regulations."

Now, if you go to the Planned Neighborhood Overlay District regulations, there is a purpose. And again, the Church should be made aware of this. They should be advised to take this into consideration. "The purpose of the Planned Neighborhood Overlay District is to provide flexible land use and design regulations that promote unified and orderly development of neighborhoods within the Town of Chili.

A prerequisite to rezoning land to PNOD is the preparation of an overall development plan that allows an orderly transition of land uses, both internally and externally, to the PNOD site. PNOD land uses shall consist of a mix of residential neighborhood commercial, restricted business and open space uses. The PNOD is an overlay zoning district with regulations that superimpose additional permitted and conditionally permitted uses upon the underlying zoning district in exchange for a pattern of development that integrates the existing neighborhood with the planned neighborhood. The PNOD allows flexibility in planning and development of parcels of land that are located within one of the nine study sub areas defined in the adopted Town of Chili Comprehensive Plan, thereby assuring capability with adjacent development and the creation of a planned neighborhood."

So I just want them aware of that.

MR. WEBSTER: What does it all mean?

JOHN NOWICKI: Yes. Well, when they come before the Board as far as their application is concerned, and you indicated in your letter, that they're supposedly coming in for some kind of a variance -- a variance for what I don't know, they should be aware of our master plan and our zoning concepts.

MR. WEBSTER: I guess I need a summary what they were. How do they relate to the Church?

JOHN NOWICKI: We'll have to wait to see what the Church brings in, because we do have an ordinance here that is very carefully written, and carefully designed for specific purposes.

MR. WEBSTER: That sounds reasonable to me.

JOHN NOWICKI: Okay. So just be aware of it. That is all.

JOHN HELLABY: Is the offer contingent with the --

MR. WEBSTER: The Church will be in here with regard to their requests is the way the purchase offer is written. It is a question of who does what first, shall we say, and I thought it would be better that you have the map in front of you, that you have the land at least outlined as to what they want to do clearly, because there is a change from the prior subdivision and let them come in here and maybe make their argument for a church. I'm not familiar with their argument for a church.

JOHN HELLABY: That is fine. Isn't there presently a home or a barn or something on that corner of Chili Avenue?

MR. WEBSTER: There is. We have agreed to remove that. One of the contingencies of the purchase offer is that this is removed.

JOHN HELLABY: Is that rental property?

MR. WEBSTER: One of the Eastons lives there. It is rental property.

JOHN HELLABY: Once the sale is finalized, it is up to Mr. Easton or the Church to remove it?

MR. WEBSTER: Mr. Easton will remove it.

JOHN HELLABY: That is part of the deal.

MR. WEBSTER: That could be -- yes. If you need it included that time -- I thought it would just --

JOHN HELLABY: Just curiosity. I wanted to know who had legal avenue to actually remove that.

MR. WEBSTER: We're doing most of it. They're doing some of it.

JOHN NOWICKI: I will run this by you. If the deal closes, they close on the transfer of title here, is there any way that we could get some kind of a time frame as to include a condition on this application to get that old building down within a reasonable period of time?

MR. WEBSTER: I don't understand it, because your application -- we are going to remove the building if the sale goes through. So sometime prior to the sale, I would predict a month ahead of the planned exchange of money and deed, that that would be removed to their satisfaction. And I assume to the Town's satisfaction with permit.

JOHN NOWICKI: Once you conclude your deal, if that could be stated that, in fact, within 30 days, 60 days, the building would come down.

MR. WEBSTER: It will come down prior to the closing. I don't know when the closing will be because it depends upon you and it depends upon them and their application. I thought I would do this now on behalf of the Eastons to get this problem out of the way. Then they would have just complete free sailing from there because they know what they're doing as far as the survey map goes and the land use and all. And I believe that everybody would have a better idea what they're doing when this is done first.

JOHN HELLABY: To expand a little bit, I think what John (Nowicki) is concerned about is if there isn't something in writing as when the Church decides to go forward with their project, what avenue do we have to make sure that house comes out of there and not end up being part of their project?

MR. WEBSTER: The only way I can answer it is they insist we remove that, okay, prior to the closing. So I can tell you I don't think they will amend that condition. They don't want it there.

JOHN HELLABY: Is that part --

MR. WEBSTER: It is part of the deal.

JOHN HELLABY: I mean --

MR. WEBSTER: It is a contingency. We'll remove the house just as soon as they have their approval from the Town, for instance.

JOHN HELLABY: Could you bring in a copy for the attorney, just to breeze over and say that is what is going to actually happen? Then I wouldn't have a problem with it whatsoever.

JOHN NOWICKI: You are saying they will try to come into the Board before you close the property?

MR. WEBSTER: Absolutely. They want to make sure they have their zoning and building permits in order before anything starts. Once they're in order and they are ready to go, then we will set January 1st for the closing date and we'll destroy that building before January 1st, to your satisfaction or whatever we have to do to do it.

JOHN HELLABY: It makes sense. Why buy a piece of property if they will get stuck with it.

MR. WEBSTER: It was negotiated pretty hard in the purchase offer. We didn't want to go to the expense of demolishing the building, but we have agreed to do that.

JOHN NOWICKI: Have they come before your department, Mr. Kress?

DANIEL KRESS: Representatives of the Church have been in touch with me on several occasions. It has been conveyed to me it is their intention to appear before the Board next month or October at the very latest. It is just a question what level detailed drawings they may have available. Obviously I have encouraged them to come before the Planning Board with more rather than less in interest of expediting the discussion. But it is their intention to be before the Board, which at that point I think these questions can be sorted.

JOHN NOWICKI: Will they come in with sketch plan first?

DANIEL KRESS: I encouraged them to come in with introductory discussion with a sketch plan.

JOHN NOWICKI: You will make them aware of the requirements of the sketch plan stage, for example, disclosure statements and such?

DANIEL KRESS: Already have done that.

JOHN NOWICKI: Okay. Thank you very much.

RAY BLEIER: Yes. You're aware the present zoning is Restricted Business?

MR. WEBSTER: Yes.

RAY BLEIER: And if we grant subdivision approval, that will carry over for this parcel that the Church is interested in.

MR. WEBSTER: Both parcels it should carry over to, I would think. Both parcels it should carry over to. Lot 1 and Lot 2 as proposed on the map.

RAY BLEIER: Under Restricted Business, I don't see anything that allows a church to be built, whether it is a permitted use or a conditional use, so that issue has got to be addressed before you come in with a site plan. You just can't come in with a site plan if you don't have the proper zoning for the intended use.

DANIEL KRESS: Mr. Chairman, if I may.

DON FASO: You may need a conditional use permit.

DANIEL KRESS: I have had exactly this discussion with representatives of the church and pointed out to them what the zoning says, what the zoning does not say. It is the Church's intention to come into the Board and have an introductory discussion at which no approval will be requested, at which time they want to raise that very question of it clearly is not listed explicitly or otherwise as a permitted use. Can a case be made it is sufficiently similar in character that the Planning Board would be willing to consider a conditional use approval? That is going to be the gist of the introductory discussion and exactly why I have encouraged them rather than coming with a preliminary plan, to have an introductory discussion first. So they're well aware of that.

RAY BLEIER: That is exactly the point I was making.

DARIO MARCHIONI: I have one question. Actually, we're doing just subdivision. Once you have it subdivided, can you sell to the Church or anybody you want?

MR. WEBSTER: Yes.

DARIO MARCHIONI: We're not stuck in anyway.

MR. WEBSTER: We're just redrawing a loan.

DARIO MARCHIONI: I just want to make that clear. Any discussions with the Church or anybody else using the property is just a discussion.

MR. WEBSTER: I don't represent the Church. Right.

KEITH O'TOOLE: Just to follow up on earlier comments, I have no need to see their purchase and sale contract. This is a straightforward resub. Nothing further.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

STANFORD JONES, 3372 Chili Avenue

MR. JONES: The building they're talking about destroying is the house near the intersection of Scottsville Chili Road?

DON FASO: Correct.

MR. JONES: That is right straight across from me.

MR. ALLEN: No. That is us. It they're talking further up the road, further west. We're -- Beaver and Chili.

CLARENCE ALLEN, 3373 Chili Avenue

DON FASO: Can you show us on the map where you live, versus where Stan (Jones) lives?

MR. WEBSTER: The Allens are in the upper right-hand corner.

DON FASO: And the other gentleman lives?

MR. ALLEN: Right across the street from us on the other side.

MR. JONES: I live across from Scottsville Chili Road.

DON FASO: But the barn they're talking about is on Beaver and Chili.

MR. JONES: Oh.

MR. WEBSTER: Here is where Mr. Easton lives (indicating). This is where Clarence and Barbara live here (indicating). You must live about here (indicating), don't you? Across the street from them?

MR. JONES: I live --

Mr. Webster explained the plan to Mr. Jones.

DON FASO: Did you get your questions answered, sir?

MR. JONES: Yes.

DON FASO: Anything else?

MR. JONES: No.

RIE RAGUE, 3390 Chili Avenue

DON FASO: Good to see you again.

MS. RAGUE: Hi. How many acres are we talking about in this parcel?

MR. WEBSTER: About 16 acres, the whole parcel.

MS. RAGUE: The largest part where the church would go?

DON FASO: 13.2.

MR. WEBSTER: 13.2.

MS. RAGUE: And when they come back for their -- the process, what they want to do there with the church, might there be other things that they have in mind besides a church?

MR. WEBSTER: I have no idea.

MS. RAGUE: Would they have any outreach things, housing or other kinds of things like that?

DON FASO: He already stated he is not the attorney for the Church. He is Mr. Easton's attorney.

MS. RAGUE: However, would all of that come out?

DON FASO: Yes.

MS. RAGUE: So we couldn't just okay a church going in and then the Church doing whatever they want to?

DON FASO: It is Mr. Easton's right to subdivide his property, which is exactly what the application is for, resub only. Once it is resubbed, he submits it to the Town and I sign it and then he files it. It is a two-lot subdivision.

MS. RAGUE: And then it will be up to those people to buy it, to take care of it?

DON FASO: Yes.

JOHN NOWICKI: Your point, though, on the PNOD District, they mean a minimum of 15 acres to go PNOD.

RAY BLEIER: It is RB.

JOHN NOWICKI: I realize it is Restricted Business, but with the overlay. You have it zoned Restricted Business with an overlay.

DON FASO: What Ray (Bleier) is saying, if the applicant requested PNOD, it doesn't meet the criteria for PNOD.

KAREN COX: But also I think your concern is if they came in front of us and we okayed a church, could they then build apartments later on?

MS. RAGUE: Or whatever.

KAREN COX: The answer to that is no. They would have to show what they want to do at that time and then if they decide later on to do something else, they would have to come back before the Board for that.

DON FASO: Rie (Rague), even if they said it was part of their ministry, it would still require Town approval for site plan or use.

MS. RAGUE: Okay. That is my question. Thank you.

DON FASO: I have been looking at County Comments. They're basically boiler plate with nothing else that jumps out. All standard comments about wetlands and monumentation, any work in

the wetlands may require a permit. The following agencies have not reviewed, E, and F. County Soil and Health and no response from G, which is State DOT.

KAREN COX: And D.O.T. did not participate.

Don Faso made a motion to declare the Board lead agency as far as SEQR, found this to be an unlisted action and made a determination of no significant environmental impact, and the Board all voted yes on the motion.

JOHN NOWICKI: Upstate Properties is who?

MR. WEBSTER: Mr. Easton and his family. It is a family partnership.

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

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

3. Application of Nina Ball, owner; 3200 Union Street, North Chili, New York 14514 for conditional use permit to allow a construction company with the outside storage of construction equipment at property located at 3497 & 3501 Union Street in G.I. zone.

Charles and Nina Ball were present to represent the application.

MS. BALL: He is my son. He will help if you have any questions.

DON FASO: Okay. Does somebody want to tell us exactly what you want to do?

MR. BALL: Whatever we have to do to get a conditional use permit.

DON FASO: When you say to allow for construction company, that is existing, correct?

MR. BALL: Yes.

DON FASO: And the outside storage of equipment, you have already got that?

MR. BALL: Yes.

DON FASO: Why does this read like a new application rather than a renewal? Am I missing something? It is already a construction business.

DANIEL KRESS: There was a conditional use permit previously granted. It actually expired some time ago.

DON FASO: So we're just treating it as a new application?

DANIEL KRESS: It is effectively a renewal.

DON FASO: Okay. The construction equipment is strictly used for the business?

MR. BALL: Yes.

DON FASO: You don't repair and sell or something?

MR. BALL: Maybe some sales, but just stuff that we might use and resell.

JOHN NOWICKI: Like what would you resell?

MR. BALL: Maybe something that we would use. You know, we sell it -- put it in the paper.

JOHN NOWICKI: Construction equipment?

JAMES MARTIN: Front-end loader or something?

MR. BALL: I mean whatever. If we use it, we need to sell it after we're done with it. That is all. Not to buy and sell, though, not that.

DON FASO: Are you going to be doing any exterior changes to the property, the building?

MR. BALL: Not really, no.

DON FASO: Any additional landscaping, any change in the fence, the road?

MR. BALL: No. We're not planning on anything, no.

DON FASO: So basically it is a continuation of what you're already doing?

MR. BALL: Exactly.

DON FASO: I guess I don't have any other questions.

DANIEL KRESS: What other businesses are going on there?

MR. BALL: There is Chili Automotive in there. It is a repair shop.

DON FASO: That is a separate entity?

MR. BALL: Yes. He repairs cars.

RAY BLEIER: No sales are going on there any more?

MR. BALL: No. The guy that was in there on the end with the car dealer, he is out of there.

Maybe I might have spoke out of turn. Maybe Chili Automotive might want to sell cars in front, but he is not really a car dealer. He basically fixes cars.

DON FASO: New York State registered repair shop?

MR. BALL: Exactly.

RAY BLEIER: In the past there was a problem with vehicles that were up for sale there, trucks and things, and, you know, there was some question as to the legality of it. I did go past the place recently and noticed quite an improvement. You have your board fence up, both gates were locked and --

MR. BALL: We have really tried.

RAY BLEIER: There was only a couple vehicles out front.

MR. BALL: Yes.

RAY BLEIER: It was much improved.

MR. BALL: We have been trying. We put a lot of effort into it.

JOHN HELLABY: Just a general statement that now that you got it there, keep it there.

MR. BALL: Yeah. Okay.

JOHN NOWICKI: We don't have any representation tonight from the Chili Conservation Board, so...

DON FASO: I don't know where Charlie (Robinson) is. He did not call.

JOHN NOWICKI: I have a statement here. The Conservation Board has some concerns regarding the application based on the past history involved with the property. Because the storage area is highly visible from the bridge passing over the property, the Conservation Board would request some assurance that property will not be used to store unused salvage equipment.

MR. BALL: Yes.

JOHN NOWICKI: So again, could you just describe -- you're not going through the gate to the right. That has been made impassable, so you have the new gate, the other gate going in. So in the back you will be parking dump trucks or rollers or graders? What type of equipment?

MR. BALL: We have kind of minimized our construction equipment to begin with.

JOHN NOWICKI: Road construction, or building construction, or what have you?

MR. BALL: Just real small, you know, just -- excavating.

JOHN NOWICKI: Backhoe?

MR. BALL: Yes. Maybe a dump truck or something. At one time we had a lot of stuff stored there. I don't foresee that coming around there like that.

JOHN NOWICKI: Will we have piles of aggregate and rubble laying around the property?

MR. BALL: No. I don't want to do that. I would like a couple small piles of stone, for stockpile, but nothing crazy. To have a pile delivered that you can use a little bit at a time.

DON FASO: Nine yards, twelve yards?

MR. BALL: Yes. Basically something to make it handy. You go to a small --

JOHN NOWICKI: You have done a good job over there. We would like to keep it that way. I don't know what you can do to protect the views, but keep up the plantings. They look good. I just want to make you aware what the Conservation Board said.

DON FASO: You have come a long way.

JAMES MARTIN: I have a question about the gate you actually shut down and made impassable according to the plan. You have made it impassable by putting a pile of dirt behind it?

MR. BALL: Yes.

JAMES MARTIN: Do you plan to remove the gate?

MR. BALL: We're leaving it open as an option. I mean to develop that land in back and do something at another time or something. That is what -- we're just leaving it open as an option right now. I mean I could take the gate down or whatever, I don't know.

JAMES MARTIN: You made it impassable.

MR. BALL: That is what we were required to do. We hated to dig the driveway out to begin with, but that is what we were required to do, so we dug the driveway out. You know, another day, hopefully we can do something different, come back before you again and do something with that back property.

JAMES MARTIN: Maybe some plantings or something like that to kind of -- you know, so -- it doesn't look real great. You did what you were supposed to do, but if there is some way you can shield that pile of dirt from the road where you made that impassable?

MR. BALL: Um, I don't know if it is really a pile. But --

JAMES MARTIN: Just think about it.

MR. BALL: Okay.

DON FASO: You summed yourself up perfect when you said before you do anything you will come back before the Board.

MR. BALL: We really can't, you know.

DARIO MARCHIONI: You have done a great step in improving the property.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

ROBERT WELCH, 55 Sunnyside Lane, North Chili

MR. WELCH: My son leases from these people, I believe, Mark. And he did have a banner in front saying Chili Automotive and so on, and somehow or another he can't do that any more. He is not allowed to put a sign out there as I understand it. It was on --

DON FASO: If it exceeds the Town code --

DANIEL KRESS: If I may, there were no permits for any signs anywhere on that property, so I told them to take it down until the owner has been in front of the Planning Board. If he wants to come in, once these folks have approval, and apply for permit to put a sign back up, he can do it. No one ever told him he can't have a sign.

MR. WELCH: He had the sign up and was forced to take it down.

DON FASO: It was not an approved sign. He needs approval to have it up.

MR. BALL: We had to get approved first and then he can get approved. That is the way it goes. We're getting our approval. Then he can get his approval for the sign.

MR. WELCH: So it is a business, but he can't let people know it is a business being done daily?

DON FASO: Not without a permit.

JOHN NOWICKI: He needs a permit.

MR. BALL: We're getting the permit hopefully. And then he goes through the process.

MR. WELCH: So you will apply for the permit and then he is going to apply?

DON FASO: He is applying for the use of the property. Once we approve the use, then your son can come in and apply for the sign.

MR. WELCH: Thank you.

DON FASO: I have not seen any County Comments. Dan (Kress), did I miss County Comments?

DANIEL KRESS: I did not receive any County Comments on this.

DON FASO: Okay. Thank you.

Don Faso made a motion to declare the Board lead agency as far as SEQR, found this to be an unlisted action and made a determination of no significant environmental impact, and the Board all voted yes on the motion.

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

1. Conditional Use is granted for a three-year period.
4. Application of Chili Fire Department, 3231 Chili Avenue, Rochester, New York 14624,

property owner: Burns Enterprises; for preliminary site plan approval for a change of use to convert building to an ambulance facility at property located at 3320 Chili Avenue in G.B. zone.

Robert Avery and Thomas McNamara was present to represent the application.

MR. ROBERT AVERY: With me tonight regarding the application are some gentlemen from the Chili Fire Department, the Ambulance Corps, as well as the property owners. I will have someone from the Fire Department come up after I give a brief overview of the minimal changes and so on and so forth regarding the proposal before you.

The project is located at 3320 Chili Avenue, the north side of Chili, approximately 500 feet west of Rose Road. Everyone will recall that this is the former site of the hydraulics business, the last business that was in there. Prior to that it was the Ray Sands Auto Glass facility before they moved across the street to their existing site.

It is a half-acre parcel. Currently it is a one-story metal clad building on it with a garage attached to the back, office space in the front. The Chili Ambulance is seeking approval to use this facility for their ambulance station, so to speak, with minimal changes. There will be some minor modifications inside the building such as painting, carpeting, no major exterior work planned at this time. The building is in very good shape. One item that is proposed, and this is common to also the area fire departments, is to place a 911 call box on the outside of the building that would be in case someone actually was having a heart attack and had to drive themselves to the ambulance station. That would be put on the front of the building, near the door. There are no proposed changes to the existing downcast lighting that is on the building, no additional lighting proposed or paving. It is currently all blacktopped in the back and the drive out to the front.

Signage is yet to be determined, but I believe it would simply be signage indicating it is Chili Ambulance on the building. Of course, that would be in compliance with the Town of Chili code so far as size and location.

There are a couple other items that we have looked at for safety considerations for use of this site out on Chili Avenue. If the Fire Department does receive approval for the use, they will request from NYSDOT some signage out on Chili Avenue specifically for eastbound and westbound, the yellow diamond ambulance symbol signs as you would have for a firehouse, but in this case for an ambulance station. Also there was consideration given to the few occasions when we have a train that might be stopped on the railroad tracks, specifically maybe when they're unloading the fuel tanks for the Suburban Propane, and we have traffic backed up this far (indicating), which does happen occasionally on Chili Avenue that we would also request from NYSDOT that they place a do-not-block-driveway sign on the westbound lane so that that doesn't cause a conflict in the rare occasions when it would occur at the same time as an ambulance call, back up with the train.

I'm going to talk just briefly about the use, and I'm going to bring up Thomas McNamara who can answer more specific questions regarding the workings of the local ambulance corporation.

DON FASO: Before you do that, let's clear away any of the site plan issues.

MR. ROBERT AVERY: Certainly.

DON FASO: I just want to make sure -- drainage was an issue when this building first went in. I assume there are no drainage problems and all of the drainage is flowing correctly? No recorded problems?

DANIEL KRESS: If there are problems, no one is telling us about it, and usually people feel pretty free to do that, so I would suspect --

DON FASO: I remember when this building was approved there were concerns from the neighbors about the backyard drain-off.

DANIEL KRESS: I have heard nothing from the neighbors.

DON FASO: That was --

MR. ROBERT AVERY: There is a pipe there -- .

DON FASO: That was a condition of approval.

MR. ROBERT AVERY: It was installed and has been working.

DON FASO: I just wanted to make sure it has alleviated the problem.

JOHN NOWICKI: I guess what I would like to know, is the ambulance going to be going along the side of the building to the rear?

MR. ROBERT AVERY: Yes. I was going to get into that.

JOHN NOWICKI: I would like to know what the width of an ambulance is. It is pretty tight on that side.

MR. ROBERT AVERY: We have 12 feet. We actually have about 11 foot of pavement there. It is sufficient for the ambulance -- they have even brought the ambulance over to the site and done the maneuvering to determine if there is a problem.

JOHN NOWICKI: How about in the winter months?

MR. ROBERT AVERY: It wasn't winter when they did it.

JOHN NOWICKI: How about the winter?

DON FASO: Was it winter when they did it?

MR. ROBERT AVERY: I think that is sufficient room for the vehicle. The gentlemen can speak on the width of the vehicle and the turning capabilities of that.

JOHN NOWICKI: I would like to know about that.

MR. ROBERT AVERY: So far as the ambulance itself, obviously the main overhead door is across the 18-foot frontage of the building that is set back in. That is the main overhead door on the right side, on the east side. That would be where the ambulance would be facing inside the garage. This is the way it would exit on a call.

JOHN NOWICKI: So it could back into the garage, couldn't it?

MR. ROBERT AVERY: Could back in from the front. Very well could. In fact, getting to that, John (Nowicki), a little bit about that space in the front. There is a staff of no more than three people, to my understanding, during the day shift for the ambulance. At nighttime there is no one there. The volunteers drive there when there is a call and take the ambulance out. They would be parking in the rear. The front area would be open, and there is plenty of maneuverability to back in the ambulance from the front. If they were to come in the back, obviously there is a tight turn. You couldn't turn the vehicle directly into the rear door which is right there as you turn the corner. You would have to turn west and back up in a northeasterly direction and pull it in. But they will have plenty of room to back it in from the front pavement. Because that area will be kept open, not only for that reason, but also they want to keep it clear for people that would have to come in for a drive-in, you know, a 911 call box use. So the three cars that would be there during the normal day hours would be parked in the back slots.

JOHN NOWICKI: Could you explain or do you want -- maybe someone from the Fire Department could explain what the rest of the building on the inside would be used for.

MR. ROBERT AVERY: I would rather they speak to that. Tom (McNamara).

DON FASO: Why don't we take care of the site plan.

JAMES MARTIN: Do you know what the sight distance is to the tracks from the exit from this building?

MR. ROBERT AVERY: The sight distance to the west?

JAMES MARTIN: West Shore railroad tracks.

MR. ROBERT AVERY: The exact distance?

JAMES MARTIN: I guess the distance to the tracks, I should say.

MR. ROBERT AVERY: I believe it is in excess of 800 feet. 6 to 800 feet.

JAMES MARTIN: I just have a concern. You know, sometimes there is a slow moving train that goes across the tracks. Most go fast, but there are slow-moving trains that go across there, and with the traffic on Chili Avenue it has a tendency to back up and I have seen it almost all of the way back to that building. I was just trying to ascertain whether there is enough road distance there between the tracks and where the ambulance will exit the site to be sure that there is no blockage.

MR. ROBERT AVERY: That is why we'll make the request to the State D.O.T. for that signage.

JAMES MARTIN: My concern is, that is great to have signs, but the average typical motorist, they ignore stoplights, traffic lights. They will ignore these signs, and that is my concern.

MR. ROBERT AVERY: I know, but I believe the actual width of the pavement on Chili Avenue there is in such a way if we did have a conflict, that rare occasion where we had a call, we had the train backed up, dumping off a propane tanker at Suburban Propane, the pavement is wide enough there. It is only one lane either direction. We have a very wide strip in the middle, in the median that is at least a full lane, so if the ambulance had to come out and there was a vehicle there, I would believe there would be maneuverability for that car to get himself out of the way and up into the median because we do have plenty of pavement there.

JOHN NOWICKI: Just for the record, along with his point, because I live on Chili Avenue, and I know going through that this past year the trains have gotten longer, and there are more trains going through there. So the concern was -- I'm sure these gentlemen are aware of it, too, that to get ambulance vehicles or emergency vehicles around that, I am sure they must hopefully have a plan in effect. It is not getting any better. It is getting worse. And the buildup of cars is extending out much longer than I have ever seen before.

DON FASO: I talked to Scott Miller. You will not abandon Company 3. There will still be a rig at Company 3?

MR. McNAMARA: The ambulance is stationed in North Chili, Company 2. So the trains are always a problem in Chili with the ambulance, and we're only moving 3/10ths of a mile down the road, so it is no different than the situation we face today.

DON FASO: Your start point is really no different if there is a train sitting there.

MR. McNAMARA: That is right. We're 40 seconds further down the road from where we are closer to the train, so we still have the alternate routes to try to get around the trains, and there are ways around them. And depending on what the situation is, it is the same as what we do on the expressway. If it is a situation, we may start an ambulance from North Chili and one from Chili Center, just so we get access in situations like that.

MR. ROBERT AVERY: As Tom (McNamara) mentioned, there would only be one ambulance vehicle at this station. The other one is in North Chili.

DON FASO: Have you tried turning the rig around inside?

MR. McNAMARA: We have pulled it in from behind and in front and it does fit.

DON FASO: Have you pulled it in forward from Chili Avenue and tried to turn it around inside to face out?

MR. McNAMARA: Um, I believe we have, yes. But I think we came in from the back and turned it.

DON FASO: Drove out --

MR. McNAMARA: The garage area itself is two bays wide, or wide enough for a double width there, but, of course, you don't have the access. But it is a wide enough bay in there. The plan is only, though, to have one ambulance, and to leave room where you could actually come in, back into the front of the building, in the parking area, swing and make the turn in the back there. That is a two-point turn versus in the back it is probably a three or four-point turn to get in.

DON FASO: I'm familiar with the building. I think Ray Sands has fixed a couple of my windshields in that old building and I had the opportunity to tour it with Dave about a month and a half ago.

MR. McNAMARA: Thomas McNamara, member of Chili Fire Department. I live at 22 Pleasant View Drive in North Chili and am also the Co-chairman of our Building Committee working on this project.

JOHN NOWICKI: Is this the same corporation that is -- it is the Fire Department or is this a separate corporation?

MR. McNAMARA: The same corporation. There is going to be absolutely no change as far as the structure of the Fire Department. It is just the location of the ambulance, in effect creating a new house for the ambulance.

JOHN NOWICKI: That leads me to the next question. Why are you moving from the existing site to this site?

MR. McNAMARA: Our primary reason for moving is lack of space. The Fire Department has changed and evolved over the years. Back 15 years ago, the ambulance was run by firemen. We have

had changes in the structure and now the ambulance company is a company of both firefighters, but two-thirds of that company are medics only. So our membership has actually grown. We have run out of space in the main office. We have got six or five -- five ambulance officers. Our two directors are working out of an 8-by-12 office. Our storage for all our materials, spare bandages, that has to be in a separate building. So we're just plain out of room in our existing place and we have been working on a project to try to figure out a way to gain more space whether it was on the 3231 Chili Avenue area, but this opportunity came along. The building was a perfect fit for us. It was a move-in type situation with the garage. The office space is going to be adequate for our needs and it has plenty of storage space for our needs as well.

JOHN NOWICKI: That leads me to the next question. What modifications will you be making to the inside of the building? Will the entire building be used for EMTs and vehicles?

MR. McNAMARA: Yes. The office building will be used for -- like a ready room for our medics when they're not on call, standing by there. The garage bays will be used for the ambulance and the other portions of the building will be used for storage as well.

JOHN NOWICKI: So I assume you have a lease agreement with Mr. Burns?

MR. McNAMARA: We have a purchase agreement.

JOHN NOWICKI: Will you buy the building?

MR. McNAMARA: Yes.

JOHN NOWICKI: So then you will own the building outright?

MR. McNAMARA: Yes.

JOHN NOWICKI: Can you tell me or are you going to have sirens on top of this building?

MR. McNAMARA: No.

JOHN NOWICKI: So where does the warning devices for the volunteers -- will that remain at the main building?

MR. McNAMARA: Each one of the volunteers have -- as you can tell, most of the volunteers walk around with the pagers. We have digital pagers which will give us a print readout of this as well as a voice pager to alert us to the calls. We do not need a siren for that building.

JOHN NOWICKI: So now the ambulance, you get an activated call. You respond to that. The ambulance leaving the site, what type of activity noisewise are we going to hear from that vehicle leaving the site?

MR. McNAMARA: Typically -- it is going to depend on the time of day. At 3 o'clock in the afternoon when it is heavy traffic and we have a priority one call, which is a serious life-threatening injury, we will use the lights and siren to gain access to Chili Avenue. At 3 o'clock in the morning, we'll come out of there without any lights and siren and only use them when we get to an intersection where we actually need them. Fire departments have changed and ambulances have changed over the years, too. We do not run lights and siren on every call. It is only on Priority 1 and Priority 2 calls which are immediate life-threatening type calls, heart attacks, serious injuries, serious automobile accidents. For illnesses, sprains, broken arms, broken legs, we do not respond lights and siren.

JOHN NOWICKI: One of my last questions for now will be are you seeing, because of the development taking place in Chili, and we're all aware of that happening, obviously an increased need for services that you provide? Are you supplemented by private ambulance service also, or do you cooperate with them, because I see them around town also?

MR. McNAMARA: The Chili Ambulance runs a basic life-support ambulance which means we can provide the basic transport. As a basic ambulance, we're not allowed to do advanced techniques like starting IVs or giving drugs like that. Paramedic service is provided by other agencies. Typically, Gates Ambulance Medic 40 during the days or Monroe Ambulance evenings or for second or third calls.

JOHN NOWICKI: Will you use the facility for training?

MR. McNAMARA: Yes.

JOHN NOWICKI: From other departments or just within the Chili Fire Department?

MR. McNAMARA: It will depend on the size of a training class. If we have to have like a community CPR class, we could probably accommodate it at that point. If we're doing a large, let's say 35-member class, then we're probably going to use the facilities at the 3231 area. It is going to depend.

A lot of the training for the members, we have training classes several times a month, and these could be small groups, 10 to 15 people, that will be conducted on the site there.

JOHN NOWICKI: Thank you. You have been very helpful.

DON FASO: And the Explorer Post will meet there?

MR. McNAMARA: They could. Like any of the firehouses, they're available for meetings. With all of the activities we go on, there is a great competition for any meeting space we can get or any rooms, so all the departments and all of the companies meet at other firehouses or facilities, so we could have a Building Committee there. We could have an Open House Committee meet there. Whatever the needs are and whatever the available property is there. So we could have meetings of committees within the Fire Department at any building, including this one.

DON FASO: What are the hours that that building would be staffed?

MR. McNAMARA: 6 a.m. to 6 p.m. We have assigned day crews. Then we have sign-up crews generally Monday through Friday, 6 p.m. to 10 p.m. So we are -- we don't -- I can't guarantee 100 percent time 6 p.m. to 10 p.m. Monday through Friday, but we're probably 85 to 95 percent of it, so 6 a.m. to 10 p.m. would be the general operations out of that building.

DON FASO: You mentioned you would have three people there. Two on the rig and one dispatch?

MR. McNAMARA: No. We could have up to three people there.

DON FASO: Up to three. You don't normally staff three?

MR. McNAMARA: No. The typical crew would be two during the daytime. However, we have trainees, observers, people needing to get run time in may join the crew as a third person. So we could have up to three people. But you need a minimum of two.

DON FASO: These are paid professionals?

MR. McNAMARA: Paid professionals as well as volunteers. So you could have a volunteer riding on the day crew.

RAY BLEIER: What is the average number of calls per week you have?

MR. McNAMARA: We average -- I can't say per week, but we're in excess of 1700 calls per year. This is the track that we're on now. We were 1768 last year and that number goes up, so three to four a day. The days we don't have three to four, we have seven, eight, ten.

DON FASO: You mentioned calls. One, two, and three. One and two are lights and siren. What are the ratio of one and two versus non-life-threatening?

MR. McNAMARA: I would have to guess on that. I don't have the exact statistic, but it is probably 30 percent that are Priority 1 and 2 calls where you need lights and siren.

JOHN NOWICKI: Is Mr. Burns going to get a tax break on this?

(Laughter.)

JAMES MARTIN: As far as meetings and other activities on that facility, I counted like 16 exterior parking spaces around the building, so obviously, you know, you would be limited to the number of people that could participate in any meeting there, based on the availability of off-street parking.

MR. McNAMARA: That is why I said, depending on the size of the class, if we have 30 people, that facility doesn't have the room, even though it may physically have the space.

DARIO MARCHIONI: Will you have any kitchen facilities in this building?

MR. McNAMARA: Eventually we would want to put some sort of a small microwave, refrigerator type thing in there.

DARIO MARCHIONI: Will you air-condition the building?

MR. McNAMARA: It is air-conditioned.

DARIO MARCHIONI: So it will be off the tax role, right?

MR. ROBERT AVERY: Yes.

DON FASO: Did the Building Committee look into expanding on site?

MR. McNAMARA: Yes. And all the alternatives -- as a matter of fact, we were about ready to start negotiating with architects to get prices and that, and any prices that we had were way in excess of what we would be able to do with this facility, so...

The other thing is the physical layout of the main firehouse there. Although we have property, we

don't have as much frontage, and we do not want to put an emergency vehicle in the back of the property and try and drive through the property on an emergency basis with a lot of pedestrian traffic and what have you. We were limited as to where we could place it.

DON FASO: How is dispatch going to work? Will you still dispatch from Company 1?

MR. McNAMARA: Yes. No change in that.

JOHN NOWICKI: Did you get an opportunity to talk to the neighbors next-door, the folks to the right? Did you get a chance to talk to them about how they feel about having an ambulance there?

MR. McNAMARA: The group home, no, but they are a customer of ours.

KAREN COX: Response time will be quicker.

MR. McNAMARA: Yes.

DAVE SAUR: I would stay neutral on the subject.

(Laughter.)

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

GEORGE BARTNETT, 30 Cross Bow Drive

MR. BARTNETT: I urge approval of this application.

DON FASO: Thank you.

JERRY BRIXNER, 14 Hartom Road

MR. BRIXNER: I think it would be a good addition to our general Chili Center.

DON FASO: Thank you.

Don Faso declared the Board lead agency as far as SEQR, found this to be an unlisted action and made a determination of no significant environmental impact, and the Board all voted yes on the motion.

JOHN NOWICKI: Do you do your own maintenance, the people in the Ambulance Corps? How do you do the maintenance on the building?

MR. McNAMARA: The building. It depends what it is. HVAC you will need professionals.

JOHN NOWICKI: Cutting the grass and flowers and shrubs?

MR. McNAMARA: The mopping, cleaning, yes, we will have our own members doing that.

JOHN NOWICKI: The members do that themselves? They don't have a company come in and cut the grass?

MR. McNAMARA: Depends on location. Company 1, where we have a large area, we have people come in. Company 2 they have a lawn mower and cut the grass.

JOHN NOWICKI: You're responsible for maintaining it?

DON FASO: I can verify by driving by on Union Street, the volunteers take good care of it.

RAY BLEIER: The only thing I would like to see is that condition that they do not back vehicles off Chili Avenue onto the property. You know, like fire trucks.

DON FASO: You mean like pull in forward, instead of stopping on Chili --

JOHN NOWICKI: To back in. That is what you're probably going to have to do, is to pull in and back into the building.

DON FASO: You will do your K-turn on your property?

MR. McNAMARA: We'll make a K turn.

DARIO MARCHIONI: Within the property.

MR. McNAMARA: Right. Off the road.

JOHN NOWICKI: But you won't hold up traffic on Chili Avenue?

MR. McNAMARA: We do not do that on any of our facilities.

DON FASO: Does that need to be a condition?

RAY BLEIER: I just wanted to make sure that they don't.

DARIO MARCHIONI: As far as noise, you have the back-up --

MR. McNAMARA: We can silence the back-up alarm.

DARIO MARCHIONI: There are still neighbors there, so you have to be sensitive to that.

MR. McNAMARA: We have the ability to silence back-up alarms.

DON FASO: At 3 o'clock in the morning when you're done with a run and you pull in --

MR. McNAMARA: That is right.

DON FASO: -- you do your K-turn and get back in the --

MR. DAVID BURNS: That is if you can hear over the horns on top of the trains going by.

DON FASO: You can sleep through the train, but the back-up alarm will wake you up.

(Laughter.)

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

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

5. Application of Westside Properties, 495 Stoney Point Road, Spencerport, New York 14559 property owners: Westside Properties & Towne Plaza, LLC; for preliminary subdivision approval of two lots into three lots to be known as Westside Properties Subdivision at properties located at 3161 Union Street and 4390 Buffalo Road in G.B. zone.

FOR DISCUSSION:

1. Westside Properties - proposed use and addition to building at 3161 Union Street in G.B. zone.

Robert Avery and David Perry were present to represent the application.

MR. ROBERT AVERY: I would just like to talk on the subdivision first, if I might. Is that possible? This proposed subdivision from two lots into three involves remaining North Chili Plaza parcel, Lot R2B1 of the Towne Plaza Resubdivision currently at 6.7 acres, and that contains the main plaza buildings. It does not include the drugstore. It does not include the bank any more, because this was subdivided off, and also it pertains to the parcel to the north of it which is Lot 3 of the original Towne Plaza Subdivision, currently 2 1/2 acres which includes the office building at Number 3161 and the two masonry buildings, one of which contains a car wash located behind it. That particular parcel, the Lot 3 existing is outlined here in the reddish pink color. I outlined this so you can follow this a little better.

The proposal is to add a portion of the main plaza parcel fronting 75 feet on Union Street from the corner of the post office parcel, 75 feet down Union Street and then go back to this existing angle point right here (indicating). To be purchased from Towne Plaza, LLC, Mr. Fallone, by Westside Properties.

Also, to strike a division line severing off the office building at Number 3161 from the back piece with this green line here (indicating). Are you following the division?

That would leave us with the office parcel which we're calling Lot 3 of the Towne Plaza, Westside Property Subdivision containing a little over 1 acre.

Lot 2, which would now have the frontage on Union Street at 75 feet, containing the two buildings in the rear, which would be 1.8 acres. The main plaza parcel would then be 6.4 acres. Regarding the subdivision, plans will be to severe the existing blacktop that runs between the office parcel and the back car wash parcel, so there will not be a way to drive through that once that parcel has been subdivided. I might also add that the office building parcel is currently up on the market for sale by Westside Properties.

MR. PERRY: David Perry. I represent Westside Properties. That would only be done if the parcel is sold.

KAREN COX: How about the asphalt on the green portion?

MR. ROBERT AVERY: I'm getting to that. We currently have cross access easements from all of the subdivisions done in the past. There was one granted to the post office many years ago, Liber

8762 of Deeds, page 219, which covers the main roadway coming in so that the traveling public can get to the post office. It has been on record for years. When we did the subdivision, when the plaza went to Towne Plaza, LLC, Westside Properties retained an access easement, basically 50 feet wide, running all down through to the south of their original Lot 3.

When Mr. Fallone conveys this green parcel to Westside Properties, he will then reserve an access easement covering the entire piece here for ingress and egress so that he is covered. In other words, the traveling public using the plaza, so everybody should be covered with easements. There are a lot of easements on this property.

DON FASO: One of the things I'm going to suggest on the approval process is that all of that be supplied to our legal counsel.

MR. ROBERT AVERY: Correct. I have all that information and I can get it to him tomorrow if need be.

DON FASO: I had a hard time following this when I first opened up the map.

MR. ROBERT AVERY: This property has been divided a number of times.

DON FASO: It took some time to look at this and figure out what we were doing with this.

MR. ROBERT AVERY: Yes. This has been the fourth division, I believe, since my original Towne Plaza three-lot subdivision.

JOHN NOWICKI: I have a whole slew of stuff. As long as you're talking about the green area and all of the easements in there, what exists to get somebody or some people or group of people to pave that place? It is a disaster. The asphalt going in there by the post office, the back of the plaza and going to the car wash, there are holes bigger than you can drive your car through.

MR. ROBERT AVERY: That pavement would be currently on the Towne Plaza, LLC property, that roadway.

MR. PERRY: We did patch it.

JOHN NOWICKI: According to the map here, it will be on the green area.

MR. ROBERT AVERY: It will be. Currently it is under the ownership of Towne Plaza, LLC.

JOHN NOWICKI: Who will be responsible for paving it?

MR. PERRY: Once we buy it, we're responsible for taking it, getting it done.

DON FASO: Doing some property maintenance?

MR. PERRY: Fallone is responsible for paying half the bills.

JOHN NOWICKI: You have an agreement with him to pay half of the maintenance costs?

MR. PERRY: Yes.

JOHN NOWICKI: I would like to see that. Can we get an agreement?

KEITH O'TOOLE: I don't frankly see the need. If they're going to apply to use the site for a John Deere dealership, just tell them to pave it and be done with it and let them sort it out.

JOHN NOWICKI: I have more questions than that. That is my problem. I'm very, very concerned about this whole area. If you drive through there, and what has been going on over there, it looks like it is the City of Baghdad. I mean there are mounds of dirt that have been pushed around and curbing that has been set up, new curbing, but yet it is old because they have green stuff growing all over there. You go back to the building that is there and it looks like a car went through the wall there by the Dollar Place. In the back of the building, if you had the Code Enforcement Officer go over there, he will be writing tickets for two weeks because of no dumpster enclosures and garbage all over the place. This is a dump. I will say it right out. It is a dump. I'm concerned what we're doing and who is responsible about it. If Mr. Fallone is here tonight, I will tell him the same thing.

MR. ROBERT AVERY: Mr. Fallone owns the property you're talking about.

MR. PERRY: We don't intend -- anything we have will not be like that. If you look at the properties that Westside Properties owned, you will find they're well-painted, well-maintained and mowed and taken care of.

JOHN NOWICKI: Are you the John Deere dealership in the plaza?

MR. PERRY: Yes.

JOHN NOWICKI: That is a dump. The whole back of the plaza with the dumpsters and equipment laying all over the place.

MR. PERRY: Equipment laying where?

JOHN NOWICKI: Skids, pallets.

MR. PERRY: None of our stuff is laying out there.

JOHN NOWICKI: I don't know who it belongs to.

MR. PERRY: We're a tenant of the plaza. Don't hold it against me what the plaza does, me as a tenant. That is one of the reasons why we want to be part of our own building.

DON FASO: That is part --

MR. PERRY: We want --

JOHN NOWICKI: You know, I have two maps here. I'm looking at two situations here, and I'm not getting too excited about proposing anything here or doing anything here until I find out how we will clean up the site.

MR. PERRY: What we're proposing has nothing to do with their site, but as to what we're doing with our site.

JOHN NOWICKI: Well, if there are agreements here that you guys have worked out between you, I would sure like to find out how we can guarantee from the Town standpoint it gets cleaned up.

MR. PERRY: I can't speak for anybody other than ourselves at Westside Properties and what we intend to do with our piece of property. I can't --

DON FASO: Can I ask a legal question for clarification here? The way I read this, is it a joint application between Westside Properties, which is you, and Towne Plaza LLC, which is Fallon?

MR. ROBERT AVERY: Towne Plaza, LLC has to sign as property owner for the portion -- where we're resubbing their lot, so they have to sign the application, correct? We're changing their lot.

DON FASO: Who is Towne Plaza?

MR. ROBERT AVERY: Towne Plaza, LLC is a limited liability corporation.

DON FASO: Principals are.

MR. ROBERT AVERY: They are not the applicant. I can assume it is Mr. Robert Fallon and whoever else is involved in that corporation.

DON FASO: I'm still confused. This reads, it is the application of Westside Properties, but the property owners are Westside Properties and Towne Plaza, LLC.

MR. ROBERT AVERY: That is correct.

DON FASO: That sounds like a joint venture of ownership.

MR. ROBERT AVERY: You have to list all of the property's owners of the subject properties you're requesting to subdivide. We have two property owners here, Towne Plaza LLC and Westside Properties, Inc.

DON FASO: I'm trying to get an answer for --

JOHN NOWICKI: I know what you're looking for.

KEITH O'TOOLE: Maybe I'm confused, but I think I understand what is going on here. Bob (Avery) listed all of the property owners involved and all of the descriptions of land, but when all said and done, the plaza will have sold the whole of the parking lot over to this gentleman and they will be out of the picture. He will own that land and be responsible for that land and if you impose conditions of approval on his site, then Mr. Kress can walk up to him and issue him the ticket if necessary. So Towne Plaza will be done. At least as far as this one pad site is concerned.

MR. ROBERT AVERY: Their land lot is affected by this proposed subdivision and will become smaller.

JOHN NOWICKI: They will still want access to the back of the building.

MR. ROBERT AVERY: That will be correct. That will be covered in the deed of conveyance from the Towne Plaza, LLC to Westside Properties, Inc., because it will cover the entire area itself.

JOHN NOWICKI: That is where I want some protection.

KEITH O'TOOLE: I'm not too concerned about this one. For their purposes, what they're doing is creating a lot that has access to the public highway. I mean, with actual land as opposed to easements. As far as Towne Plaza is concerned, I'm sure they're referring some easement rights for ingress and egress so the post office, for example, has access to the public highway and everything else.

MR. ROBERT AVERY: That easement has been in place since the post office opened.

KEITH O'TOOLE: We have been down this road before. In fact, when the post office was approved some years ago, we looked at easements and the fact they're in place, so I'm very

comfortable with this from a legal point of view, and I'm really not at all concerned how they work it out amongst themselves to pay for it.

JOHN NOWICKI: That part sounds good. But if I was a resident over there, and I'm looking at the back of that building and I'm seeing some proposed new construction here, granted the applicant here tonight is Westside Property. Maybe they will do a good job. I don't know yet. I don't know what they're proposing to put in the proposed building.

MR. ROBERT AVERY: We have some material. Can we hand that out now?

JOHN NOWICKI: Maybe you should go on for a while, because I have a lot of concerns here.

MR. ROBERT AVERY: We intend to come into the September meeting with site plan on the use of the -- we'll call it the new flag lot, the old car wash.

JOHN NOWICKI: You will not propose that tonight, right?

MR. ROBERT AVERY: Well, I was last on the agenda for that, but the Chairman was good enough to move me up, okay?

DON FASO: There is no point in, you know, not discussing it now.

MR. ROBERT AVERY: Actually, this will be adjusted somewhat, of course, before we submit for our deadline, which is this Friday, but these are working site plans for what we'll be coming in for next month.

DARIO MARCHIONI: We already have a copy.

MR. ROBERT AVERY: It has been adjusted a little bit with some changes.

MS. BORGUS: Mr. Chairman, could the public have access to some of these things, too? This is supposed to be a public hearing.

RAY BLEIER: Subdivision is public, not the informal for the proposed addition for the building.

MR. ROBERT AVERY: I will be glad to put one --

DON FASO: Do you have one?

MR. ROBERT AVERY: Yes.

MR. PERRY: I have it, too.

DON FASO: Just for clarification, Dorothy (Borgus), the application is for resub, but one of the lots that is under consideration for resub is essentially being considered for --

MS. BORGUS: I understand that, but that also -- then that informal discussion is still part of the public hearing in one way or another and the public should have access to that information.

MR. ROBERT AVERY: I put it up here, Dorothy (Borgus). This would be the eventual Lot 2, the flag lot so to speak, currently containing the car wash facility on the south and I believe there is an automobile repair facility to the -- in the north building, these two buildings right here (indicating). And at next month's meeting we'll be coming in with a site plan for Mr. Perry's proposal to move his John Deere dealership, which is currently in the plaza, over to this site, and he plans a connection building to connect the two buildings for his showroom and also for his repair part of the business. We have proposed some parking in the front at this time. Access would be through the existing road that runs alongside of the post office and in the back there would be an area for employees to park and the service area, the delivery truck, the large truck you have to deliver the mowers and so on and so forth.

JOHN NOWICKI: Car wash is gone?

MR. ROBERT AVERY: Car wash would be gone. There is a rendering in there in your packet that I believe shows a current photograph, and then -- I don't know if we have any extras for the public on that.

JOHN NOWICKI: Do you know of any proposals or thoughts to have a car wash out in the front of the plaza?

MR. ROBERT AVERY: Once again, I have no idea what --

JOHN NOWICKI: Just asking.

MR. ROBERT AVERY: -- what Mr. Fallone --

JOHN NOWICKI: Okay.

MR. ROBERT AVERY: Just to give you an idea, because it is kind of hard to talk about subdivision and then not talk about what one of the reasons was for doing it.

Of course, I mentioned early on, though, that the office building, of course, is currently listed, so that I believe the applicant, you know, regardless of this particular item here with the John Deere, that

we continue with the subdivision portion anyways, regardless.

JOHN NOWICKI: The John Deere dealership in the plaza buildings, I assume that is on a lease basis? Is the lease over with?

MR. PERRY: Yes.

JOHN NOWICKI: So you own this property and you want to move everything over in the back. Could you just quickly describe, is this going to be a metal building, or is it going to be a combination metal, masonry?

MR. PERRY: We haven't got that far. We have a few price estimates and we believe it will be probably a masonry of some sort or maybe a wood frame. The front will be just a showroom and parts area.

JOHN NOWICKI: Filling in the doors where the car wash is, masonry block.

MR. PERRY: Most of them. One will probably be.

DON FASO: Service bays?

MR. ROBERT AVERY: The two on the west end are left open on the south end on one of the renderings. That would be accessible for a service bay.

DON FASO: The auto repair?

MR. PERRY: Those people still have a lease option this fall. Whether they exercise it

or not --

DON FASO: The lease is up in the fall?

MR. PERRY: They have a one-year option. They could stay another year. We do setups of our new machinery. We would want it all in one spot. We do it in barns, but we would want it all over there.

KAREN COX: All of the equipment you have out in the parking area now will be inside the building?

MR. PERRY: There is not much out in the parking area. Just what we put on the sidewalk, which we would still put some out on display in the front, the front grassy areas. Right now we don't have a lawn to put them in.

JOHN NOWICKI: There was quite a bit of equipment out in the back.

MR. PERRY: That is all service work.

DON FASO: Is that going to be moved inside?

MR. PERRY: On the new plan, we'll move the service --

MR. ROBERT AVERY: Service area will be in the U.

MR. PERRY: In the center, in between, and the service bay entrances will actually be in the center. It will be one bay.

JOHN NOWICKI: So he will have room back there to put in a dumpster enclosure?

MR. PERRY: I can't speak for them.

MR. ROBERT AVERY: We have shown a dumpster enclosure on ours and the detailed sheet shows the board-on-board fence around it. On our detailed sheet, if you want to look at the second sheet -- I mean, we'll be getting into this, of course, in depth with the Board fully next month, but you will notice that we did propose a sign, signage for the dealership out in the front. It shows up on the site plan. There is a detail of it on the detail sheet, John Deere sign. That would be up on the south side of the driveway that goes into the plaza and the post office. And, of course, our plans are undergoing right now, and we'll be coming in next month.

JOHN NOWICKI: When would you hope to start construction and get it done, paving done and everything done, this year?

MR. PERRY: If we get our approvals in September, we hope to have it up by the end of the year.

JOHN HELLABY: There's a bump-out on the right, Phase 2 storage.

MR. ROBERT AVERY: Yes. I wanted to talk on that a little bit. On the north side. The building is proposed to be phased, my understanding.

MR. PERRY: Depending on what the car repair tenants do.

MR. ROBERT AVERY: It is based on the car --

DON FASO: If he exercises the option.

MR. PERRY: If he exercises, we have to wait until he leaves. Because that building will basically block that area off to the street, so they wouldn't have access. The idea is that all of our stuff would be in, hidden.

DON FASO: If he doesn't exercise the option?

MR. PERRY: We'll probably build this part of the building this fall, right away.

MR. ROBERT AVERY: The 2,000 square feet on the north end.

JOHN HELLABY: For parts storage?

MR. PERRY: No. Mostly we'll move more of the equipment there. The tractors come in crates 6 by 6. They will be all hidden behind the buildings. There are trees that you can see on the site plan -- there are large Evergreen trees.

DON FASO: You will do more landscaping?

MR. PERRY: On the front.

DON FASO: Those are site plan issues.

MR. PERRY: But there are a lot of nice trees planted 15 years ago that will hide this from the neighbors.

MR. ROBERT AVERY: There are some nice Coniferous. We don't plan on doing anything with them except planting some more. We'll plant some more in the area that we're taking the blacktop out, that you can currently drive through from the office, so that area will be more plantings, the large Coniferous.

JOHN NOWICKI: If they hold to their plans and do what they say they will do, we might be okay on that side. I'm still concerned about the new property line on the south.

MR. ROBERT AVERY: I wish I had some answers regarding the other property owner, but I don't.

JOHN NOWICKI: We'll get a shot at him.

DARIO MARCHIONI: Just looking at this, I assume that you're going to purchase this land from the plaza owners, right?

MR. ROBERT AVERY: Yes.

DARIO MARCHIONI: So he will get some money out of this?

MR. ROBERT AVERY: I would assume.

DARIO MARCHIONI: So they're a party to this application with a vested interest, so if we put a condition in that they use some of that money to clean up behind the plaza, would that be appropriate? They're actually a party to this?

DON FASO: We have a myriad of options related to the actual subdivision approval that we can exercise. It is a normal subdivision approval. We do have the latitude of putting reasonable conditions on it which we can get into when we do that.

DARIO MARCHIONI: We could follow up on John (Nowicki)'s comments, which I think he has a very reasonable situation.

DON FASO: We'll also have another shot under site plan approval.

DARIO MARCHIONI: I'm talking about the plaza owners, basically. His site plan will be basically for the new John Deere place.

JOHN NOWICKI: Legal Counsel and Mr. Kress, because of the condition of the plaza, why can't we call them in here and ask him to explain what he is going to do to this project because it in such a disarray? Do we have a right or option to call him back in here to say, "What are you doing?" He is obviously in violation of several things here. That building is a hazard, the way that building is right now, with holes in the wall and everything else, for young people or anybody getting in trouble over there.

DON FASO: Holes in the wall?

JOHN NOWICKI: Where the concrete walkway is right here, that one-story masonry building, right there in the corner there is a hole that looks like a car was drove through.

DON FASO: That building is under construction.

MR. PERRY: It was all covered up, but in the last couple weeks the kids knocked whatever was there off. I see today there is a piece of plywood on there.

DON FASO: I thought they were doing interior structure wall work. Is that not true?

MR. PERRY: That is what was left of the Eckerd's.

JOHN NOWICKI: Graffiti all over the place.

MR. PERRY: They're waiting to rent it, I assume. That is why he is fixing up the front. The front has new curbing. 20 trees this week.

JOHN NOWICKI: This week?

MR. PERRY: They did them last Thursday and Friday. They did all of the things for the light poles. The lines are run for new electric.

DON FASO: I still can't figure out the traffic flow pattern in there. It makes no sense to me.

MR. PERRY: There is stuff progressing, and I can't speak for him, but I have watched it over --

JOHN NOWICKI: It was certainly stalled for a while.

MR. PERRY: That is what happened last week. Quite a bit happened last week.

DAVE SAUR: I don't have the plans in front of me, but will there be access in the back of the building for emergency?

MR. ROBERT AVERY: Correct.

DAVE SAUR: I know there was a stand pipe connection one time there down by the bar. Out back there was a stand pipe connection.

MR. ROBERT AVERY: I believe there still is.

MR. PERRY: That's on the plaza portion?

DAVE SAUR: I just wondered if we could still go through there in the back?

MR. ROBERT AVERY: Yes. There is a water main that runs down through. There is a water main easement there to the Monroe County Water Authority. There is a -- that stand pipe is still there.

DON FASO: Good point. I can't recall fire hydrants back there.

MR. PERRY: Fire hydrant is right at the road.

DON FASO: Any in the back of the property?

MR. PERRY: No.

MR. ROBERT AVERY: There is one at the end of the pavement, isn't there? We can get into that at site plan.

MR. PERRY: There is the one that he was talking about on the back -- when they put the sprinkler system in the bar, they put one off that.

JOHN NOWICKI: Drainage okay?

MR. ROBERT AVERY: Drainage District?

JOHN NOWICKI: Not only the district --

MR. ROBERT AVERY: We're in the district.

JOHN NOWICKI: Drainage pattern?

MR. ROBERT AVERY: Drainage pattern is fine for this. We propose to go right into the pond that is there.

DON FASO: The pond that we heard was in disrepair --

MR. ROBERT AVERY: That is the pond on the Town property.

DON FASO: Mr. Carr has been on vacation. I have not been able to talk to him about that.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: I guess I'm a little unclear about this green triangle. Who will own that?

MR. ROBERT AVERY: That will be conveyed from Mr. Fallone over to Westside Properties. Currently this is Lot 3 (indicating), the Towne Plaza Subdivision, owned by the Perrys.

They're purchasing this piece right here (indicating), from Fallone, to be added onto what they own, and then we will split off the office building parcel, so it will be two lots that the Perrys would own.

MS. BORGUS: How is this physical appearance of this triangle going to change from what it is now?

MR. ROBERT AVERY: None. Other than improvements to the road itself.

MR. PERRY: And the sign.

MR. ROBERT AVERY: And signage. Proposed signage here with landscaping around it on the

south side of the drive.

MS. BORGUS: So access to this back parcel would be through the existing road?

MR. ROBERT AVERY: Yes.

MS. BORGUS: It will not affect the post office?

MR. ROBERT AVERY: No.

MR. PERRY: All of the access will be the same as it is now. The bank goes out through there. The post office goes out through there. The plaza goes out through there.

MS. BORGUS: It looks to me like that line is very close to the back of those stores, in the plaza. Is that going to give them room for deliveries?

MR. ROBERT AVERY: This is the existing line here (indicating) from here down to here (indicating).

MS. BORGUS: So that doesn't change?

MR. ROBERT AVERY: No.

DON FASO: Dorothy (Borgus), apparently there are cross-access easements in place.

MS. BORGUS: Anything that is done back there has got to be an improvement from what is there now. It is a mess. I agree with Mr. Nowicki 100 percent. Is it a disaster, and I know that the gentleman who owns the Glue Factory hasn't been happy for some time because of what he looks at. He has that beautiful place and you look out his front windows and that is what you see. It is horrible. And I don't blame him for not liking it. This would be much better.

I know this is not part of the application, but just to kind of piggy-back on some of the discussion already the Board has had, I did talk to Mr. Kress at least two weeks ago about the mess over to the plaza. I would think some action might have been taken by now. Maybe he could fill us in.

DON FASO: On what?

MS. BORGUS: On the plaza itself, the dirt, the weeds, the mess over there. And I haven't seen much -- there has been little action. I think they have taken the junk dirt they have in the parking lot and filled in these islands and this horrible traffic flow pattern they have and stuck some trees in there.

DON FASO: Hopefully it will turn out nice, but --

MS. BORGUS: I don't know. It sure doesn't look it. It was bad before. They spent money. It looks worse.

DON FASO: It is a slow work-in-progress.

MS. BORGUS: It looks worse. When Dr. Fallone bought the property, I was pleased because I thought we would see an improvement. We did for a while, and now it is a nightmare.

DON FASO: It started out good, and --

MS. BORGUS: It petered right out until it is worse than what we had before. Thank you.

DON FASO: We agree.

GAIL LYLE, 736 Paul Road

MS. LYLE: If Dr. Fallone has this plaza now and it is such a mess, how is he going to develop the property at 3173 Chili Avenue for rezoning the area there from Restricted Business to your neighborhood?

DON FASO: We'll have to wait until we get there.

MS. LYLE: How can this person do it?

DON FASO: I can't answer that question.

MS. LYLE: Keep it in mind, if he has a mess there, what is he going to do there?

DON FASO: Point well taken.

Don Faso made a motion to declare the Board lead agency, found this to be an unlisted action, and made a determination of no significant environmental impact, and the Board all voted yes on the motion.

JOHN NOWICKI: I just want to make sure legal counsel advises us on the joint thing between Towne Plaza and Westside. If we waive this, we can go to final -- is this more or less lot line changes here? They still have to come back in for site plan review and everything else?

KEITH O'TOOLE: That's correct.

DON FASO: Keith (O'Toole), you looked at all of the cross-access easements when all of this was created?

KEITH O'TOOLE: Years ago, yes.

DON FASO: So nothing has changed with the cross-access easements?

MR. ROBERT AVERY: No. The last thing we had to do out here is when we were here with the division off of the bank parcel, and at that point we had to get into a drainage easements.

KEITH O'TOOLE: A number of them.

MR. ROBERT AVERY: I worked closely with Keith O'Toole on that.

DON FASO: Larry (Nissen), you're satisfied with the drainage easements?

LARRY NISSEN: It is my understanding that all of the easements are in place that the Town has requested.

DON FASO: And the cross-access easements are all in place, so you're satisfied?

KEITH O'TOOLE: That's correct. Besides, if there wasn't an easement for the post office, the post office would make one.

DON FASO: Is this the old joke about the four-way stop?

(Laughter.)

DON FASO: So we don't need approval from the engineer. We don't need approval from the attorney, so we're left with approval of the subdivision. Mr. Perry, can we get that lot cleaned up --

MR. PERRY: Which cleaned up?

DON FASO: The appearance of the overall property that is under your control.

MR. PERRY: Oh, yeah. Well, I believe that is clean. If you drive over there, you will find there is no mess there.

DON FASO: Well, the parking lot, the back -- the John Deere stuff in the back.

JOHN NOWICKI: The current situation in the back of the existing plaza building is a mess.

MR. PERRY: I understand that. That is not ours.

JOHN NOWICKI: You're John Deere. Don't you have stuff laying all over?

MR. PERRY: My store is 35 foot wide.

JOHN NOWICKI: I'm talking about the back of the plaza.

MR. PERRY: I only have 35 foot wide.

JOHN NOWICKI: But you have stuff back there.

DON FASO: What he is saying is it is not all his.

JOHN NOWICKI: But you're part of it. That is what I am saying. Until you get into this new building, you're still part of that. I will have to address this with Mr. Fallone, or have our Zoning Enforcement Officer go over there.

MR. PERRY: Certainly, have him come over and I will go over, but I think you will find there is nothing over there that is mine.

JOHN NOWICKI: The whole back of the plaza, as far as I'm concerned, is against every ordinance and code in the Town.

MR. PERRY: The only thing I have out there that sits there are three tractors parked out there. That is it.

DON FASO: Well, our concern is this, it looks like the back of a plaza, but it is visible from a public highway.

MR. PERRY: When I get a building right there, it will be my front yard, so I want to get it cleaned up, too. But I understand where you're coming from. It is out of my control.

JOHN NOWICKI: We have to start someplace. You just happen to catch the first shot.

MR. PERRY: I will have the guys out there sweep my back step.

MR. ROBERT AVERY: I think if Dan (Kress) wanted to go over at any time and meet with Dave over there, he would be glad to meet with him.

JOHN NOWICKI: I'm just setting the record here.

MR. PERRY: I understand. I know where you're coming from.

JOHN NOWICKI: Everybody is concerned about it and everybody in the Town knows it is a mess.

DON FASO: It is just highly visible.

JOHN NOWICKI: It is very, very visible.

DON FASO: One of the entrance ways into the Town from communities to the north. You drive on Union Street, and it is so highly visible.

JOHN NOWICKI: You have a lot of investment in the area with Roberts Wesleyan College. You have got the Mayflower Village. You have -- what is the other one there? The apartments. Jitters, all of the good businesses over there, One Step.

MR. PERRY: Contract Equipment.

JOHN NOWICKI: There you go. Let's clean it up.

DON FASO: Nice Chili business.

DARIO MARCHIONI: And the colors of those buildings, too, the post office, everything is different colors there. If you could start blending it a little bit, architecturally.

DON FASO: I still sit here with no conditions. Waive final and grant preliminary?

The Board agreed that they would grant final.

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

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

6. Application of Dr. Robert Fallone, 3173 Chili Avenue, Rochester, New York 14624, property owner: Thomas Buttarazzi; for rezoning of approximately 36 acres from R.B. (Restricted Business) to PNOD (Planned Neighborhood Overlay District) at property located at 741 Paul Road.

Don Carpenter was present to represent the application.

MR. CARPENTER: Good evening. My name is Don Carpenter. I'm with DDS Engineers who are here representing the applicant, Chili Meadows, LLC, which is actually -- pardon me, Fallone Enterprises, LLC, project we're calling Chili Meadows. We're here tonight to ask the Board to recommend to the Town Board that the property be rezoned to a PNOD district. I have got a sketch plan that shows a mix-use development which we are targeting for some retail uses adjacent to the existing retail plaza with the Chili Paul Wegmans and then transitioning to office uses as we go to the south and then transitioning to apartment complex further to the south and to the west. The apartments will be a senior community, 35 percent of which will be ADA compliant. As far as the office and the retail uses, we don't have any specific tenants. They will all be conditionally permitted or outright permitted uses in the Neighborhood Business and the Restricted Business Underlying zoning. The property is 36.101 acres. It does have a 6.75 acre federal wetland we had delineated back in April. It is an area in the center of the map that is shown as a darker green. We are proposing a maximum of a half a foot -- a half of an acre intrusion into the wetland, and obviously our plans are by no means final. If I can get that down to a tenth of an acre or less that would be ideal, but as maximum target the half acre would be the maximum.

As I said, there is a 6.75-acre wetland leaving us with just under 30 acres developable. The square footage we're showing on the plan is 30,000 retail, 30,000 office and the balance in apartment complex, total of which is 5.88 acres, which is 16.3 percent of the entire area. It is 152 units proposed total, which is well under the 18 units per acre maximum for the PNOD. We tried to show traffic patterns as we think they will probably end up. As I stated, we did do the wetland delineation and full topo on the project. I have done some preliminary grading, and I'm confident that the layout as shown can work roughly. There may be some adjustments here and there. It will be sewer. There will be public water. We'll have a pump station that will be required at the frontage in order to tie into the existing sewer across the street. We are proposing both the entrances directly across from Grenell and Stal Mar Circle as well as an access through the existing Wegmans plaza for which we're in the process of negotiating with Wegmans.

I think at this point I would be happy to answer any questions from the Board.

DON FASO: How are you going to mitigate crossing the wetlands with the road?

MR. CARPENTER: It will be either an arched span or it will be included in that half an acre.

DON FASO: Well, where I am going with that is, that is an identical situation to this parcel right here (indicating), and to mitigate crossing the wetlands with our access road, we had to enhance the wetland downstream.

MR. CARPENTER: Right.

DON FASO: Where do you plan on enhancing the wetland area?

MR. CARPENTER: Either on site --

DON FASO: Where in that is where I am going with that?

MR. CARPENTER: There are a number of areas, especially on the western portion of the property, on the parcel that we're now showing apartment units on that, you know, would be possible to pick up.

DON FASO: What is the aggregate coverage on that, do you know? Have you figured that out? The aggregate coverage for the footprints of the apartments?

MR. CARPENTER: All of the buildings are 16.3 percent. The apartments are 5,000 square feet for each building.

DON FASO: I know this is a rezoning concept and it is not a subdivision or site plan, but that site is just so crammed right now, it doesn't do anything for me, Don (Carpenter). It doesn't do anything for me at all. It is maxed out. It is not impressive. It is a prime piece of land, in the heart of town. I have serious reservations, to be honest.

MR. CARPENTER: Well, what we're trying to do is keep the residential nature of each building, and so the apartments as we're showing them are all single-story, so they would look -- even though they're a four-unit apartment building, they would look much like a ranch house, and, you know, the proposed retail structures are -- again, even the office buildings are single-story. There is obviously going to be more sprawling than if we proposed two-story.

JOHN NOWICKI: Have you had the opportunity to read through the Planned Neighborhood Overlay District ordinance as it exists?

MR. CARPENTER: Yes.

JOHN NOWICKI: There is a lot of flexibility in there for the Town and the developer to be very creative. I think this is the first application for a Planned Neighborhood Overlay District in the Town of Chili. At least in my opinion, the Board and the Town should be very careful in advancing the design concepts here, because you're totally correct. One of the things that we discussed in the past, just so you're aware of it, is on the Planned Neighborhood Overlay District, the architectural treatment of all of the buildings becomes quite critical, and the Board -- I'm not sure we would all agree with it, but I know we discussed it in the past, we would want architectural review on it. That would mean the Planning Board would go out and hire an architect of our choosing and send you the bill. So -- because that is how critical this piece is.

Not that we're, you know -- it would be exciting to work it, and to see if you could make it work right, but again, just to go back -- this applicant has a little homework to do over in North Chili, so we'll be watching that very carefully, and again, it is -- could be exciting. Now, the question -- a Jay -- is Jay Sokolski still involved?

MR. CARPENTER: I'm unsure at this point.

DON FASO: Because I know we had met with him before, and he was originally in on this application. But Don (Carpenter) has some good points and I'm sure the other Board members will make points on it, but that PNOD district is critical, and it can be done right with the right person and the right people doing it, but it will take some work.

MR. CARPENTER: As far as the architectural treatments, I had envisioned, you know, we would transition from the M & T Bank building that is right up directly adjacent to -- this is not a typical M & T Bank. It doesn't look like a commercial structure. It has sloped peaked roofs.

JOHN NOWICKI: Guess who did that?

MR. CARPENTER: I had kind of envisioned that all our proposed buildings would mimic that and -- as I said, the apartment buildings themselves would look much like a ranch house in that -- so by the time you get to the south end of the property, you will not notice a vast difference between, you

know, the architecture of the apartments and the houses that are further down the road and even directly across the street.

JOHN NOWICKI: You mentioned Mr. Fallone, the last time he was here on the retail buildings, all four sides will be architecturally treated. The signage is a whole brand new ball game. Landscaping will be extensive. So it is going to be unique. If you can accomplish it, good for all of us, because it could be an asset. I assume that these are not subsidized housing for seniors?

MR. CARPENTER: No.

JOHN NOWICKI: Because we certainly lost enough tax property tonight on a couple applications.

KAREN COX: My question is: Is there really the market for this type of unit any more? We had a similar type of thing, senior apartments proposed over in the development between Attridge Road and Union Street, and then that didn't come to pass very well. You know, it seems like the market might be getting saturated. I hear from a lot of seniors that they need affordable housing, not luxury housing.

MR. CARPENTER: We haven't as yet done any market research. From what I understand, it is, you know, a growing trend. I mean there are more and more people retiring, taking early retirements. There are more and more seniors that are, you know, acquiring assets that are a little bit higher than historically they have been.

And so the market for this type of housing appears to be on the rise.

KAREN COX: I guess I would like to see --

MR. CARPENTER: But we have not done any market research at this point.

KAREN COX: That would be something I would like to see. I hear just talking to people on the street and I'm not an expert, but I hear the exact opposite, that seniors are really tired of the luxury apartments with all of the frills added that they don't really need. They just want somewhere to live that they can afford and the maintenance is taken care. The clubhouse, you know, a lot of them don't need it or use it. So, you know --

JOHN NOWICKI: There are some projects around the County, Monroe County, that -- the one gentleman that was here before us has been involved in, and again, we want to wait to see what the structure -- the age limit. We did that one over in -- what is the one with Roberts Wesleyan we did, College Greene, that was structured -- that has been a very handsome project. Again, how they structure it legally and how they finance this stuff, if these units will be rentals or maybe some will be for sale, who knows? But you can be very creative.

And as far as the need goes, I think there -- the ones I have seen around like over on Buffalo Road, Seabury by the Episcopal Church. Seabury Woods. Very nice project, very successful. Again, the College Greene is successful.

KAREN COX: Exactly. If they're structured for that need, that is fine, but if it is -- you know, if we're going to hear again next time luxury apartments, you know, we have enough of those.

JOHN NOWICKI: I think if they came back and gave you the addresses of the projects around the County, the Board members should visit them and take a look at them.

KAREN COX: I agree. And those sold out quickly. But is this going to be similar to that? Or are they going to be aiming at the upper level of seniors, you know?

JOHN NOWICKI: Well, you know, being a senior citizen, and I'm probably the oldest one here -- maybe Ray (Bleier) and I might be -- but the concept of what you see here could be quite interesting for seniors as far as being close to a Wegmans, a pharmacy, doctors' offices, all kinds of things that would help people get more comfortable in their senior years. Because home ownership becomes a lot of hard work for a lot of seniors and they can't keep up with it. So you have to figure on the housing market, some type of senior housing that is going to take that -- you know, provide some good housing.

KAREN COX: If that is the intent.

JOHN NOWICKI: If that is the intent.

RAY BLEIER: Next question. This is a recommendation for rezoning through the Town Board, okay?

JOHN NOWICKI: What we have not gotten into yet is the new provisions of the state law

regarding comprehensive plans and rezoning. Comprehensive Plan has been approved, so therefore, if it is not consistent with the Master Plan, or the Comprehensive Plan, we have to revise the Master Plan before we can consider the rezoning.

RAY BLEIER: One of my basic concerns is we're losing a lot of RB zoned areas. We already tonight okayed a little subdivision that we know is not going to be used for purposes intended for RB zoning, and I can see that here, too. To me, when I look at this here plan, I'm just seeing multiple residences, period. You know, retail stores, I don't know if they will ever come to be, number one.

Secondly, also, this talk about maybe a certain percentage for senior housing, well, I don't think that -- how you going to hold them to that? You can't.

MR. CARPENTER: Let me make myself clear. This is all targeted to senior housing. Only a maximum of 35 percent will be ADA compliant so we comply with the PNOD zone.

DON FASO: I think Ray (Bleier)'s concern is similar to mine. Chili is going to grow. Maybe not in the next five years, maybe in 25 years, it is going to grow. It is inevitable. To serve the residents of this community, we are going to need commercial development. Neighborhood stores. We're chewing up our commercial space with residential which means that we're going to end up with commercial areas all throughout the town, which I don't believe is a concept the Master Plan really envisioned when we studied it. This is our Chili Center. The commercial center of our Town.

MR. CARPENTER: Right. This particular piece of property, believe it or not, I have done probably 15 to 20 concept plans that you guys have never, ever seen. Among them we showed a lot of big block -- big box stores, Wal-Mart, Target, Lowe's, and none of those have ever worked because of the simple fact that in order to do that development here, we would have to completely fill in the wetlands which is just not feasible. So the frontage of this property is really all that you can ever hope to develop with high intensity use like commercial. That is one of the reasons why I think this property is perfect for the PNOD, because we can use that -- what would be a detriment in a normally developed commercial development, the wetlands would prohibit development, but here we can use it as a buffer. It would actually make use of it in an open space. It is not all pond, not all marsh and wet. It just happens to have a lot of, you know, plants and wildlife and hydric soils. You know, there is a wet swale that sporadically, seasonally becomes slightly larger.

JOHN NOWICKI: Again, Don (Carpenter) when you look at this plan, you get that thing of overcrowding, but again, if you go back to the drawing boards and start to think about maybe clustering a little bit and some open space and some growth space for people, with little parks here and there, little parks so they can walk to them -- again, you have to be very creative with this thing. I think the transition is probably a good one. If that residential part is treated differently.

DON FASO: John (Nowicki), I saw a parcel of land that a client of mine developed, came in off a main road, park-like setting off the main drag, nice wide highway, to a rotary. He built a rotary, a traffic circle, private one and each one of the hubs led to a different area, commercial over here, multi-family here, single-family over here, mixed use over here. It was gorgeous. And the build-out was a year and a half, outside of Syracuse.

JOHN NOWICKI: You can do some wonderful stuff with this. I'm waiting for the first developer in this area to come in with a gated community like you have down in the south. You don't see it, but it will happen somewhere down the line. A gated community will sell out like hot cakes, especially for the seniors.

DON FASO: Getting back to Traffic & Safety, they did give me a letter. "The Traffic & Safety Committee reviewed the plans for Chili Meadows. Our committee is concerned about having only one roadway into the residential area of the complex. If a problem occurs at the bridge area, the crossing of the wetlands, the residents would be trapped. We would hope the developer would consider some other alternative. If you have any other questions, please feel free to call me." And Mr. Trott is here.

Where do you stand with Wegmans and having an access into the property?

MR. CARPENTER: I know that they have contacted Wegmans. I don't know at what point. I know that the subject has been breached.

DON FASO: You're not aware of any --

MR. CARPENTER: No. I don't know at what stage they are.

DON FASO: I can't --

MR. CARPENTER: Two crossings of the wetland, I guess -- you know, it is actually -- it is almost prohibitive. I'm not saying it is out of the question. It is worth examining. It would definitely have to be two bridge structures rather than maybe one box culvert. At this point, I'm not convinced we couldn't do a large box culvert, but if we're talking about two, there is more filling that is going to occur in the wetland. We would almost have to go to arch.

JOHN NOWICKI: Don't they come into play for the mitigated wetland sites around Chili? We have wetland basin.

MR. CARPENTER: I know.

JOHN NOWICKI: I'm just saying.

MR. CARPENTER: You can buy gold bullion, too.

JOHN NOWICKI: I'm just bringing it up.

MR. CARPENTER: That is another possibility.

DON FASO: John (Nowicki), it is still the first one in the state.

JOHN NOWICKI: It didn't go any farther.

DON FASO: It is still the first one in the state.

MR. CARPENTER: We may be the first people to actually buy into one.

DARIO MARCHIONI: You have the 100 foot between the wetland and the construction of these properties?

MR. CARPENTER: That is a federal wetland, not a state, so there is no buffer on the federal. No buffer on the federal because the guidelines for identifying the wetland are more stringent, so there is almost more of a natural buffer between the hard and fast habitat and the wetlands.

DARIO MARCHIONI: This is on -- this is only 6.75 acres.

DON FASO: We probably beat the rezoning part of this to death.

DANIEL KRESS: Not insofar as the rezoning is concerned. There is obviously another -- if this was for a number of site issues to be worked out, it might be helpful or interesting to know, especially in light of the Traffic Committee's comment. Any discussions have been had with State D.O.T. to this point about access onto Paul Road?

MR. CARPENTER: Not as yet, no.

DANIEL KRESS: Whether they will be okay with two or one or --

MR. CARPENTER: Not yet.

JOHN NOWICKI: Can I read a statement out of the Master Plan?

DON FASO: Go ahead.

JOHN NOWICKI: It is all in sub area 3, Chili Center. "The plan update recommends rezoning an area located near Archer Road and Paul Road, bordered on the east by Archer Road, Paul Road on the north, the west shore branch on the south and continuing west to the General Business zone at Chili Avenue/Paul Road/Coldwater Road". This -- in sub area 3, Chili the sent-- oops, here it is connected. "This area is recommended to be developed as a Planned Neighborhood Overlay District so as to buffer adjacent single-family neighborhoods and to complement the more intense commercial uses as occurring in the Wegmans Plaza."

So it is stated in the Master Plan.

MR. CARPENTER: I'm glad you had that. I was fumbling around looking for that. I didn't have that with me.

DON FASO: Well, that doesn't answer the question about updating the Master Plan before we consider rezoning. So that is all taken care of.

JOHN NOWICKI: The concept is there.

DON FASO: Did you get a copy of the County Comments?

MR. CARPENTER: No. Have been out of my office all day.

DON FASO: This is the first chance I have had to look at them, so bear with me a second.

KAREN COX: Just environmental.

DON FASO: Yes.

MR. CARPENTER: There is the paragraph about repairian stream runoff. Let me see if I can guess any more.
(Laughter.)

DON FASO: It will all be public sewerred, correct?

MR. CARPENTER: Yes, it is.

DON FASO: They have a concern about chemical runoff, automotive trash debris, fertilizer, I believe.

KAREN COX: That is a big consideration if that area by the apartments is going to be taken care of by a service, you know.

DON FASO: Something you need to address in site plan approval.

MR. CARPENTER: They're worried about herbicides.

DON FASO: Runoff, contaminant, salt, pesticides.

MR. CARPENTER: So addressing buffering the swales?

DON FASO: Just when you come back for site plan.

LARRY NISSEN: This would fall into the Phase 2 storm water regs, the same thing we just went through with Black Creek. Other than that, on the rezoning issue, I have no comments.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

GAIL LYLE, 736 Paul Road

MS. LYLE: I have a statement, but I also have a question first. You said in April you got the delineation. What name did you use because I talked to Eric Smith, Army Corps of Engineers, this morning and he said there was no approval given.

MR. CARPENTER: No. There hasn't been an application filed yet. In other words, all we have done so far is just to delineate the wetland using Environmental Resources, and I don't -- they wouldn't have filed anything with the Corps as of yet until we have an application to file. In other words, when we know exactly how much we're going to be intruding into the wetland, then we'll file an application.

MS. LYLE: There are 13 acres of wetland over there. I have been there, walked it, know it, I have lived there for 43 years. It is a big concern. Then I have a statement, please, I would like to make. I can do it from here or up there, whichever.

DON FASO: Whatever you're most comfortable doing.

MS. LYLE: There has been a lot of talk tonight about drainage, traffic, water. Before Wegmans come in, Chili was making up a Master Plan. The property we're talking about was originally Residential when we purchased our home. When the Town decided to rezone it, they wanted to rezone it from Chili Avenue, straight down to Archer Road, across Archer Road and up Ballantyne. There was a big outcry from the residents. The Town told us it was to be a buffer zone between the commercial property and the residential property.

There is a natural tree line right behind Wegmans and that is a buffer. I don't know why they rezoned it, but they did. About 175 people signed a petition against it. The Town then compromised, and they cut the area in half, so from about 730 Paul Road to Wegmans is Restricted Business. From 730 Paul Road up to Archer Road is supposed to be Residential. There is talk now that there is going to be a development put up there similar to Blueberry Hill which is going to cause more problems with the traffic, which is unbearable right now. We can hardly get out of our driveway. You talk about drainage. When Wegmans went in, the Town put culverts along Grenell Drive and hooked up all those culverts and brought the water to Paul Road. They curved the highway down. Instead of the rain coming down or the water coming down Paul Road and to the drainage that was provided, it comes down the curve and crosses over, so this side of Paul Road (indicating) is getting all of the water. When it rains really hard, the ditch is 4 feet deep. If a young child was to fall in there, they would have a heck of a time getting out.

My home has been flooded because of access water. The water comes from Paul Road, from Grenell Drive, from Westmar and it all comes to go under the street and go into Black Creek. Mr. Carr has been down. He has seen the situation. He said the Black Creek needs to be cleaned out. This was during the first ice storm. We're still waiting. We were 800 miles away. We had to drive home from our vacation and come back to a complete disaster in our home because of excess water. Now you're talking about rezoning this property again. The Town promised us when they rezoned it the first time,

and there were other people in this room that were there when the Town said we will never rezone this again on you, and it will stay Restricted Business, and now we see we're being rezoned again.

I have to check my notes because there are a couple things I asked him (indicating). Um, because we had so much problem with the water, Joe Carr came down. We talked and we had three of our trees taken out. They put in a huge drainage pipe across our backyard. So now you have us surrounded all of the way on four sides with drain pipes. The one pipe that is between our house and the Jones' house was supposed to have been capped at the front so the water would be forced straight onto Paul Road and then down into the creek. That never got done. Once you got the T around us, they didn't cap that pipe. So now when it rains, we have water everywhere.

DON FASO: I'm not following you with the capping of pipe?

MS. LYLE: There is a storm drain in the front. When the builder built the Stal Mar Circle, they could not get permission to bring the storm drain straight across. They came from the back property and then they came up the side of our house with an easement on the Jones' property for the storm sewer. Then that goes across the front of our house, and down the side to the creek. When that backs up, we're the last house. It backs up into our home.

DON FASO: Larry (Nissen), are you --

LARRY NISSEN: Not familiar with it.

DON FASO: No, neither am I.

MS. LYLE: Well, we have made trips to Mr. Carr's office to try to get the situation taken care of. We thought that was the person to deal with. We also met with Mr. Kelly when he was the Town Supervisor, and that didn't get us anywhere. So there is a big drainage problem. You're talking also about needing a bridge to go across the street. There is a 4 foot deep --

DON FASO: Swale?

MS. LYLE: Um -- I'm sorry, I have a brain injury, so sometimes things don't come. Um, across the drainage ditch is 4 feet deep, running along the Wegmans' side. That is all filled in with cattails. Where is the water going to go? In order to put this development in there, you will have to build a bridge over that, so that is where they're getting the bridge. You have to cross the 4 foot of creek. Are you following me?

DON FASO: I think so.

MS. LYLE: So anyhow, I'm very concerned about this rezoning and what the promise that was given to us that is now being broken and I'm concerned about the drainage and the traffic, and it is only going to get worse unless something is done. And if anyone would like to come down and see the situation, I would be glad to walk you through it.

DON FASO: Have you ever filed a drainage complaint with the Drainage Committee?

MS. LYLE: No. Because we went to Joe Carr and we thought he was the person to deal with, so we never went any further because we thought the Town didn't care.

DON FASO: I would suggest filing a drainage complaint so then the Committee can track it. The Committee can keep you posted on what the progress is.

MS. LYLE: How do I do that?

DON FASO: The drainage complaint form is available at the reception area.

DANIEL KRESS: If it is --

DON FASO: Or you see Dan (Kress).

DANIEL KRESS: If it is not available at the reception area, check in with us at the Building Department and we would be happy to put you in touch with one.

DON FASO: And Mr. Kress will forward it to the Committee --

MS. LYLE: Okay.

DON FASO: -- for review. One of their functions is to prioritize and make recommendations on what needs to be taken care of.

MS. LYLE: Right. Well, if you develop that property, like I said, the wetlands was a great concern of Eric Smith when I talked to him from the Army Corps of Engineers and the drainage problem that already exists -- Ballantyne Road is also a problem, because in the spring when you have got Lake Archer there, all that starts backing up. We're the lowest house. If you drive down Paul Road, we're the end, and then it starts going up.

DON FASO: What's your address again?

MS. LYLE: 736 Paul Road, on the corner of Stal Mar Circle and Paul Road, a white house.

DON FASO: You never heard it called Lake Archer?

KAREN COX: No.

DON FASO: She is an old-timer, because I know what she was talking about.

KAREN COX: I know the body of water you're talking about.

MS. LYLE: That is backing up to us.

DON FASO: When you said you drove home, was that the Ice Storm of '91?

MS. LYLE: I believe it was, sir. We had to come home.

DON FASO: We were all in trouble then.

MS. LYLE: Right. But we lost thousands of dollars of things that were stored in the basement, appliances, et cetera. It was just a mess.

DON FASO: One of the things that the PNOD is, it is an Overlay District. The underlying zoning is still prevalent. Still the base zoning is Restricted Business and Restricted Business was created to act as a buffer. I remember the situation you're talking about very clearly, and it was the transition from the Chili Center heavy Commercial to Restricted Business, which is dentist office, doctor's office, attorneys, to Residential on the immediate west side to coincide with the Residential on the east side.

MS. LYLE: Right.

DON FASO: I'm familiar with where you're going, but the PNOD was created to enhance the Restricted Business to give developers more flexibility. I think John (Nowicki) touched on it. It is to give the developer greater flexibility so they can come up with more imaginative designs to fulfill the needs of the community without deviating too much from the underlying zoning.

MS. LYLE: The other thing that he pointed out, this is the center of Chili. It is right in the middle of Chili Center. You have got an opportunity here of preserving these wetlands for the next generation and any generation thereafter and if you allow someone to impose on that, then, I'm sorry, you're making a big mistake. That is my personal opinion.

JOHN NOWICKI: That is what the Overlay District does. It actually allows the Planning Board and the Town to -- I will use the word demand better designs, better concepts --

MS. LYLE: Of using that property.

JOHN NOWICKI: Absolutely. Because they have to walk into this district knowing that it is going to cost them more money to develop this property, because the Planning Board is not going to let an Overlay District -- this is the first one in the Town, I believe -- not be done properly.

MS. LYLE: I called several other towns around us because I never heard of this term either, and neither had any of them, so this is a whole new concept. I called Perinton, Brighton, Fairport, Henrietta.

JOHN NOWICKI: You could probably take the retail space -- you could have apartments over the retail space. You could have a mixture, if it is done right.

MS. LYLE: If it is done right. But if the property out in North Chili is such a mess, I really have a hard time accepting that this person is going to do it right. Unless you're overseeing it and making sure that it is done right, he is not going -- he will cheat and do it the way he wants to.

JOHN NOWICKI: You heard me ask who are the partners in the project. We need disclosure statements. We're not at that point, but we always like to look at where the dollars are coming from.

DARIO MARCHIONI: Maybe you should have a copy of the PNOD district --

MS. LYLE: I did call the Town Hall this morning and asked specifically if apartments could go in there and whoever I talked to on the phone said no apartments could go in there and now --

DON FASO: Not in Restricted Business.

MS. LYLE: I talked about the Overlay District and she said no apartments could go in there.

DARIO MARCHIONI: PNOD.

KAREN COX: Do you know who it was you talked to?

MS. LYLE: No. I didn't think to write down their name. I'm sorry. I was kind of upset when I talked to her after talking to the engineer in Buffalo and realizing that --

DARIO MARCHIONI: You will see a different light what we're trying to do.

MS. LYLE: Well --

KAREN COX: If it is any comfort, you know, if and/or when this development gets further, the

Army Corps will review the site plan. They have to give a permit for it.

MS. LYLE: That is what he said. He said there has been no permit issued, so he was concerned.

DON FASO: Not at this stage.

KAREN COX: It wouldn't be this stage. It would be further down with a quite thorough review, putting a lot of restrictions on the permits.

DON FASO: Just so you're clear on the process, this Planning Board only makes a recommendation to the Town Board.

MS. LYLE: Okay.

DON FASO: Rezoning is a legislative act and only can be done by the Town Board, so there will be another public hearing at the Town Board level -- whether they get a favorable recommendation from us or not, they could still apply to the Town Board for rezoning. If the Town Board then rezones it, then the whole process is coming back for preliminary site plan, which is a public hearing, final site plan, public hearing. So there are a myriad of approvals.

MS. LYLE: So we'll get on a first-name basis.

DON FASO: We probably will be.

MS. LYLE: Okay. Thank you.

DON FASO: Then there are also approvals from the State and the Federal agencies, from the County agencies. The State and Federal wetlands, you know, do have processes where intrusion into the wetlands can be mitigated. They're not totally against --

MS. LYLE: Maybe before this development goes in, though, and if I talk to the Drainage Committee, maybe we can get the drainage problem, which even in front of Gracey's house, the water is 4 feet deep in their culvert ditch, and, um, another neighbor is here, and she had -- it took her a month to get someone to come out this winter, and if the little boy who lives next-door to her had fallen in the ditch when it was iced up, you wouldn't have gotten him out because you wouldn't have seen him. That is how dangerous the drainage issue is right there from about -- I would say Grenell Drive to our home, it is where there is a big problem on this side of Paul Road. And then the other side if -- well, just look where Wegmans is and all of the cattails. It is just --

DON FASO: I will call Mr. Carr -- he is on vacation this week, but I will get in touch with him next week.

COURTNEY MCGINNIS, 12 Stal Mar Circle

MS. MCGINNIS: Courtney McGinnis, and I live at 12 Stal Mar Circle and I came tonight just because I wanted to find out what was going on across the street and I'm certainly not in favor of it because of the traffic that is already in that area. It is difficult to get in and out of Stal Mar Circle. And we're talking about a considerable amount of development here. And then I got here and found out what is being proposed, and just -- on a -- I'm on a whole different tangent. I know it is a little early and market studies have not been done, but I'm Marketing Director for Episcopal Senior Life Communities. I'm very familiar with the market for senior living. I'm co-chair of the Rochester Housing Senior Alliance. The last thing we need in Rochester is more senior housing. It is a common misconception. The only building that should be going on is people who require affordable senior housing. I did all of the marketing for Seabury Woods which is doing wonderfully, thank you. Glad you heard of us, although I'm not happy that some of you haven't. But --

JOHN NOWICKI: We get around more than they do.

MS. MCGINNIS: There we have done very well. We have done well because we're part of Episcopal Senior Life Communities that has a wonderful reputation and has been part of the community for 135 years. We are part of a full continuum of care. We're a non-profit community. I think that is one of the reasons that we have done so well and we have also tried -- it is -- one of our missions is to keep senior housing as affordable as possible. It is very expensive. We all know. Anyone who has looked into it knows that.

So I guess that is just another concern of mine, that there is going to be, it sounds like -- if it is all one level, patio home type of living, independent senior living, we're saturated. We really are. You can do a market study and it will tell you -- whatever the builder wants to hear is what they will get out of

the marketing study, but Rochester is not in lack of housing. The only thing we're lacking is affordable senior housing for the people that can't afford the \$1,700 a month for senior housing. It is just not happening. And out of all of the community that we did build, um, we're still not totally filled in the patio homes, which is our independent type senior housing. It is kind of a thing of the past. Construction companies are on to it. People are doing senior living -- people are building all-one-floor communities, condos all over, so I don't know that they have to be senior-specific any more. But that is my two cents for what it is worth.

KAREN COX: It is helpful.

DON FASO: Sure, thanks.

JERRY BRIXNER, 14 Hartom Road

MR. BRIXNER: Regarding Mrs. Lyle's interest in drainage, would not Mr. Kress be able to send a form out to her to save her the trip over to the Building Department?

DON FASO: Could do that.

MR. BRIXNER: Thank you.

LARRY NISSEN: Don (Faso), I would like to add something to the drainage issue. In looking at the map, I have a feel one of the problems may be the fact that there is a lot of capacity, culvert capacity under Paul Road, and it is a State highway. So the Town doesn't have jurisdiction.

DON FASO: Oh, okay.

LARRY NISSEN: I have a strong feeling that is what is going on there.

LOU GRACEY, 742 Paul Road

MR. GRACEY: Lou Gracey, I live at 742 Paul Road. My wife is with me here tonight. We certainly recognize that the Planning Board has the right to recommend to the Town Board a change of zoning, if so be. However, there are some concerns which we have shared with the Lyles and others in our own particular neighborhood. One of which is the wetlands and the drainage that comes down off Chili Avenue, through Stal Mar, Westway, as I call it, the trough in the back of the neighbor's house on Grenell Drive, consequently creating a drainage problem on the north side of Paul Road as well as the south side. And also Dorothy Borgus well knows there are springs up there in the old Henderson property and Jill Cory's property and so forth. That is one of our concerns which I would like to bring to the Planning Board so they can put this into the hopper of Dr. Fallone's plans.

We also are very much concerned with the traffic situation which comes down between Paul Road and Archer Road and people -- they don't know what a 35 or 40-mile-an-hour traffic pattern is. We have seen cars go in excess of 75 miles an hour between the two traffic signals with the old adage, we go like hell to beat the yellow signal so we can make the red. We're terribly concerned where these entrances may be. Our suggestion would be, again for the consideration of Dr. Fallone and his group, to consider turning lanes wherever those entrances may be and the widening of Paul Road so the cars can get off and make turns into the entrance of the property. Berms and trees are of great importance to us, which we think would help solve some of the sight problems which we see along there.

The other thing we're terribly concerned about, too, is the lack of sidewalks. Now, if you will put senior citizens into a number of apartments there, certainly people will start walking. Whether they are going to have access to the Wegmans property or not, we don't know yet, nor do you know. So consequently we'll have to make the assumption, people, if they don't drive, they may walk and they will walk from that property to Wegmans and up to the banks and to Chili Center. So at this point, why not put into your thinking the idea of sidewalks along at least the south side of Paul Road, connecting right up to where Gus' Beauty Hairstyle is up at the top of the hill so people have more access to it and keep them off that State highway.

The traffic, the speed of that traffic is enormous, and at one time, we had the opportunity to sit out in the front and we did it for an hour and a half and we counted 70 cars a minute. That's tremendous amount of traffic that goes past. Other times at 3 o'clock in the morning you can roll a bowling ball down Paul Road without a problem. So these are some of the concerns we have. I would like to share them with you folks on the Planning Committee which I hope will get back to the planners and the architects of this particular project.

Do I like it? No, I don't like it. We have lived there for 42 years. We have enjoyed the deer, the turkey, the pheasant, the red fox, but we also know Chili is going to continue to grow. So let's keep some of these things in mind, please. Thanks very much.

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: It is a little disappointing, I guess, to see Dr. Fallone's name indirectly on at least two applications, one following the other here and hear so much unhappiness what he is doing in North Chili and see that he wants a piece of land rezoned for his own use and his own profit, let's put it.

As far as the offices -- I know this is just a concept plan, but you have to think about what they want to do if you're going to recommend rezoning to the Town Board.

That plan is a nightmare. I agree with the Chairman who said that that is just too much. It is too much. It is too dense. I frankly don't see why if they want to do this, they don't put their retail at another place. I mean I can't imagine retail along that side line. I can't imagine anybody going in there to do any shopping when it is on an area that is perpendicular to a main road.

Secondly, they haven't done a market study, and I agree with the several opinions that have been voiced tonight, let's make sure there is a need for this. We have apartments all over Chili. Chili is just -- most -- good share of the building, not all, but a lot of the building lately in this Town is apartments. Look at North Chili -- or Union Street and Chili Avenue. I mean that didn't look too bad when it started maybe, but it gets thicker and more and more complete, and that is going to be a zoo up there. And that was approved here.

We have to remember, yes, Chili is going to grow, but that is all the reason why we keep General Business where it is. We need to have room to grow. We tried to make Chili Center the focus of our Town, and we have done a pretty good job. Chili Center looks so much better today than even ten years ago, but where are we going to grow to when we let apartments take over the land we should be saving for further business growth down the line? We won't have anything left here. We better leave it the way it is.

JOHN NOWICKI: Are you envisioning a Wal-Mart, Sam's Markets, Lowe's, Home Depots?

MS. BORGUS: I don't know what will come in the future. We have a K Mart. We shouldn't need a Wal-Mart. That is beside the point. But I don't want any more apartments in this Town, and I think a lot of people feel the same way. We have apartments until there is just no end in sight here. Apartments in North Chili. Apartments in West Chili. Now apartments in Chili Center. How many apartments does this Town have to have?

JOHN NOWICKI: As Mr. Martin pointed out, PNOD is senior apartments.

MS. BORGUS: I must say every apartment developer that comes in here waves that wonderful red flag about senior apartments, senior apartments. Well, you know, once they get in there, they aren't senior apartments. It is just to get their foot in the door. It is the little bit that pushes, gives them some advantage, pushes them over the line. I have seen these senior apartments. They're the last ones going up at West Chili. They will be the last ones to go up because the rest rent first and that is what they're interested in.

As far as more retail space goes, Dr. Fallone already has office space available in front of Wegmans he has not been able to rent for a couple of years and it sits there totally empty. We don't need any more office space.

MR. CARPENTER: It is actually full.

DON FASO: I asked that very question and was told over 90 percent leased.

MS. BORGUS: I saw some pretty vacant-looking stores there yesterday.

JOHN NOWICKI: The market is there.

DON FASO: 90 percent lease is what I was told.

MS. BORGUS: I don't know what is supposed to be in there because they sure look like empty black doors.

DON FASO: That is why I asked the question.

MS. BORGUS: I just think that is a mistake for the Planning Board to recommend to the Town Board that we change this zoning. I want to see a market study. I want to make sure if these are supposed to be senior housing units, they end up that way. And I believe Dr. Fallone should straighten

out what he has got started. Let him clean up North Chili and then come back with his proposal for this. Thank you.

DENISE JOHN, 738 Paul Road

MS. JOHN: I will have the pleasure of viewing this plan as I try to back out of my driveway every morning.

DON FASO: You shouldn't be backing out.

MS. JOHN: We can hardly pull out right now. On the positive side, it is very realistic to know that we have an opportunity to make something very good for our community here if we plan properly, but it is also very disturbing to see that my neighbor here can step up to the podium and speak in front of a developer that doesn't realize that there is not a market -- a market analysis that hasn't been done and there really is not a market for this type of development at this point.

I also agree with the office buildings. There are some that were built across from Wegmans, there are weeds probably this high (indicating) up to the west windows and they were very, very slow to fill. So realistically this is the center of our town. We have the opportunity to make it a good thing for everybody, and I just would hate to see it slapped together, and this is what I see right now, not very much credibility. I'm not impressed at all and I hope that we're all really careful with this 36 acres all across from our homes. Thank you.

JOHN NOWICKI: I would like to make a suggestion. There has been a lot recorded tonight and a lot said tonight, and I'm sure that the information will get back to Mr. Fallone. Hopefully it will get back to him in regards to the feelings of the audience and the Board.

KAREN COX: It would be nice if he came to a meeting.

JOHN NOWICKI: It would be. Because the Town has been basically good to him. We have been very good to Mr. Fallone and his family. I think this gentleman here, who has the responsibility of putting this together, has heard a lot of things tonight, and there is more to hear, too, because there is a lot to this concept that I would like to suggest that we table it, to be honest with you, until we have had a chance -- even if this gentleman here calls upon you as the Chairman and Mr. Kress and maybe -- and maybe we get together and talk about what the neighbors have talked about, the drainage patterns, the whole thing before we move ahead, because that plan there is not going to fly. I mean that has got to be changed dramatically in order to fit the PNOD thinking and concepts. I would love to see, and I hope it is you that would take this concept and really win an award with it, and satisfy Chili residents and the Planning Board and just say, wow, what a job you guys did, and what -- this Town will be very proud of what we came up with. Because the Master Plan calls for it. I think they're correct. I think it is an opportunity here for us to take a good hard look at what we're doing here, and if we're successful, it is going to really pay in a lot of value for a lot of people. Because we are growing, and you can't stop the growth. We just have to make sure you do it right, so I would like to table it until we have had a chance to really think about what was said here tonight.

DON FASO: Don (Carpenter), my feeling is on this that PNOD should be something special.

JOHN NOWICKI: Absolutely.

DON FASO: We're not looking at a PNOD. We're looking at a PUD. Would you agree with me on that? It is a PUD, plain and simple. There is nothing special about it there, and I have serious reservations.

I know from an engineering standpoint you could probably engineer anything to work properly and overcome almost anything with the proper engineering if you're willing to pay for it, but this is still a concept that is new to the Town, and it just doesn't grab me. It doesn't --

JOHN NOWICKI: We can't apply the same architectural feeling or thought that we have had in the past or landscaping philosophy. We have to change our thinking on this one, because that is why the PNOD was created. In other words, if you read it very carefully and creatively, you can have retail space down below and apartments above, senior citizen housing, all kinds of things, but as the gentleman said, sidewalks, special signs -- I mean to me, this is an opportunity to really, really do something nice here.

MR. CARPENTER: I'm in complete agreement. I also just want to point out a couple other things.

Number one, the coverage that we have is less than we can be under PNOD. So it is actually a less intense development than is allowed by PNOD code.

Number 2 --

RAY BLEIER: But your cover ran -- including all that wetlands, you can't do anything with it anyway?

MR. CARPENTER: That is subtracting the wetlands. Right. The code dictates that that 6.75 acres be taken out before we calculate the developable area. So that is 16.3 percent, that is already with the wetlands taken out.

RAY BLEIER: Man, that looks more like 70 percent to me.

MR. CARPENTER: I know it looks that way. But, you know, these buildings are small in scale. The retail exists along the western property line already, so these three retail, you know -- to see this disconnected from the surrounding area may be a -- mixed lessons, but when you envision that the plaza already extends -- the front of the Wegmans store is right here (indicating). So this is an overflow parking lot (indicating). This is where the drive-through bank is right now (indicating). So when you envision that, the Wegmans facade is -- this building is sort of an extension of the Wegmans building, and these two, this one is even with the bank, and this (indicating), it stands to make a little more sense.

And from the retail we transition to office. Now I'm not saying we stick with this layout. I'm saying --

DON FASO: I think everyone on the Planning Board realizes that we could be entertaining a rezoning without a sketch plan. But you're right to ask for it, and you have given us something to look at, and this is what we're basing our opinions on, but I think what we're telling you is PNOD should be something that is going to really -- you look at it and go, wow, that is great, and that doesn't do it.

KEITH O'TOOLE: My take on PNOD was basically we were building a micro village development. All I see here is they bumped the G.B. south and they slammed some high density Residential to the south of that parcel. I don't see an integrated development. In terms of senior usage, there are no walking trails within the project. You basically have used the wetlands as a wall between the retail and, you know -- and the apartments, which on one level makes sense because you have some buffering because there is no integration of the site. It is just basically two pieces of land, one G.B., one apartment, so what is the point?

JOHN NOWICKI: I agree with that. That wetland area can become an attractive place for seniors to go.

DON FASO: Passive recreation.

JOHN NOWICKI: Passive recreation. You have opportunities here -- all kinds of opportunities to be so created. God, let's go do something.

MR. CARPENTER: Just because I'm not showing any sidewalks or sitting areas or landscaping inside the area, that doesn't mean it will not occur. At least I think from what the Board has voiced so far, we all agree that this is a perfect candidate for the PNOD district.

DON FASO: It could work.

MR. CARPENTER: You can make the decision regardless whether I brought a site plan in, and you can tell me this is an awful site plan, but at least maybe we can move forward on the rezoning.

JOHN NOWICKI: I'm glad you're hearing us, and the fact that we could ask for that architectural review, which would be the first time in Chili's history we did that, but this might be the perfect place to do it. We really want to do this right. It is important that we do it.

MR. CARPENTER: As far as the market study is concerned, I heard a couple of things. One of them was that the market is saturated. The other thing was that a market study will show whatever the developer wants to show. I'm not a market analyst and I'm no builder, but, you know, it stands to reason that there are seniors --

DON FASO: Well, if --

MR. CARPENTER: -- retiring at an ever-increasing rate.

DON FASO: If you contract with a reputable consultant to do your market analysis and they will put their name on it, it will be subject to scrutiny and any marketing firm will not put erroneous numbers down there unless he can back it up with facts.

JOHN NOWICKI: Only traffic engineering studies. Only kidding.

(Laughter.)

JOHN NOWICKI: As far as the PNOD, I don't have a problem with the concept of PNOD.

DON FASO: It might work very well here. That is why it was created.

JOHN NOWICKI: We're going to be very, very tough.

MR. CARPENTER: I have already prepared Bob (Fallone). I know it is not germane and I'm hesitant to say anything because I know it is going to go on the record, but I feel appropriate to give you what is going on at Towne Plaza. The light pole manufacturer was shipped the wrong fixture or poles. They had to ship them back and they are shipping them again. It didn't make a whole lot of sense to power the bases and keep pouring the curb. The other hold-up is there is an issue with the drainage from a proposal that is next to Towne Plaza, and I think we have kind of got an idea that -- which direction that is going.

DON FASO: We know we can't base this decision on past performance. It stands alone.

JOHN NOWICKI: Hopefully the message will get back and I'm sure it will.

MR. CARPENTER: It already has. Bob (Fallone) would be here tonight except he is at a wake. I actually called him a couple times and voiced these concerns and he is, you know -- he understands, but he did ask me to point out that the plaza stood in a disreputable state for a number of years before he bought it, and, you know, he is doing his best.

JOHN NOWICKI: We would certainly like to see him stand proud.

DARIO MARCHIONI: Don (Carpenter), did you say you worked out a lot of other concepts before you came up with this one?

MR. CARPENTER: We had done several concepts on this property.

DARIO MARCHIONI: We would like to see some of these concepts.

MR. CARPENTER: Straight commercial concepts, not PNOD.

DON FASO: You know, we have in the past asked for what -- show us a plan maxed out, current zoning, show us what you want to do. I think that is a good suggestion. Let me see when the property is -- what it would look like maxed out under current zoning.

MR. CARPENTER: To be honest, I'm looking forward to working closely with the Town. It is a brand new zoning code, a little daunting to read it.

JOHN NOWICKI: It is an opportunity for everybody.

DON FASO: I think Dr. Fallone should invest a few bucks in a marketing analysis. I think we really need to see that, because we have contradictory opinion on that. And I don't think it would be slanted towards the developer. Not if you go to a reputable firm. These are professionals. You're a professional. You don't do that. Not if your name is going to go on it.

JOHN NOWICKI: It calls for that in the code.

DARIO MARCHIONI: If you go to the Town Board, they will ask you all this information, too.

MR. CARPENTER: I would like the first step underway and run the two concurrent. I know it will be a lengthy site plan review process, and we'll be at it during most of the winter.

DON FASO: You're too late to get on the Town Board agenda. That is tomorrow night. You're looking at the first meeting in September for them to schedule the public hearing, and that will probably be into October. So tabling it here for one month -- you could probably run the process concurrently.

JOHN NOWICKI: I don't have a problem voting on the PNOD, if that is the point.

MR. CARPENTER: I have actually already sent a letter to the Supervisor. I know we're not going to get on for this month, but...

DON FASO: I don't have a problem with PNOD either.

JOHN NOWICKI: As long as that developer knows he will have to spend some time and money on this. It will not go easy for him. It will not be an easy one.

DON FASO: You're willing to make a recommendation to the Town Board without having the information to back it up? What you're saying on a rezoning, the Town Board would declare itself lead agency --

JOHN NOWICKI: It recommends it right here. That is what I am saying. The Master Plan called for it in this plan right here. I'm happy with this one because I'm excited about PNOD. I think if we get the right -- but if it doesn't go right, I will not vote for it.

MR. LYLE

MR. LYLE: You wouldn't let Ron Easton do it up where you live, would you?

JOHN NOWICKI: He never brought it in.

MR. LYLE: Yes, he did.

JOHN NOWICKI: He never brought in a PNOD district.

RAY BLEIER: It didn't exist when he came in.

JOHN NOWICKI: We have the PNOD district in and he never brought in any applicant for it.

DON FASO: That is digressing.

Public comment is over. Take an opinion poll. How you going, Ray (Bleier)?

RAY BLEIER: I'm not in favor of recommending rezoning to PNOD, not from what I see here.

If this property does get rezoned to PNOD, he comes in with a site plan, you will have to eat it. You will have to eat it.

JOHN NOWICKI: Don't vote for it.

RAY BLEIER: He would be in conformance with the zoning.

JOHN NOWICKI: I don't think so.

MR. CARPENTER: Doesn't the PNOD zoning give the Planning Board power similar to a 278 to make some judgment calls, applicable calls?

DARIO MARCHIONI: Absolutely. I say it does.

RAY BLEIER: I'm not in favor of a favorable recommendation.

KAREN COX: I don't like this plan at all. I really -- I'm in agreement with Dorothy (Borgus) tonight for once. We don't need any more apartments. If they have families with kids, we're going to be eating the cost of the education.

JOHN NOWICKI: Remember. This is all senior citizens.

KAREN COX: No. He said -- 35 percent --

JOHN NOWICKI: The code says senior apartments only.

KAREN COX: Then why is he talking --

DON FASO: ADA compliance.

MR. CARPENTER: It also states a maximum of 30 percent can be ADA compliant. In other words, a maximum of 30 percent would be seniors who are disabled and require assisted living.

JOHN NOWICKI: It has to be all seniors.

KAREN COX: I'm not convinced these are going to be affordable, so I'm siding with or going with Ray (Bleier).

JOHN HELLABY: I have to go with the general consensus right now. Again, I'm not real warm and fuzzy on this and again, I understand the percentages and whatnot. I would like to know -- again, I don't know how much bearing it can have on the actual outcome as to what the negotiation with Wegmans actually brings as far as the cross-access easements, because if they say no, you're dumping an awful lot of traffic out to the front of those two other streets out there, where I think if you get those, it will alleviate a lot of traffic because there are lights and whatnot where people can access a lot easier.

DON FASO: But we have no hammer for Wegmans.

JOHN HELLABY: Right. Right. I understand that. I'm just saying I would kind of like to see where it is going to end up, kind of up front on this thing. I can speculate.

DON FASO: The results --

JOHN HELLABY: I can speculate.

DON FASO: I can speculate, too, it probably won't happen. The retail is going to be competition for Wegmans retail. And I can't see Wegmans readily granting an access easement on their property.

JOHN HELLABY: I tried to chase down the powers to be today and couldn't find them.

JOHN NOWICKI: I said I would make a motion to table, but I'm not opposed to the PNOD because I think it is the time to test it and we have to test it.

JAMES MARTIN: Certainly you know I like the PNOD concept done correctly, but I'm afraid if we start the train rolling down the track recommending to the Town Board the rezoning, you know, without having more certainty where we're headed here, I guess I'm with Ray (Bleier) and Karen and I

just don't feel comfortable voting to say we should recommend rezoning at this point in time.

DARIO MARCHIONI: You know I would like to see if it -- if he went with RB, how could he use this piece of property? You have the wetlands in the middle. You could open use the front lot. What would you do with the back?

DON FASO: He could probably cross it and use it in the back, Restricted Business, office space.

JOHN NOWICKI: You could do it similar to what they did -- what is the one off 441 and Penfield there, that complex that goes up -- you could do a Linden Oaks in there. If you wanted to do Restricted Business. That is another concept.

MR. CARPENTER: The rezoning wouldn't necessarily approve the site plan. I can understand.

DON FASO: We know that. We know that.

MR. CARPENTER: I mean could you qualify the rezoning to say that definitely not this layout, and there is further consideration to be done?

DON FASO: No. The question is recommend rezoning or not. It is a "yes" or "no".

KAREN COX: Can we table it?

DON FASO: Even if we say no, you still have the option to go to the Town Board.

DARIO MARCHIONI: Which would be a little tough, I think.

MR. CARPENTER: I guess what I am trying to avoid -- I know the site plan review process is going to be extravagant.

DON FASO: So do we.

MR. CARPENTER: I'm trying to avoid doing that now because if it is not going to get rezoning, then Bob (Fallone) is not going to want to spend the time and money to do that rezoning now.

DON FASO: Mr. Bleier had a good point. If it is code-compliant, we would be hard pressed to deny. He would be in court with an Article 78 and -- if I am going to go to court, I want better than a 50/50.

JAMES MARTIN: You have already said this is code-compliant.

MR. CARPENTER: It is code-compliant, but I think the Town has more safeguards than the developer in the zoning code.

DARIO MARCHIONI: I think give us a month to look at this again, give us a few more options here.

JOHN NOWICKI: Start talking to each other.

DON FASO: Okay. Not necessarily go out and create a marketing analysis. There are probably marketing analyses out there, public license that you can grab off the Internet or check with the County. This woman over here, she may be able to give you everything you need to come back to the Board. Because I also had questions, you know, not relevant to the rezoning, but through the site plan. The proximity of the driveways to Wegmans' entrance. There is a problem with people coming out of Wegmans' parking lot, traffic on Paul Road, and trying to turn on Grinnell. That is a nightmare. There are so many close calls, there is going to be a fatal there at that intersection, and we're adding another one in the opposite direction and I think we're compounding the problem. Not relevant to the rezoning, but it is a question I have on the site. You know, the traffic.

DARIO MARCHIONI: Maybe one center entrance like Don (Faso) said with a circular, if you could divert the traffic.

DON FASO: I'm not suggesting they build a rotary, but I have seen it work and it was great.

RAY BLEIER: Don (Faso), I would like to read a little something in our zoning book here. 115-19-13, Section 3. "PNOD zoning application procedure. In order to provide for an orderly method of processing a proposed Planned Neighborhood Overlay District zoning application, four copies of the complete application shall be provided to the Town Board along with the required application fee. The Town Board, upon receipt of the proposal, shall send one copy to the Planning Board, one to the Conservation Board, one to the Town Engineer for review and recommendation. All zoning matters relating to the proposed PNOD shall be determined and established by the Town Board after recommendations have been received from these three groups."

DARIO MARCHIONI: That is what we're doing.

RAY BLEIER: Well, did the Town Board receive this?

DON FASO: No. No. But it is like any rezoning recommendation.

RAY BLEIER: Okay.

DON FASO: They're not going to act without a recommendation from the Planning Board, so it is just a matter of you go in the front door of the house or the back door of the house, you're still in the house.

RAY BLEIER: We have 60 days, the Planning Board, to make a recommendation to the Town Board.

DARIO MARCHIONI: I think tabling this --

RAY BLEIER: I think we could table it for 30 days.

DON FASO: If we require more information, the clock does not start. If it is tabled for a reason, i.e., market analysis, traffic analysis, the clock starts when we get the information.

KAREN COX: I want some more information.

DON FASO: All right. I'm entertaining any motion.

JOHN NOWICKI: I put a motion on the table to table.

JOHN HELLABY: Second it.

DON FASO: Let me get up to speed with my decision worksheet here.

We'll not do SEQR because that will be a Town Board issue. So we have a motion to table.

DECISION: Unanimously tabled by a vote of 7 yes until September 16, 2003 for the following reasons:

1. Furnish the Planning Board a market analysis with regard to the senior housing, as well as the retail area.
2. The Planning Board is looking for a more unique layout for the Town's first PNOD rezoning.
3. The Planning Board is looking for more flexibility in the site plan and building design.

JOHN NOWICKI: Buildings have to be different shapes, configurations, no cookie cutter. The whole concept of passive recreation has to be taken in consideration. Architectural designs of the building has to be changed. Retail and residential, we need to know the concept how these seniors -- what market price you're looking at.

DON FASO: I can't write that fast.

JOHN NOWICKI: The whole thing. Rentals, what we're looking at, income levels, rentals, ownership.

DON FASO: Well, that should be presented with the market analysis. Their target.

DARIO MARCHIONI: Also every building there looks the same.

JOHN NOWICKI: We don't want those -- the retail buildings, the asphalt has to go, be broken up. We need buildings that are offset.

DON FASO: Well, I started to write "unique," but how do you spell "unique"?

JOHN NOWICKI: Get creative. Do something different. My God. Maybe loft apartments over the retail. Go for it.

DON FASO: State Building Code allow that?

DANIEL KRESS: Yep.

KAREN COX: Proper fire separation.

JOHN NOWICKI: You could do it.

DON FASO: Flexibility in design.

DARIO MARCHIONI: Possibility for Dunkin Donut there.

KAREN COX: No, I want Bruegger's.

(Laughter.)

JOHN NOWICKI: He knows what we want.

DON FASO: You didn't get beat up too bad.

JOHN NOWICKI: I thought the people were very gracious.

MR. CARPENTER: I'm not getting beat up. I'm just a face.

JOHN NOWICKI: Thanks, it was great.

DON FASO: You said you had a letter into the Town.

MR. CARPENTER: To the Town Board. I didn't have the zoning code until about a week before I actually made this application. I probably should have looked at it a little more thoroughly, but I talked to Kathy (Reed) and we had a meeting some months ago and I was under the impression the process was to write a letter to the Supervisor and also an application to the Planning Board, so I'm not entirely in compliance with the zoning code as far as the application procedure so far. In other words, I didn't send three copies --

DON FASO: The Town Board will not act without a recommendation positive or negative from the Planning Board, so applying to the Planning Board first is just, you know -- it is still a step in the process. I don't have a problem with that.

7. Application of Bernard Iacovangelo, 3240 Chili Avenue, Rochester, New York 14624, property owner: Chili Plaza Associates; for preliminary site plan approval for a change of use in portion of building to allow professional offices (formerly pizzeria) at property located at 3240 Chili Avenue in G.B. zone.

Jay Altavana was present to represent the application.

MR. ALTAVANA: I'm the leasing manager for the Chili Plaza. I'm representing the application of Bernard Iacovangelo.

DON FASO: All you're doing is a change of use?

MR. ALTAVANA: It is going --

DON FASO: Pizzeria to a tax office?

MR. ALTAVANA: Yes.

DON FASO: I remember when Pontillo's came in. I think the only concern the Board had back then was the trash removal because there was no rear exit to the back to the dumpsters. Trash hauling will be out the front door, I assume, just like it was for the pizzeria?

MR. ALTAVANA: Let's say the office is completed as far as the rugs put in. The walls are painted. As a matter of fact, the owner decided rather than leaving the plain cement in the back, we put vinyl, new tiles, new sprinkler system, so we're in good shape as far as -- we have a electrician's inspection, so that is right up to par. And the fire inspector, Jim (Christian) dropped by, and he looked at it and it was very acceptable to him.

DON FASO: So you're saying from partition A all of the way back to the rear is not carpeted; is this what you're saying?

MR. ALTAVANA: I have a picture here. I should have brought a couple more. I'm sorry. I have a couple here. It just shows what is happening there, in the back, which was just plain cement.

DANIEL KRESS: As long as there are no significant exterior issues that we deal with, I have nothing further.

DON FASO: No plumbing or electrical alterations?

MR. ALTAVANA: No.

JOHN NOWICKI: No big signs?

MR. ALTAVANA: No big signs. He will have one sign out front that is already there, except he will put his name on it.

DARIO MARCHIONI: One comment. When we approved the sub shop, there was supposed to be a planter in front of the building, the Subway. In lieu of money to the --

DON FASO: Well, you're talking to the Property Manager here.

DARIO MARCHIONI: If you look at the minutes, Bernie (Iacovangelo) promised us -- that you would put a planter there in front of the sub shop. I still haven't seen it, so I am just bringing that up.

MR. ALTAVANA: I have only been there since June 30th, so I will indeed have an opportunity

to talk to Bernie (Iacovangelo) about a planter in front of the sub shop.

DARIO MARCHIONI: The sub shop in lieu of -- there was supposed to be a planter there with flowers.

DON FASO: On the sidewalk?

MR. ALTAVANA: On the sidewalk.

DARIO MARCHIONI: One of these bowl type planters we discussed in lieu of --

DON FASO: That the kids can tip over and people can throw their cigarettes in? Why did you want that?

DARIO MARCHIONI: We'll try.

JOHN NOWICKI: Anything to dress up the center, dress up the community.

MR. ALTAVANA: There are architectural plans in the process right now to completely reface the plaza.

JOHN NOWICKI: Really?

MR. ALTAVANA: Yes.

KAREN COX: That will be nice.

MR. ALTAVANA: I should have brought those, but he has two different types of plans right now to completely make that plaza look like a new house.

JOHN NOWICKI: Make mention to him about the dumpster enclosures.

MR. ALTAVANA: They're already in place, aren't they?

JOHN NOWICKI: I don't know. Just check them out.

MR. ALTAVANA: I have walked the property, so I know they are.

JOHN NOWICKI: That is good news for Chili Center.

DON FASO: What did you say about the property?

MR. ALTAVANA: It is going to look absolutely gorgeous.

DON FASO: You bought the property?

MR. ALTAVANA: No. I walked. I walked it. It has been a long night.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: Could you just clue us what is going in this space?

DON FASO: Jackson Hewitt Tax Service.

Don Faso made a motion to declare the Board lead agency as far as SEQR, found this to be an unlisted action and made a determination of no significant environmental impact, and the Board all voted yes.

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

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

INFORMAL:

1. Application of Pride Mark Homes, 2024 West Henrietta Road, Rochester, New York 14623 for revised final subdivision approval under Section 278 of Town Law for Cedar Grove Section 3 (reducing number of lots from 38 to 36) at property located at 3530 Chili Avenue in R-1-20 zone.

Lee Sinsebox was present to represent Pride Mark Homes.

DON FASO: I didn't realize it was such a long agenda. What happened, because of the new wetland regs, they do have to come into compliance. They're going to lose a couple lots to do that compliance, and there is basically no major changes to the final that was given. Just final was given and it was just never filed, but I asked them to come back just to talk to the Board. I kept him up way past

his bedtime.

MR. SINSEBOX: It is a pleasure to see you up there in that chair again, Don (Faso).

I gave you a little handout to show you the section that changed. Actually, this had final approval twice --

DARIO MARCHIONI: Is this where Homearama was supposed to be?

MR. SINSEBOX: I think he looked at into it one time. We were here in 1995, October as a matter of fact, for this approval. After the Planning Board approved it, Pride Mark kind of wanted to go into that Section 4 area first so we set this one aside after we approved it, never filed the map and came in for final approval of Section 4.

DON FASO: But final was given.

MR. SINSEBOX: Then we came back in 2001 and had the approval reinstated because it had expired, and that approval just ran out in June.

DON FASO: For an updated signature.

MR. SINSEBOX: Right. We're here tonight to get the approval reinstated. In between the 2001 approval and now, they came out with the new Phase 2 storm water regs and Larry (Nissen) asked us to look at that and make this section come in compliance.

There was also a few little outstanding issues we had with Larry (Nissen) on the overall drainage control at that time so we dovetailed that into the new design. That caused the change in the loss of two lots. The only way we could do water quality and general protection and all those good things that Phase 2 requires is to create a detention facility. The logical place to put it was down in the front right where the site drains through the culvert under Chestnut Ridge, and we did submit that package --

JOHN NOWICKI: That is what we're looking at.

DON FASO: You basically eliminated 319 and 320?

MR. SINSEBOX: Yes. The larger drawing showing the corner, there were five lots off Chestnut Ridge. That is the way the plan was when you approved it the last two times. That is the only area that has changed, and the little sketch shows that there are three lots there, and the detention facility. We put the detention pond on one lot, and made one super lot.

DON FASO: That pond will belong to that lot?

MR. SINSEBOX: Yes, it will be part of that property.

JOHN NOWICKI: What about maintenance of the pond?

MR. SINSEBOX: It would probably be tied to the overall -- with all of the drainage easements throughout the project.

DON FASO: It will be owned by that lot with a drainage easement to the Town?

MR. SINSEBOX: That's correct.

JOHN NOWICKI: Got you.

KAREN COX: What is the drop in grade from the edge of the shoulder to the edge of the pond?

DARIO MARCHIONI: The reason we're asking this, there are kids at the school right across the street.

KAREN COX: They don't walk along there, but the vehicles -- they don't walk to school.

JOHN NOWICKI: Just so you know, there is a study that has been approved because of the neighbors up here -- because of an accident that happened at that intersection, Steve Hendershott was responsible for getting a study done, a \$100,000 study being conducted that I believe starts up around Union Street, comes down Chili to Beaver Road and includes that intersection.

KAREN COX: With the Ballantyne Road corridor study?

DON FASO: No.

JOHN NOWICKI: Separate and distinct. Is just all on that strip of Chili Avenue to look at the speeds, the signage. There is a little hill there that causes a problem with vision coming out of there for school buses and that, so there is a study being conducted.

MR. SINSEBOX: On Chestnut Ridge?

JOHN NOWICKI: Yes.

MR. SINSEBOX: Near that curve?

JOHN NOWICKI: Yes.

DON FASO: I go to church on that curve. Try getting out of the driveway.

JOHN NOWICKI: Will he get started this year?

MR. SINSEBOX: Yes. As a matter of fact, we show it in two phases. 36 lots is a pretty good size section. His hope is to get some pavement down this year so he asked us to phase the construction. We have already submitted plans to the Health Department and GCO because they have to review the change.

JOHN NOWICKI: That is good with all of the Homearama -- he didn't have any problem selling off the other homes?

MR. SINSEBOX: No. It didn't go real fast, but it was steady.

DARIO MARCHIONI: They were very expensive homes.

MR. SINSEBOX: To answer the question on the grade change, the lowest point is at the culvert under Chestnut Ridge Road, and that is 542. And the road grade --

KAREN COX: Center line is 549.

MR. SINSEBOX: This will be a wet pond. It will have water in it. That is about the best way to do the water quality.

KAREN COX: That is pretty steep. Any guide rail going in?

MR. SINSEBOX: We don't have any proposed, but the County D.O.T. is reviewing it right now. This is on the edge of their right-of-way.

DON FASO: Up in the North Chili area on Buffalo Road where College Greene has a couple ponds close to the road, they have landscape boulders on one side and a guardrail on the other.

MR. SINSEBOX: We could probably.

DON FASO: On the roadside we also had an extra high curb put in. The curb was 7 inches.

KAREN COX: That one pond right near where the doctor's office is has the guardrail.

MR. SINSEBOX: We're showing an extension to the culvert to pull the pond away from the right-of-way, and we also tried to plan for County right-of-way widening. I think that would be much more attractive to do that as opposed to a guardrail.

DON FASO: Landscape bolder?

MR. SINSEBOX: Jim Barbato is very -- he likes to do a lot of Evergreen plantings and maybe that is another way.

KAREN COX: As long as -- the County won't go for that in a right-of-way.

MR. SINSEBOX: None of this is in the right-of-way. In fact, we're keeping it out of any future reservation right-of-way, too. We're well off the edge of the road.

KAREN COX: I know I have seen the buses turning that corner, and it is pretty narrow so they end up kind of tracking along the edge of the pavement, and the pond -- I understand why it has to be there. Why it is going to -- for efficiency to have it there.

MR. SINSEBOX: I think we can look at doing some of these things that are mentioned, and -- and Pride Mark wouldn't be opposed doing anything like that.

DON FASO: Okay. No other questions.

KAREN COX: Will the County make formal comments on that that we will see? You said it is at the County for review.

MR. SINSEBOX: The County already had reviewed it from the previous approval. We addressed all their comments and we sent it up as a courtesy because there is a change. We tried to anticipate what their concerns are. None of this is in their right-of-way. We pulled everything back that caused the extension to the culvert to do so, but we still need a permit from them for the subdivision entrance as well.

KAREN COX: So we'll see those.

DON FASO: I remember there was a lot of thought drawn into the west side of Chestnut Ridge with the drainage, the concrete in there.

MR. SINSEBOX: This will kind of complete the overall drainage control for the whole development, as well. This outfall structure will do all those functions that we needed to do. The concrete channel that links the Section 4 area down through here is planned to be built with the first phase so we could have all of that functioning right away. I did get some comments from Larry (Nissen), from Larry Nissen this afternoon that we have a couple things we have to work out, but I

think there are three comments and I didn't see anything that we couldn't take care of.

LARRY NISSEN: In the letter that I sent, there were a couple minor things that jumped out at me. I will need to go through -- this is the storm water pollution prevention plan (indicating). This needs to be gone through and reviewed, which I will be doing, but I have no serious concerns.

DON FASO: We don't have to do SEQR. That is all taken care of, so we're just reapproving final.

The Board discussed the proposed conditions.

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

1. Pending approval of the Town Engineer.

The meeting ended at 11:30 p.m.

A meeting of the Chili Planning Board was held on September 16, 2003 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 Don Faso.

PRESENT: Ray Bleier, John Hellaby, Dario Marchioni, Karen Cox and Don Faso.

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

Chairperson Don Faso 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.

DON FASO: We have a rather lengthy agenda. I'll call applicants up to the podium.

OLD BUSINESS:

1. Application of Roberts Wesleyan College, owner; 2301 Westside Drive, Rochester, New York 14624 for preliminary site plan approval to erect a 3,900 sq. ft. storage building, 1,000 sq. ft. greenhouse, and 400 sq. ft. concrete pad for fuel storage tank at property located at 4223 Buffalo Road in P.I.D. zone.

Ed Martin, Richard Grier and Jim Cuthbert were present to represent the application.

DON FASO: This application abuts the Mayflower Subdivision. I'm a resident of the Mayflower Subdivision. Although I'm not on the Board of Directors, I will ask the Board to let me stand out on this one so there is no apparent conflict of interest whatsoever, and this particular public hearing will be chaired by Vice Chair Ray Bleier.

RAY BLEIER: Okay. Is someone representing the applicant, please?

MR. EDWARD MARTIN: Good evening. My name is Ed Martin. A Project Engineer with BME Associates here on behalf of Roberts Wesleyan College and their application before you. The Board will recall we last met with you June 10th for the public hearing at which time the application was tabled for nine reasons issued in your Notice of Decision June 13th. If it pleases the Board, I could very quickly go through how we have addressed these nine issues.

RAY BLEIER: Yes, please.

MR. EDWARD MARTIN: Thank you. Issue Number 1 regarded the drainage concerns especially affecting Mayflower Village. Since the June 10th meeting, we have met with representatives of Mayflower Village twice. We have come up with a proposal we believe that not only benefits Mayflower Village, but the Town as a whole by taking the storm water discharge below ground. You will recall originally we proposed a pond discharge to the surface, much the way it occurs today. We now propose a catch basin located just south of our property line, and if it pleases the Board, I would just like to step over to the map.

RAY BLEIER: Yes.

MR. EDWARD MARTIN: Our southern boundary is here (indicating). I will point it out on the colored rendering for the audience. It is down along the green line (indicating). We now have a catch basin located approximately 30 feet or so to the south right here (indicating), which is very close to an existing low point. We believe by locating it here (indicating), it will act as a sink, if you will, to draw surface water from the Mayflower Village backyards. We understand they have had a history of

problems there.

A note of interest we discovered in addressing this issue, there was a catch basin originally proposed with that development and for some unknown reason it was never installed. We have it slightly further west than originally proposed due to the property line alignment with our property

and Mr. Gilmore's to the east.

Issue Number 2 dealt with screening for visual and noise impacts. As a result of those meetings that we had with Mayflower Village people, we now propose a 6-foot-tall board-on-board fence along the southern boundary of the site just over 400 feet long and that will be constructed at Roberts Wesleyan's cost, no charge to Mayflower Village.

Issue Number 3 dealt with the Conservation Board. We attended the June 13th Conservation Board meeting. In our response to you we have copied them because there is a conflict between what was requested or preferred by the Conservation Board versus what we're going with, and that has to do with fencing versus landscape plantings, and we chose the landscape plantings because it was the preference of the Mayflower Village residents.

Issue Number 4 had to do with the architectural renderings of the proposed building. We have provided an architectural drawing as well as digital photo of the building. I should have mentioned it sooner, but I also have in attendance Jim Cuthbert and Richard Grier. Both work for Roberts Wesleyan College and are able to answer specific questions about operations and such.

JOHN HELLABY: To interject quickly, this (indicating) is the rendering you are referring to?

MR. EDWARD MARTIN: No. There is an architectural drawing in there. Stockade is one of the names on there.

JOHN HELLABY: This one (indicating)?

MR. EDWARD MARTIN: That one. I thought there was a larger one also, but that could have been the only one.

JOHN HELLABY: Do you know, is this just to give us an idea what the building will look like?

MR. EDWARD MARTIN: Correct.

JOHN HELLABY: Other than the fact it has numerous doors --

MR. GRIER: That's just a concept what the building will look like. I believe there are nine doors on the building that we're proposing.

JOHN HELLABY: Okay. That is all.

MR. GRIER: Issue 5 pertained to fuel tank storage. As you know, we're proposing 20 by 20 foot concrete pad for storage of both diesel fuel and gas line. The design of the fuel tanks provides storage in case of leakage and also the concrete pad itself, we have designed this to provide more than 110 percent of the storage volumes of the tank in case of a spill. Roberts Wesleyan is aware of the permits they're in need of obtaining and they have begun that process, discussing it with the DEC.

RAY BLEIER: Have you discussed this recently with the Fire Marshal?

MR. EDWARD MARTIN: No, I have not. I was not aware I had to. I thought it was more of an issue between the DEC and Roberts Wesleyan.

Issue Number 6 pertained to snow storage. Since our last presentation, we now propose a detention pond at the south boundary consistent with the original proposal, however, with the pipe discharge, that snow storage will simply melt as spring arrives and discharge below ground to the catch basin and then eastward to the Mayflower Village storm system.

Issue number 7 requested that we demonstrate good neighbor relationship by addressing neighbors' concerns. As I discussed previously, we have met twice with Mayflower Village to address drainage and other concerns.

Issue Number 8 pertained to the storage of materials outside of buildings. Is it proposed the 3900-square-foot building will be used for such storage. In the past storage that did take place outside of the buildings were under very unusual circumstances and typically lasted a very short period of time. I have spoken with Mr. Grier about this, and they have no intention of stockpiling any materials outside in the future.

And finally, Issue Number 9 pertains to the need for a variance for front yard parking. I will draw your attention to Note Number 12 on the site plan showing that that variance was granted.

And at this time I would be happy to answer any questions that the Board might have.

RAY BLEIER: At the previous meeting there was some discussion about bus parking alongside the driveway, and even though it wasn't mentioned as a condition to be addressed, I still feel that that particular point should be addressed.

Will a bus or buses still be parking on this location?

MR. GRIER: We have one bus, a Greyhound style bus that has Roberts Wesleyan's logo, name on the side and it will be parked on site from time to time.

RAY BLEIER: Why? I see the bus very often over near the Life Fitness Center. Is there a reason why you don't park it over in that particular parking lot?

MR. GRIER: When the driver comes back from trips, we like to park it on our site because they pull it in there to wash it, vacuum it out and those things and sometimes it is relocated over to the athletic site so they can pick up passengers.

KAREN COX: Will you figure on parking the bus more in the back parking lot away from the road, or behind the storage building?

MR. GRIER: At this point, I mean if there is a preference by -- we could park in the front or the back. It doesn't really make a lot of difference to us.

KAREN COX: The front parking lot was going to be used mostly for employee parking?

MR. GRIER: It could be employee or also visitor parking out front. I believe on the side there are some handicapped spots, so...

RAY BLEIER: I think there was more of a concern about the bus running its motor rather than physical appearance of the vehicle itself. The further away you can keep it from the residential area, the better off you would be.

MR. GRIER: Okay.

KAREN COX: I think that you have done a good job meeting the neighbors and addressing their concerns. You know, you made a good effort doing that, which we appreciate.

JOHN HELLABY: One of the concerns that might have got slightly overlooked is I know there was a lot of concern about truck traffic on Pleasant Street. Have you given any more thoughts about how you could curtail that or remediate the situation?

MR. EDWARD MARTIN: I would defer to Mr. Grier since it is an operation question.

MR. GRIER: We have sent out letters to all of the vendors we deal with requesting they limit the size of the tractor-trailers making deliveries to 40-foot so they can back into the dock area. I don't know as of tonight how many of them have complied with that specifically, but they have acknowledged the receipt of those letters and I have had some phone calls asking questions about, you know, what they -- the options that were open to them as far as truck sizes, so we have made that attempt to contact them and -- a list of somewhere around 80 potential -- not that we have 80 deliveries coming in in a week or something, but just looked at the whole list of vendors we deal with on an ongoing basis and sent a letter to anybody who could potentially be making deliveries.

JOHN HELLABY: Is there just the one dock on Pleasant Street?

MR. GRIER: That's correct.

JOHN HELLABY: Are your deliveries such that they stack up and quite possibly you might have one or two trucks waiting to get to the dock?

MR. GRIER: I suppose it is possible that they could back up, but it would be very rare that there would be that many vehicles coming at one time.

JOHN HELLABY: That is one thing you want to give a lot of consideration to, especially if they're running out there for any length of time.

Construction schedule?

MR. GRIER: We hoped to start with the site work this fall and get the site work done depending on weather. If we get it done this fall, we'll do the buildings in the spring.

JOHN HELLABY: Completion by what, the middle of next year roughly?

MR. GRIER: Right.

JOHN HELLABY: Security lighting. I don't see any denoted on the drawing. Any intentions as far as security lighting that might be lit all night, sodium-type fixtures, mercury vapor fixtures on the back of the building?

MR. EDWARD MARTIN: I will step over to the board here. We do have a lighting plan that calls for light poles that are shielded to prevent light spillage. The operation of those we would leave to Roberts Wesleyan College.

JOHN HELLABY: I know it is hard to say, but your intent as far as operation of those fixtures, do you plan on leaving them on all night?

MR. GRIER: We have gotten some preliminary costs back and we requested they be equipped with timing devices so we could set them for certain times of operation, as opposed to just dusk to dawn which turns it on and off as the light changes. So those could be shut --

JOHN HELLABY: Do you have security over there? Don't they --

MR. GRIER: The Security Department would make a routine pass through the complex.

JOHN HELLABY: I don't notice any car stops along the front edge of the pond. Is it your intention to place something there so they don't take a spill?

MR. EDWARD MARTIN: That pond is designed to be dry during the majority of the year. It will only be saturated for short periods of time after rainfall to allow the pipe to slowly discharge that water.

JOHN HELLABY: It would be my concern that you're still 5 or 6 feet below on the bottom if someone were to come around the corner in the dark and end up in there. You might want some wheel stops or something.

MR. EDWARD MARTIN: That's fine, isn't it?

MR. GRIER: Yes.

JOHN HELLABY: With regards to Number 8, you made a statement no further stockpiling outside the building is proposed, yet on the drawing I see what is denoted as a topsoil stockpile. Is it your intent to leave that or is that going?

MR. EDWARD MARTIN: No, sir. That is part of the construction schedule. The site work he referred to earlier would begin with earthwork and erosion control. Upon completion of that, that topsoil would be used for restored lawn areas, including the pond. We would place at least 6 inches of topsoil and seed that. That is a temporary. There would be no permanent.

DARIO MARCHIONI: Most of the things have been addressed. I noticed that two-story, frame house there. Is there any improvement that is going to be made on that?

KAREN COX: It is going to go.

MR. EDWARD MARTIN: We're actually going to demolish the two homes along the front and there is one further in the back that is being taken down.

DARIO MARCHIONI: The two-story, frame house will be taken down?

MR. EDWARD MARTIN: Yes, sir.

DARIO MARCHIONI: Okay. It wasn't noted here.

RAY BLEIER: I thought about the truck traffic there. Any trucks come in the evening hours?

MR. GRIER: All deliveries would be between 8 and 5. We don't have anybody staffing the building after 5 o'clock, so they wouldn't be able to make deliveries after that time.

DANIEL KRESS: Just to clarify one point, the Board certainly does have jurisdiction over where the fuel tanks end up going, but in terms of specific methods for containment, et cetera, that is actually in the jurisdiction of not just the DEC, but also the Fire Marshal's office. The provisions that are actually in the Town code currently have been replaced by the new State Building Code. We're not going by what is in the Town code now, but they will certainly have to satisfy Jim Christian as far as the new code requirements are concerned.

DAVE LINDSAY: In addition to Larry Nissen's comments in the letter, the drainage improvements shown on the plan and addressed in Number 1 in the response letter would improve the drainage situation in Mayflower.

CHARLES ROBINSON: The plans were previously approved.

BILL ARNOLD: Just a quick question. The proposed storage in the storage building and greenhouse, hazardous materials, et cetera?

MR. GRIER: There are no hazardous materials storage planned.

BILL ARNOLD: Okay.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

STEVE GINOVSKY - 19 Hubbard Drive

MR. GINOVSKY: There is a number of deficiencies that I have heard on this. First of all, the fuel storage, I believe the Town of Chili has got something to do -- that says about no open storage tanks. Also, being on a slab, and you're going to have drainage, as far as I know, fuel floats. I think it is unwise, and the Town code does specify a point on that. It says none be allowed in the Town code.

Next, the greenhouse, it is already there. Roberts Wesleyan happened to put it up -- as far as I know, never got a building permit or anything else. And the DEC is presently investigating a possible contamination from stuff that you use in a greenhouse.

Number 3, the material, fertilizer, it seems to me I heard something in Oklahoma, a building was lost with fertilizers and fuel, and diesel fuel as such. I personally don't think that is right.

Another point is the front parking. With the Zoning Board, it was said there was supposed to have been a berm in the front of this building. Also there was parking for vendors coming in only. I repeat only. That was one of the considerations. I did hear it personally here.

Next, the bus. Well, you start a diesel vehicle -- I believe we have a parking law and as such and you have to warm them up. We had a lot of stuff going on here in town with the parking, with tractor-trailers. This falls into the same situation.

Also, I'm aware that Roberts used to park the bus up by the Chili Plastics and they still own that property.

I think this is a very poor situation and precedent being set with the parking in the front, as well. They have not been a good neighbor.

RAY BLEIER: The applicant applied to the Zoning Board for a variance for -- and that was granted.

MR. GINOVSKY: Under conditions. And they failed to repeat the complete conditions. I was right here and heard it.

RAY BLEIER: Your comment about fertilizers, anybody here in this room can obtain fertilizers and keep them in their own garage. I don't think that is --

MR. GINOVSKY: I think a ten-pound bag and having a tractor-trailer full -- that links up to the tractor-trailer coming to the loading dock. Neighbors over in that area, I will tell you, are furious because they're backing it onto Buffalo Road, stopping traffic and backing down and going on their front yard, and they're peeved about it.

KAREN COX: They were doing the same thing when the plastics company was there.

MR. GINOVSKY: It wasn't happening in -- as this point, as much as now. Because the Gruendikes would not allow it. Ms. Gruendike would be right out there chasing them out of there. That is not even talking about grandpa.

But that is besides the point. There is just too much going in that small area. I think with the feasibility and everything else that is going on here, I would not personally give the approval, especially for the greenhouse which they just put up and nothing has been done with it. Except that they have had trouble with it.

And with the fuel tanks. The Town is very explicit on that. Thank you.

JIM POWERS, 11 Snapdragon Circle

MR. POWERS: You gentlemen -- may I address the question to the --

RAY BLEIER: Yes.

MR. POWERS: Do you gentlemen still intend to put that drop inlet in next to the pond?

MR. EDWARD MARTIN: The one off site on your property?

MR. POWERS: Yes.

MR. EDWARD MARTIN: Yes, sir, we are down here (indicating).

MR. POWERS: Where are you taking the water from the catch basin?

MR. EDWARD MARTIN: It is our intention to go to the manhole about 160 feet or so to the east there.

MR. POWERS: We're at disagreement a little bit. We have not granted an easement and I'm

not sure -- we asked to meet with you gentlemen on site so that we could show you an area that we would like to have you swale when you were putting that catch basin in, and the area probably isn't from myself to Mr. Bleier in distance, and for some reason or other, you're adamant against doing any swaling over on our common grounds. That is all that is stopping you from getting the easement from us. Otherwise the area that catch basin will serve is basically Roberts Wesleyan, and a couple of backyards that dump water supposedly into that wooded area. It doesn't affect the common area. If you would do a little bit of swaling, it would eliminate a big problem behind the Foxes' home and we would be very happy to grant you the easement you need, otherwise you will put a catch basin in the ground and it is going nowhere.

KAREN COX: Where is this area? Can you show us on the map, Jim (Powers)? Does it show it?

MR. EDWARD MARTIN: Drawing Number 04 is a grading plan, and that should facilitate this discussion.

MR. POWERS: The area that I am referring to is down in here (indicating), behind 2 and 4. The water really ponds, especially in the spring with the snow melting off. I don't think it -- presently too much of the water comes from the properties. Although the land does slope this way (indicating), it's just a short stretch. I could take a shovel and probably do it in a couple of hours, but when you're 80 years old, you don't want to go shoveling dirt.

RAY BLEIER: About how many feet would you say that is, Jim (Powers), to put in the swale?

MR. POWERS: I bet you if we swaled 15 feet, you could --

RAY BLEIER: 15 feet?

MR. POWERS: You could probably clear it up. It is not a deep swale. Just a little scraping that would eliminate a problem behind their home and we could grant the easement and they could go on their way. But we're both stubborn-brained.

MR. EDWARD MARTIN: There has been discussion about the proper location for the catch basin, and the topography there indicates we're locating it in a low spot. There was discussion about moving it to the south, and quite honestly, as consultant to Roberts, I couldn't endorse it because it would be moving it up further uphill. It would change the slopes from the pond discharge to the catch basin and from the catch basin then to the manhole. I would leave it to Roberts Wesleyan to approve or disapprove of doing any additional grading. It was our intention to do this. As I mentioned, Roberts Wesleyan is installing it at their cost, something that was supposed to be put in. It has been endorsed by the Town Engineer and the Highway Department and myself -- granted I'm a consultant, but I'm also a licensed engineer and I'm liable for making statements to that end. So the location is good.

As far as any additional swaling, I would have to leave it to Roberts Wesleyan. As consultant, it is very rare to have a client like Roberts Wesleyan to put up over 400 feet of fence, a catch basin and over several hundred feet of pipe. I am just wondering if we could resolve this. I would like to resolve this if possible.

RAY BLEIER: The issue that's to be resolved -- I know Dave (Lindsay) -- probably getting into this a little bit late. I'm not sure what Larry (Nissen)'s feelings were, you know, about this potential swaling.

DAVE LINDSAY: I didn't have a conversation with him about the swaling. He didn't bring that issue up. I reviewed the plans with him the other day.

MR. POWERS: Mr. Albright called the parties to be and asked that we meet over in the area that we're concerned about, and Wesleyan just did not wish to meet with us. And as I say, it is something that wouldn't involve more than a couple hours and it would probably -- you know, the water can't flow uphill to this catch basin they're going to put in. A couple hours work and it would be solved behind a couple homes on Lily Pond and certainly it would help them resolve theirs. Somewhere along the line we might come to some kind of an agreement, but I certainly hope so.

DARIO MARCHIONI: Jim (Powers), would that fall under -- demonstrate good neighbor relationship?

MR. POWERS: It would help considerably. Some of us over there feel that Wesleyan has not been the best of neighbors, but this would certainly help mend some wounds.

KAREN COX: Is that the only thing that is keeping the Homeowners' Association or the Board from granting the easement?

MR. POWERS: Uh-huh.

DARIO MARCHIONI: Actually, without that easement, it is still a drainage issue? You have a drainage issue.

MR. EDWARD MARTIN: I agree with you that under the original proposal it is not the most ideal of circumstances, but we have done virtually everything requested of us, and beyond, and as a consultant, I have been directed to propose what we're showing, and as I said, anything beyond that would have to come at the direction of Roberts Wesleyan College. I hope the Board recognizes the efforts Roberts Wesleyan has made. I appreciate that is only a little more work, but it is a little more work on top of a considerable amount of cost that has already been done. As I said, I'm just wondering how can we resolve this. As I said, the technical consultants have endorsed it.

JOHN HELLABY: It sounds to me that they hold a trump card right now. This thing won't move forward until this is resolved, and it would seem to me if you're going to be down there digging a pipe, putting it in, take a half hour, spill some dirt and put a 15-foot swale in to appease the problem to get them to give you the easement, the problem goes away, the project moves forward. We can't tell you how to proceed. It is up to you two gentlemen to work out the details.

MR. EDWARD MARTIN: I can appreciate that. I can't commit to anything beyond what we have discussed. I believe that the original proposal was a legitimate proposal. While it is not ideal, it was legitimate, and quite honestly -- I'm not saying they have done this or even indicated they would, but if they were to ask for stuff beyond this, where does the line get drawn and suddenly we're back to the original proposal and discussing the merits of that. We were meeting storm water management requirements both local, state and federal under the original proposal. We have met several times, and --

KAREN COX: That was my point in asking if the swale was the only thing holding up the easement. Because I would be concerned if, I guess -- you know, you agree to dig the swale and then all of a sudden somebody -- something else, some other drainage issue comes up.

MR. POWERS: Karen (Cox), you and I could do it in an hour.

KAREN COX: Maybe you could.

RAY BLEIER: The concern was that, you know, is this going to lead to another situation.

KAREN COX: Another request for some --

RAY BLEIER: We would like to get this thing finalized.

MR. POWERS: We would, too. Another thing, too. It came up here in discussion about the bus being parked over in that area. I don't recall in all of our discussions that subject was ever brought up, but it did come up tonight.

I would like to, if I may ask Dan (Kress) -- I couldn't hear him over here when he comments on the above-ground storage tanks, and I did -- when they were in here for their hearing before, I did mention that in the code book, it says there will be no above-ground storage tanks of any -- that hold flammable fuels, and I don't know if you addressed that particular subject. If you did, we didn't hear you over on this end of the room.

DANIEL KRESS: That is correct. The code does say that. The problem is that section of the code has basically been superseded by the new field and state building requirements that went into effect at the beginning of this year. So the new requirements will have to be met, but we cannot legally forbid them to put in an above-ground tank.

KAREN COX: Because the code allows an above-ground tank.

DANIEL KRESS: Yes. Provided it meets --

MR. POWERS: The State code can supersede what is in our code book?

DANIEL KRESS: Yes.

MR. POWERS: That is interesting.

KAREN COX: That happens a lot of places.

MR. GRIER: On behalf of the College, we would be willing to put in 15 feet of swale as requested by Mayflower Village at the point that they designate on the drawings, so we'll meet in the field when we're doing the work and you show us where you want it and we'll have the bulldozer put the

15 foot of swale.

MR. POWERS: I'm assuming it is 15 foot. I don't have a tape, but maybe --

MR. GRIER: We'll let you walk it off.

MR. POWERS: My steps are smaller than yours.

MR. GRIER: I will walk it, how about that?

MR. POWERS: I am sure it doesn't involve all that much. The Foxes are here. It doesn't, does it?

And I think once that is resolved, there is nothing preventing us from going ahead with the easement. If it is 16 foot, will you bend for a foot maybe?

MR. GRIER: I will cut a foot off my ruler.

BEVERLY GRIEBEL

MS. GRIEBEL: Beverly Griebel, Chair of the ZBA.

I don't know if you got our decision. I was not party to the decision because I am on the Board of Mayflower Association. I agree with Jim (Power)'s comments, but we had them at the ZBA for front parking. And the statement was made the Zoning Board is recommending to the Planning Board that a berm or significant screening is placed between the parking area and Buffalo Road, and that was based on comment from many people in the audience. Did you get that information?

MR. EDWARD MARTIN: Sir, I can address that if you would like. Since that meeting we have included berming along the north. I will draw your attention to Drawing 04. You will see two berms to the west of two existing trees near the east entrance.

He would also -- and I will draw your attention to Drawing 05, which is the landscape lighting plan. We have provided additional plantings there in response to that request.

KAREN COX: That answers Mr. Ginovsky's --

RAY BLEIER: How high will the berm be?

MR. EDWARD MARTIN: 2 feet to 30 inches, in this area (indicating).

BERNICE WILCOX - Stuart Road

MRS. WILCOX: It is just a matter of curiosity. I would like to know if the College does own other vacant land that is unused at the present time. Does anyone know that?

MR. EDWARD MARTIN: Do you own any additional vacant land?

MR. CUTHBERT: Jim Cuthbert, Vice President of the college. We do have vacant land up in the Town of Ogden, but it is mostly wetland up in that area.

MRS. WILCOX: I just wondered why you were crowding all of the buildings here. Thank you.

CHARLES RETTIG, 1032 Coldwater Road

MR. RETTIG: In regard to the present Town Code, 1534(j)(1) in regard to above-ground storage tanks, I heard Mr. Kress state that the New York State Building Code supersedes. If the Town code is more stringent, I think he should know that the Town supersedes the New York State. The Town code at this point says no above-ground storage tanks. Therefore, the Town's code supersedes the State code. That should be noted by the Planning Board.

The variance granted for the front berm, you said 2 feet to 30 inches. My question is, could you not put block at the edge of the north parking area so that that berm could be higher so we don't have to look in and see maintenance doors open and maintenance equipment inside your buildings when you leave the doors open? I think that berm should be much higher and it can be higher if you put block at the north end of the parking area. Since you only have 22 feet between the parking area and the right-of-way for the State.

Also, the bus parking should be at the back of the building, or over on the north main parking lot, not on the side of the building, not in the front of the building. It is not the proper place for bus parking.

The greenhouse. Have fertilizers and pesticides to be used been reviewed with the New York State DEC?

MR. GRIER: We have a -- our gardener is licensed by the DEC, and so everything that she uses meets -- and all those are filed with the DEC on a yearly basis. As far as pesticides, there are no

pesticides used in the greenhouse.

In relation to fertilizer, they use a product what we would buy residentially like Miracle Grow, a water soluble to just water the plants that are in the greenhouse.

MR. RETTIG: You did not answer my question. I asked if this had been reviewed specifically with the New York State DEC. You indicated that you have a licensed person dealing with pesticides. My question again is has this project and the uses of the fertilizers and pesticides specifically been reviewed with the DEC in regard to this project?

MR. GRIER: Not to my knowledge.

MR. RETTIG: I think that should be a stipulation that it be reviewed beforehand, because there are other stipulations that should be followed. One, a concrete pad in the greenhouse. Right now there is gravel. All that fertilizer goes into the ground, goes -- leeches downstream into Mayflower's ponds. DEC, as this gentleman has noted before, previous speaker, the DEC is looking into possible violations there.

Therefore, this should be reviewed with the DEC, and okayed by them before approval. That would be a concrete pad in the bottom of the greenhouse, sealed pad so the pesticides and fertilizes do not permeate and go into the ground and drainage containment so that these pesticides and fertilizers are contained and not concentrated in Mayflower's ponds.

My comment in regard to the drainage to the catch basin would be that there should be an easement approval, not -- we assume this is a contract conversation here, but there should be an easement approval before the Planning Board approves this request.

My comment is that there are many problems here that the neighbors see, that the general public sees, that we have already raised in regard to a legal issue from the standpoint of the above-ground storage tanks, and which code supersedes which. The Fire Marshal has not been contacted in reviewing this above-ground storage situation. We have proximity to the greenhouse and pesticides and fertilizers. We would like to know what the storage volume is and where these fertilizers are stored. Are they close to the storage -- the above-ground fuel flammable storage tanks? None of this information has been brought out properly, nor has it been properly discussed. My comment is that these problems should be reviewed prior to the approval and should be agreed upon prior to this approval. This should be tabled.

RAY BLEIER: I feel that the applicant personally has addressed all of the questions that were asked, as stated previously, and addressed them all satisfactorily. I think with some conditions applied to this application, we can proceed.

CHARLES ROBINSON: I would like to add a condition. Since the applicant has indicated that he is going to be building a berm in front of the property, that I would request on behalf of the Conservation Board that said berm be delineated on the drawings.

KAREN COX: It is.

RAY BLEIER: It is.

CHARLES ROBINSON: It is?

MR. EDWARD MARTIN: Yes, sir.

CHARLES ROBINSON: Okay.

JOHN HELLABY: We need the drainage issue reviewed --

RAY BLEIER: Well, the easement.

The Board discussed the proposed conditions.

RAY BLEIER: Dan (Kress), what about the issue of the storage tank above ground? You feel quite strongly that this Town code has been superseded?

DANIEL KRESS: State law is clear. Any local provisions in excess of the State Building requirements must be approved by the State Building Code Council. This has never happened. So we cannot say anything in our local code is in effect if it is, in fact, more stringent than what is in the State Building Code. It is that simple.

Ray Bleier declared the Board lead agency as far as SEQR, found this to be an unlisted action and

made a determination of no significant environmental impact, and the Board all voted yes on the motion.

DANIEL KRESS: If I may, if you want to make that an express condition, go ahead, but the Fire Marshal has already seen these drawings. He is well aware of the situation and well aware of the State requirements that apply here.

JOHN HELLABY: Do you want the Fire Marshal to look at this?

DECISION: Approved by a vote of 4 yes with 1 abstention (Don Faso) with the following conditions:

1. Pending approval of the Town Engineer.
2. Applicant to obtain a drainage easement from the Mayflower Village Homeowners Association for necessary drainage work.

Note: At the Planning Board meeting, the applicant has agreed to install a 6' high fence along the southerly property line (approximately 400' long).

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

2. Application of Joseph Karpinski, Jr., DDS, owner; 68 Main Street, Scottsville, New York 14546 for preliminary site plan approval for a change of use to convert building to dental offices at property located at 3183 Chili Avenue in G.B. zone.

DON FASO: This is listed under Old Business because this was properly advertised several months ago for a public hearing. The applicant asked to be tabled to tonight due to conflicts he had so we're actually having a public hearing even though it was listed under Old Business. It was properly advertised.

Carl Schoenfeld, Dr. and Mrs. Joseph Karpinski were present to represent the application.

MR. SCHOENFELD: Hi, my name is Carl Schoenfeld. With me tonight is Dr. and Mrs. Joseph Karpinski, who will be able to answer any other questions that the Board may have. If I could, I would like to pass out the documentation that I have posted on the board for the Board's use. I have multiple copies here.

I would like to just briefly review what the proposal includes. Dr. Karpinski has acquired this property for the purpose of converting its use from what currently is four individual tenants. Right now there is a pet grooming facility that is in the basement, there is a hairdresser on the first floor and there is an outfit that does nails. There are actually four distinct uses and one right now in the basement is vacant.

What the overall intentions are is to look at the possibilities of doing some maintenance work on the facility, which would include some landscaping and some minor improvements to the building for the purpose of opening up the first floor for the use and converting that into a dental office.

On the particular site plan that I have prepared and presented for your use, we show this is Chili Avenue (indicating). The entrance to the site comes around the back of the building (indicating). One of the considerations that Mr. Kress pointed out to us was to make sure we had enough parking on the site for the existing commercial use and we have shown that we do have that capability.

As is shown on some of the existing fixtures of the building, the sidewalks and stairway on the rear of the building are in severe state of disrepair. The enclosure and the entrance at the rear -- there is a frame storage shed. All those items are really unsafe and we're looking to increase the maintenance of the facility and remove those structures.

Additional enhancements would include landscaping around the building as is shown on the architectural renderings. Those enhancements will increase the aesthetics of the site, and we don't show on -- on the plan we don't show the ones around the rear, but we're also looking to have landscaping

around the rear as well. The site is capable of having a dumpster enclosure on the site. It is not proposed to be included as part of this process. It is not necessary. In the future there is potential that that may be required, so we wanted to make sure there is room for that. The entrance into the site, the paved entrances will be enhanced and widened. Right now it is a very narrow 18 foot entrance. We would like to widen that so it is suitable for entry and exit onto the State's highway.

There is some minor work that is being proposed in the right-of-way, and that includes this reconstruction of the sidewalk that is around the front of the building. Right now there is a step into the building. We would like to come out at grade so the facility is entirely handicapped accessible, which it currently is not. The primary goal is to bring the building up to code, improve aesthetics and renovate the first floor for use by the doctor for his dental office. Currently the doctor has a practice currently in Scottsville, New York. The picture with the green is an example of where his current facility is, and we would like to mirror that, the look of that facility here in Chili. We would like to give it a neighborhood-type appearance, so the landscaping and enhancement improvements to the building will be very much in line with that character as is shown in Scottsville.

We understand that there are items in the Comprehensive Plan that the Planning Board will be reviewing as a part of this project. Specifically in discussing the image of the built environment, we're looking at a project that is attractive. With the architectural renderings we have provided, we expect the enhancements will be a very nice change to what is currently there.

The Comprehensive Plan also speaks of maintenance and improvement of the built environment. This building is in need of some immediate repairs, and that is what we propose here with the handicapped sidewalks, the new stairs on the rear and removing some of the structures that are right now very much a hazard.

Comprehensive Plan also mentions attractive signage. As you can see on the architectural rendering, there are a few signs. Right now the signage on the building is not what we would like to continue to have on the facility.

With regards to economy and associated land uses, in the Comprehensive Plan, it discusses commerce and the need for the Town to look at neighborhood-oriented commercial areas, enhancing circulation and improving circulation, both pedestrian as well as vehicle. Well landscaped and architectural enhancements to the neighborhood. That the Town would work with local businesses for identifying, improving and design appearance.

As you can see, some of the photos of the existing facility, there is a lot to be done to enhance aesthetics. We have improved circulation both pedestrian and vehicle. We have enhanced the neighborhood orientation of the commercial area. We have submitted a short form SEQOR.

As far as drainage on this project, the applicant has made application for a petition to the Town Board for entry into the Drainage District. As far as water, there is currently a service into the facility that provides water use to the four uses. An RPZ will be added as required by the Health Department for the use. Currently the site is served by public sewers. We'll be maintaining that use.

And circulation access as you can see on the site plan is really not a whole lot of work that needs to be done to improve the situation, although we're looking to widen the pavement so that there is in and out access and also the pedestrian access around the site.

The project is scheduled to be phased in. Initially it was intended to do renovations inside the building and outside the building this year. We're looking, if it all possible, to do the exterior improvements which are really in need of being done anyways. With the landscaping and sidewalk work to be done in the fall, with the Board's approval. And that we would like to entertain the renovations of the first floor for the purpose of converting that first floor to a dental office, and there will be two remaining rental leased areas in the basement that will be just maintained as is, and improved and enhanced.

There is lighting and air-conditioning and other types of mechanical work and plumbing work that will need to be updated, so the facility is up to code and suitable for the uses that are there. So the overall project, the budget is a small component of the overall -- we're looking to invest in this property, improve its viability, and also provide an opportunity for Dr. Karpinski to move his practice into Chili. The purpose for moving primarily is the fact he -- the building he has now in

Scottsville is undersized, and with the new regulations that are coming down for the doctors as far as privacy concerns and the need for additional space in his current practice, he is really going to have to move into a new facility. This facility provides that area for him.

We understand the Board has had concerns or there have been concerns raised to the Karpinskis regarding why not relocate the facility and move it to the rear of the site, and primarily, that issue has been looked at, and it -- to put up a brand new structure and to relocate the existing uses into a brand new structure, we don't feel we could accommodate that with the size of the building that is currently here. We have a 3300-square-foot space. We wouldn't be looking at more structure, more than 2,000 square foot. Additionally the cost of that structure and the completed improvements, we're probably looking at a total in the \$300,000 range. We have estimated the improvements as shown here to be at most about \$50,000, so if we did a cost benefit analysis over the next 20 years on that, the investment and the reimbursement from that really does not make the project viable, and so we have really -- it is going to be very difficult because of the size of the site, the limited use for the additional area, it doesn't appear to be feasible at this point.

We would like to request the Board's comments and entertain any questions that you may have. Real eager to move forward on making immediate improvements to the site which are definitely needed, and we look forward to any questions or comments that you may have at this time.

DON FASO: Well, I will start. Sounds all good. However, your rendering that I am looking at looks like you anticipate having a 15-foot setback off the sidewalk. You're about a foot off the sidewalk. As far as -- it looks like some of your improvements are in the right-of-way.

MR. SCHOENFELD: You're correct. The sidewalk improvements are indeed in the right-of-way. The landscaping will not be constructed in the right-of-way.

KAREN COX: The State will have to give permission for that.

DON FASO: Not only that, we have a sidewalk contract that plows the sidewalks, and I think that fence that you have got along there will pose an obstacle to the snowplow.

MR. SCHOENFELD: The fence is proposed on the front, the front view. I am not sure how it is drawn there, but the fence on the site plan is actually on the inside. It is primarily a handicapped railing. So the fence that is shown there -- it is not accurately shown. What is on the site plan, what is proposed? The railing is on the inside of the sidewalk. The only thing on the State's right-of-way is the actual placement of concrete pavement, but it will not be an obstruction to the snowplowing operations of the Town. We need to have that much length of sidewalk in order to make the grade to get down to the back side. Currently it is a stepped process and is not safe and very hazardous. Having the railing and the sidewalk improvements will be a necessity.

KAREN COX: Is that going to meet the ADA requirements?

MR. SCHOENFELD: Yes, it will.

DON FASO: Well, the Town has made great strides over the last few years in improving the appearance of Chili Avenue. I will be quite blunt with you. I don't think this is in keeping with the character of the other businesses that have been improving Chili Avenue. I really don't. It just sticks out like a sore thumb. I think all of the cosmetic renderings that you are going to put on this building are still not going to change the fact that it is going to be on top of Chili Avenue. I would like to hear what the public has to say about this, but I will turn it over to anybody else.

DARIO MARCHIONI: I have the same feeling. It is really, really close to Chili Avenue. And now would you tell me again, to move this building further back -- first of all, how old is this building?

MR. SCHOENFELD: I believe -- I'm not aware of the age, but it is probably dating back to the '40s, '50s, in that time frame possibly. I don't know the exact date.

DARIO MARCHIONI: You said to move the building back, to build a new building with the same amount of square footage -- actually, this is up and down. This is --

MR. SCHOENFELD: Yes. There's a lower level and an upper level.

DARIO MARCHIONI: Some is underground, too?

MR. SCHOENFELD: Yes. There is a full basement and then a first level and then actually a second level up above. To put in a commercial type structure and -- we're looking at putting in a smaller facility, single level, approximately 2,000 square feet. \$120 a square foot for construction and site work, we're looking at a project budget of \$300,000, which is well beyond the real scope of what

we have the capabilities of providing.

DARIO MARCHIONI: This area of Chili Avenue will take that kind of expenses and it will be worth your money to invest here. If you see some of the things going on with Chili Avenue, the building next door. That man spent a lot of money on that building. He tore the other building down. So the area calls for it and it is worth it. Maybe you should consider that.

MR. SCHOENFELD: Sure. For the purpose of a dental practice, it would not be feasible for that use. To invest that level of investment into this property in particular, we would be looking at other property.

DARIO MARCHIONI: With the prices dentists charge? Gees. I don't know about that.

DON FASO: Well, the pictures you have supplied of the current office where he has his practice is quite nice. It looks like it just fits in beautifully with the neighborhood. It is a nice old building, beautifully landscaped, nice signage. What is the square footage of the old building?

DR. KARPINSKI: I have about 800 square feet in my existing structure now.

DON FASO: You don't occupy the whole building?

DR. KARPINSKI: I can't. There are too many structural barriers that won't allow me -- the integrity of the building -- I had a number of engineers look at the building in terms of trying to expand the entire structure.

DON FASO: You're Dr. Karpinski, for the record?

DR. KARPINSKI: Yes.

DON FASO: Dan (Kress), would he have to comply with ADA as a multi-story building, put in an elevator? Or a lift?

DANIEL KRESS: Well, each level would have to be accessible. An elevator or a lift is not necessarily the only alternative to getting to that point. Quite honestly, what I'm more concerned about is the exterior accessibility arrangements. It might be helpful to know if there have been any discussions with the State about making the improvements within the right-of-way.

MR. SCHOENFELD: We have not had a chance to meet. Once the Planning Board gives us an idea if this is a feasible project, we would follow up with those things. Handicapped accessibility is provided now for both levels through the reconstruction of that sidewalk, so it would eliminate the need for a lift or handicapped elevator in the building.

DARIO MARCHIONI: Another point, the history of Chili Avenue, a lot of the old businesses or houses that existed on Chili Avenue have been torn down. Pizza Hut, Wendy's, the dental office. There was a piano -- an old house there that was torn down. So that is what is happening on Chili Avenue, just to give you an idea of the past.

KAREN COX: So you said that the plans for the lower two, it is retail space?

MR. SCHOENFELD: No. I don't know if you call it retail space, but it is personal service, hand, nails, hair styling, stuff that I don't use, but --

KAREN COX: Me neither.

DON FASO: Are you keeping the present tenants?

KAREN COX: There is something down below?

MR. SCHOENFELD: A dog grooming place, as well.

KAREN COX: Is that keeping --

MR. SCHOENFELD: There will be two individual spaces in the basement left available, and there is talk about relocating one to the other. I'm not sure what the owner's intentions are, but the primary goal of the project is to renovate the first floor for the purposes of the dental practice, and the remainder will be used for those similar types of uses as is currently being used at the facility on site. So we're really maintaining the same -- you know, it is a general business zoning, maintaining the same types of services. It is just a dentist as opposed to the hairdresser in the building.

KAREN COX: Somebody will have to move out now?

MR. SCHOENFELD: Right now there is one space that is vacant.

KAREN COX: But there are three businesses in there now?

MR. SCHOENFELD: That's correct. There are four individual tenant spaces. Three are occupied. One is vacant. So there is likely to

be a relocation needed, you're right.

JOHN HELLABY: Who presently owns this building?

MR. SCHOENFELD: Dr. Karpinski.

JOHN HELLABY: So he has bought it already?

MR. SCHOENFELD: Yes. He purchased it with the intentions of -- if -- if, for instance, if the project is -- if the use as a dental office is not appropriate, then the existing uses likely will be maintained, except that the improvements to the exterior of the building are needed nonetheless. So we still need to come to an agreement -- an understanding of what will be allowed on the exterior and determine if that is within their budget for improvements to the facility to maintain its character for the next 20 years or so. So there is really no -- there is not -- the demolition of the site and turning it vacant is not an option. Economic wise, it is not feasible to build a new structure on that site for these types of uses because of the rates for rental, at whatever the rates they are, doesn't allow that. It is a situation we're dealt with.

KAREN COX: I would just like to know if the State is going to approve that sidewalk.

RAY BLEIER: That is a tough one.

KAREN COX: It is not a good site.

RAY BLEIER: I would like to see the trend continue for improvement of the businesses in the Chili Center area, which is quite self-evident, just down the street from you. I don't know. I'm kind of lukewarm at this stage.

DON FASO: Dan (Kress), I think that my County Comments are probably in my packet that are two months old. Does anybody have the current County Comments?

The applicant handed him comments.

DON FASO: We have the standard note about water supply. Standard note about filing of map monumentation. The following agency has no comments, C, which is environmental management. D.O.T. --

KAREN COX: They didn't review them.

DON FASO: D.O.T. has not reviewed them.

MR. SCHOENFELD: That is right. We don't want to go through the expense yet of following through with those types of referrals until --

DON FASO: Thank you very much.

KEITH O'TOOLE: I was curious. Your cost estimate, that is for demolishing the existing building and constructing a new one; is that correct?

MR. SCHOENFELD: That is correct. With all of site improvements necessary to meet whatever current codes we could meet on the site.

KEITH O'TOOLE: What would be the cost of picking up the current structure and pulling it back to a new foundation?

MR. SCHOENFELD: It is something that has not been considered.

KEITH O'TOOLE: Thank you.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: I couldn't agree more with the feeling of the Board that this is not the appropriate place for that building. Although it has stood there many years, so have many others that are no longer there. And we have had so many improvements on Chili Avenue over recent years and it is such an improvement, and if this is allowed to go through the way it is, we're going to be looking at this for who knows how many decades. It is a mistake. There has got to be a solution here.

I wondered, too, about the parking spaces, if they're going to continue to use parts of that building for other purposes, if there is sufficient parking there for a dental office and two more businesses. The Building Department could probably answer that, but it looks like -- they wouldn't have any room to expand. If you don't get enough now, there is not going to be enough later.

There are some pretty tacky businesses that have been in that building. It has been a pretty tacky building. It doesn't look much better now. The sign -- that rusty mess of a sign is gone out of the front yard, but it is still a building in need of work. It is too close to the road. As the Board has stated, if other businesses are put in there and the dentist can't use it for a dental office, I think he should be aware that the Town will want him to do other things anyway. I'm sure the Town is not going to be satisfied with the present situation just to keep those present tenants in and let that building sit there as it is because it is an eyesore. We have got a 95 percent improvement rate in that area and it would be a real mistake not to bring that up to better appearance, even if it stands with the present tenants. It needs improvements regardless. There has to be a better solution to this problem than the one that is proposed.

TINA ALBANESE-STAUFFER, 15 Tangerine Way.

MS. ALBANESE-STAUFFER: He stated that the enhancement is going -- it is going to enhance circulation. What more circulation can you get than a hairdresser who has three stations, a nail technician with two, another hairdresser with another one and pet grooming with two stations. One dental person with two hygienists is not going to generate as much circulation as what we all are doing presently. There has been space provided in the Wegmans area for professional use. If he wishes to bring his business to Chili, put it down there. There are all of the professional stuff and all of the doctors' offices down there. And yes, it is going to can two of us out of the place that we're currently in. Some of us have been there for 20 years or more.

And I don't agree with the last lady. There isn't so many tacky businesses that have been in there. Some of us have been pretty decent and have been servicing the community for many, many years.

I do also want you to know the type of people that did buy this building. We were told by Mrs. Karpinski that the building quote/unquote was bought for rental property. She told us all that, and turned around and is now approaching the Board to turn it into a dental office. So I want you to know that she did lie to all four businesses.

DON FASO: I will stop you right there. I assume you're speaking as the unofficial spokesperson for the tenants, but the application is for site plan for change of use.

MS. ALBANESE-STAUFFER: I understand that.

DON FASO: Thank you.

LESLIE KARPINSKI: Leslie Karpinski, and I just want to answer a couple of the things that came up.

For one, the building was built in the 1960s. It is not underground. The two rental spaces that are downstairs are at ground level, so you're not actually going down underneath the ground, if you will.

I had several conversations and a meeting with Dan Kress before we purchased the building so that it is not assumed that we just bought this building and thought that this would happen, because that is not the case. I was told we probably wouldn't have to come in front of the Planning Board. And also regarding the look of Chili Avenue and the people that have purchased buildings and torn them down -- and again, Mr. Kress and I had this conversation. We're not converting this to a restaurant, which has been the case with many of the places. What we need to do can be done within the square footage of that building, within those same four walls.

Our hope is to accommodate two of the tenants downstairs, and we did purchase it for the rental property downstairs and the dental office, in hopes, upstairs. And in my mind, when I drive down Chili Avenue, anything done to this building will look better than the way it is now.

DON FASO: Well, I'm --

JERRY BRIXNER - 14 Hartom Road

MR. BRIXNER: I appreciate the opportunity to speak. A dental office in Chili Center -- there is already one there, but I can see that it could be a nice spot for a dental office. I would suggest that perhaps this application be tabled to give both the applicant and the Planning Board an opportunity to review some other characteristics and perhaps bring in the current tenants there and see whether or not something could be eventually made suitable so that it could be located at that building. It has already

been purchased. The applicant has already made payments and -- at a cost of money. I would hate to see the project go down in one evening's time. Thank you.

DON FASO: For once, you're reading my mind, Jerry (Brixner).

I'm kind of torn on this application. The use is actually a permitted use. But again, the tenants along Chili Avenue have made vast improvements to the appearance of their property.

We would legally, I think, be hard pressed to deny this application. However, I do think that the application needs to be finessed a little bit, and I am going to recommend that the Board table this, because I think I would like to meet with the Karpinskis and the Building Department and maybe the Commissioner of Public Works regarding the right-of-way and the snowplow removal -- or the snow removal, because I think that is just going to be a hazard in the future.

So I am going to make a motion that we table this application, that -- if the Karpinskis are willing to meet with myself and the Building Department and the Commissioner of Public Works --

KAREN COX: What about the tenants?

DON FASO: That could probably be discussed when we meet with them. I don't think they absolutely necessarily need to be there. Their intentions could be discussed at that meeting.

DARIO MARCHIONI: I will second the motion.

JOHN HELLABY: I think it is a good move. I would just like to somehow get an answer back from the State as far as what their feelings are, if this was to move forward.

DON FASO: Do you think you could do that, make arrangements to talk to the State before --

MR. SCHOENFELD: We'll contact the State. That is not a problem.

DON FASO: I could always be reached through the Building Department. Dan (Kress) can call me and we can set something up. I'm pretty flexible on my schedule.

MR. SCHOENFELD: Very good.

DECISION: Unanimously tabled by a vote of 5 yes to table until October 14, 2003 for the following reason:

1. Tabled to allow the applicant, the Planning Board Chairman, and the Director of Planning & Zoning to meet to discuss all options for this parcel with regards to the proposed use.
3. Application of Sprint Spectrum, L.P., 6391 Spring Parkway, Overland Park, KS 66251 for renewal of conditional use permit for a 130' high telecommunications tower at property located at 60 Golden Road in R-1-20 zone.

JOHN HELLABY: Mr. Chairman, before you proceed, I would ask to be allowed to be dismissed because I am a leaseholder with Sprint.

DON FASO: So noted. So excused.

DANIEL KRESS: Mr. Chairman, if you refer to the note that I tried to put in every Board member's boxes before the meeting -- and I apologize if that was not so far in advance --

DON FASO: Mr. Bleier picked up my mail.

DANIEL KRESS: In fact, as you may have already surmised, there is no one here for Sprint Spectrum, nor anybody from T-Mobile. Mr. O'Toole and I met with the attorney from Sprint last week and reached some sort of tentative agreement on getting things taken care of in advance of coming back to the Board so the Planning Board could simply understand that --

DON FASO: So we're tabling it for another month?

DANIEL KRESS: On that basis, it was specifically requested by them that this be tabled. I advised Mr. Huggard of the T-Mobile organization.

DON FASO: Ladies and gentlemen, what we find so amusing is this has been going on for about four months like this. I will make a motion that we table the application for one more month. Without prejudice.

DARIO MARCHIONI: Without prejudice, yes.

DECISION: Unanimously tabled by a vote of 5 yes to table for the following reason:

1. Tabled at the applicant's request until the applicant resubmits.
4. Application of Dr. Robert Fallone, 3173 Chili Avenue, Rochester, New York 14624, property owner: Thomas Buttarazzi; for rezoning of approximately 36 acres from R.B. (Restricted Business) to PNOD (Planned Neighborhood Overlay District) at property located at 741 Paul Road.

Don Carpenter and Robert Fallone were present to represent the application.

MR. CARPENTER: Good evening, Mr. Chairman. My name is Don Carpenter. I'm with DDS Engineers. I'm here tonight representing the applicant, Dr. Fallone. As you know, we were here last month when the Board asked us to come back with a market study as well as some previous sketch plans. We have provided a market study for your review. I'm no market analyst, but I read the study thoroughly and I would like to point out some of what I feel are probably the important points.

The conclusions reached in the study, which was performed by Gar Associates (phonetic), state that the demographic -- the regional demographics support the project. The Town of Chili has the highest population increase in the last decade in the County. And there is also a projected 8 percent increase through 2007 for the 55 and older population.

The report examines the financial viability of proposed tenants. The required income would be \$30,000 if they were senior citizens who sold their home and moved into one of the apartments, and \$35,000 a year for renters who were not selling in order to buy -- or in order to move in.

Also noted in the report, there is a projected 11 percent income increase for the same age group. I think it was a 3 percent increase. I'm sorry. There has been an 11 percent income increase from the years 1990 projected through 2007 for the age group 55 to 64, and the report concludes that the project has an extremely low capture rate which is the percentage and population that would be required to utilize the project to make it viable. That capture rate, which is stated at the end of the report in the addendum, is 4.7, so apparently that is a good thing.

Also, we did revise the layout greatly to show some more sort of pockets of the apartment complex. I did one sort of colored and one non-colored, but you can see on either one of them that we're trying to use the existing wetlands as a real feature of the development. What we're showing here are some trails through the wetland as well as trying to use the buffer area between the apartments and the existing wetland and complex. We have even shown some conceptual putting greens along the woods here, and then at the limits of the project, these features right here (indicating) are tenant flower gardens where the complex would supply all planting materials and seeds and the tenants could plant their own flowers and maintain them. This apparently has been very successful at other apartment complexes in other parts of the state.

We also kind of shifted the clubhouse down to the main entrance of the apartment complex, so as you drive in, you have the complex -- the clubhouse, I mean, and then the apartment complex and we sort of transition into the office and the retail. We're trying to maintain the retail along the front, you know, the range line of the Wegmans Plaza, and then the frontage we're showing the office, because that is sort of a buffer to the residential area across the street, even though traditionally the street would be kind of a buffer. In this case, I think it is a better spacial use of the project area.

As I said, we have got some extensive trails that tie the entire development together. These also could be used for access to the plaza, to the north, as well as the proposed retail uses on site.

Also, I have brought with me some of the previous site concepts that we did. I won't go through them in great detail, but I will touch on them. This was the original (indicating) that we came in with that shows kind of a highly developed apartment use as well as commercial and retail.

I mean office and retail.

This again (indicating) was a higher concentration of retail as well as pretty densely populated apartment.

This was a layout (indicating) that we sort of gave up on, trying to -- we used the lineage of Chili Avenue to angle it, but we didn't like that one so much so we kind of gave up on that one.

This (indicating) was another very intense retail use that for obvious reasons didn't work out.

This (indicating) was the one I was telling you about earlier where this site -- this is the existing Wegmans (indicating). This site was looked at some years ago -- I guess three, four years ago as a potential Lowe's site. As you can see, we have been examining this area for quite some time.

I do think that the current layout, the one that is probably best suited for the project -- as Mr. Nowicki said at the last meeting, I took into consideration that we're building a neighborhood here. I think that the layout will provide for two things. Number one, we can easily do a phased layout here, of both the residential and retail and office uses, if that is the way it turns out. Although in the market study, I don't know if you had a chance to read it, but the absorption rate for this project is likely only to be a year and a half, which is sort of a sudden development.

The other thing it does is sort of creates little pockets of each use, which is, you know, one of the things that makes up the real heart and soul of a neighborhood, is, you know, each neighborhood has their own idiosyncrasies. So those are some of the things that I have tried to take into consideration.

I guess I would love to answer any of your questions or questions of the Town staff.

DON FASO: Thank you for the market analysis. I did try to wade through it. I do believe some of the conclusions that were reached in here because they go hand in hand with some of the conclusions I have read in other reports.

I am trying to find where I read -- I don't remember exactly where it was, but it had to deal with the assessed evaluation of the surrounding neighborhoods when a senior complex of this magnitude goes in, and what this report is basically saying is that housing values do not decrease, but they appreciate in value with this type of a complex. I can't remember where I found that, but it is in there someplace. I did read that.

Just for clarification for the audience, this applicant did come before the Planning Board a couple months ago and made a presentation. We tabled it requesting some additional information. The information has been supplied.

What we are looking at is a rezoning application. It is up to the Planning Board to make a rezoning recommendation to the Town Board. The Town Board is a legislative body, the one that actually does the rezoning. Ours is just a recommendation.

What we are being asked to consider tonight is the intended use of the property to a Planned Neighborhood Overlay District, and whether the use is appropriate for the parcel and the surrounding area.

The Planned Neighborhood Overlay District, I believe, was created for this type of purpose. It is consistent with our Comprehensive Plan. It does fit the criteria for the zoning in the area. Remembering that the plan we are looking at may not necessarily be the plan that comes before the Planning Board should the Town Board approve a rezoning. There are many steps along the way, so what we are being asked to consider is a rezoning for a potential use, and is it consistent with the neighborhood and the Comprehensive Plan. That is a question we have to address. That is a question we have to answer. The applicant has made an attempt to do a little creative thinking on there. I believe it is a vast improvement over the last plan that was submitted, and as you saw, there were many plans proposed for the property that they didn't proceed with. So with that, I will open it up to the Board.

DARIO MARCHIONI: There is a great improvement from the last plan that you submitted. My only comment is that the 148 units, you know, they're all the same basically. Four units, four units, four units. If there was a possibility of some single homes or some other combination of -- you know, breaking that down a little bit, because I just like -- you know, it is just a repetition -- just a cookie cutter type thing.

MR. CARPENTER: That is under consideration. I mean as the Chairman stated, this is sort of a preliminary, but those -- that is one of the things that we're actually considering at this point, is some different residential uses. Although I am -- I -- we just sort of mentioned this today and I'm not clear on what is actually allowed in the PNOD, so it would have to be --

DARIO MARCHIONI: In other words, you're open to other suggestions?

MR. CARPENTER: We're open to whatever is allowed in the zoning.

DARIO MARCHIONI: Also, there are some possible entrances from Wegmans' property. There are a couple there, right?

MR. CARPENTER: Yes. We're showing two access points to the Wegmans.

DARIO MARCHIONI: Will you have a relationship with Wegmans that that could possibly happen?

MR. CARPENTER: I'm not exactly sure where we are. I know that we -- that they have been contacted. I don't know that we have actually had a meeting.

DARIO MARCHIONI: Because that would be very helpful to combine these -- the office complex with the Wegmans, et cetera.

MR. CARPENTER: Right. We're sort of operating under the assumption it would be an attractive proposal for Wegmans to have access from a great number of potential customers. So that's -- hopefully they will see it the same way. I have not had a face-to-face meeting yet.

DON FASO: One of the things that the report does cite is the age qualifications, the age group 55 to 64 from 2002 to 2007 would increase by plus 17.333 percent. That's a pretty large increase. So the assumption is senior housing is --

KAREN COX: I'm in that group.

DON FASO: What was that?

KAREN COX: I'm in that group. Or I will be in that group, let's say.

DON FASO: 2,000 between 2002 and 2010.

KAREN COX: Yes.

JOHN HELLABY: We're definitely getting closer. Drainage for that entire area right now, correct me if I am wrong, does that not drain to that marsh area behind Wegmans and down along the railroad tracks somehow?

MR. CARPENTER: Yes.

JOHN HELLABY: Any improvements in that area that would enhance the drainage problems upstream, I would say? Alleviate any problems? Others have mentioned, you know, the cattails situation along Chili Avenue and whatnot. Or excuse me, Paul Road.

KAREN COX: I don't know if this site can improve that.

MR. CARPENTER: Right now, basically there is a discharge underneath Paul Road, and it -- you know, it just flows freely through the site and into the wetland -- through the wetland on site and then onto the wetland complex behind Wegmans. There is a very large detention pond on the Wegmans site. I believe it does pick up some of this, but not all of this.

Any improvement that we do is going to lessen the severity of any storms downstream simply because we're going to be detaining runoff that would have otherwise flowed into the swale. So the Phase 2 storm water regulations are pretty clear on, you know, what you can discharge pre and post development, and so, you know, any development on this is going to lessen the downstream runoff without a doubt.

KAREN COX: You can't assume it is going to improve the drainage conditions upstream, but perhaps during site plan approval maybe there would be a way that it would help out.

MR. CARPENTER: Right. I don't imagine there will be a great improvement. I think it is likely that just meeting, you know, the Phase 2 regulations will facilitate probably a minor improvement. But I certainly -- it is not going to fix any drainage problems downstream.

JOHN HELLABY: As far as your best guesstimate, construction schedule, I mean, figuring that this thing moves forward, you're going to have to naturally develop the site drawings and whatnot. Do you have a rough idea on time frames?

MR. CARPENTER: If we were to get the rezoning and move into the site plan approval phase, I would anticipate we could probably start in the spring construction.

RAY BLEIER: Construction of what? Apartment buildings?

MR. CARPENTER: Yes. Construction of the -- either the first phase or the -- you know, the roadways, but if we got a recommendation for rezoning, that would give us, you know, six months to go through the site planning phase before we got some final contract documents and then, you know, March; March or April.

JOHN HELLABY: Should Wegmans come back and say we are not interested in any cross

access easements --

MR. CARPENTER: I don't think that -- it certainly would be a minor disappointment. I don't think that necessarily, you know, would kill the project. I think that the uses that we're showing on site are not really incidental to the apartment complex, but certainly they will be supported by the apartment complex, and, you know, we're not really talking about large anchor stores. We're talking about neighborhood uses, small offices that, you know, not -- it is not crucial to have an access through the Wegmans parking lot.

JOHN HELLABY: My only concern would be that -- excuse me, the west access point, just knowing the traffic situation coming out of Wegmans now, when the people are trying to make a right and a quick left down that side street to get over to Chili Avenue, I think I would really look at that situation.

KAREN COX: Is this going to be a -- I mean a definite senior housing complex where you're going to only allow -- where you will only allow a certain age range, or is the marketing going to be towards that age range?

MR. CARPENTER: The marketing is towards -- actually a 45 and up age group. It is not a subsidized, you know, senior housing program. It is a market -- it is a fair market complex. I think even the PNOD only allows 30 percent that are -- what are termed senior which is really ADA-compliant projects.

KAREN COX: This plan that was included, did the plan from Passero -- is that --

DON FASO: Is that a typical elevation?

KAREN COX: Is this typical of the idea?

MR. CARPENTER: Yes. That is kind of the idea. Obviously, you know, we anticipate going through a refinement phase when we get into the Planning Board, the actual site plan approval of the -- the phase of the Planning Board, but that is kind of the general theme, if you will.

KAREN COX: To keep it one floor -- I got to believe if you go to two-story townhomes, say you come in with a proposal that is two-story, you're not -- you know, senior market is not going to be as interested as the one-story.

MR. CARPENTER: I would agree with that.

KAREN COX: I mean that is just the point I would make, that in looking at this, or in changing things, you -- if that is your market, build to that market.

RAY BLEIER: If you are unable to get that cross easement agreement with Wegmans, I think I would seriously want to see some sidewalk ability so that people are not going to have to walk along the shoulders of Paul Road to get to Wegmans' complex.

DON FASO: That would be site plan review --

RAY BLEIER: I know it is site plan.

MR. CARPENTER: Well, we certainly hope that we gain an access to Wegmans, and I think it would be -- you know, it would be a symbiotic access. Certainly they would gain a whole lot of customers. It seems to make sense.

RAY BLEIER: I'm still -- you know, I would like to see some indication of single-family units in the plan and not just all apartments. It is a lot of density still. You are a lot of land. I don't know. It is just something about it. I would certainly -- if it gets approval, and you come in for site plan, I don't want to see phased units coming in for apartments, apartments, apartments, and nothing for retail and the office. There has got to be a mix for it.

DON FASO: In the phasing?

RAY BLEIER: Yes. The letter of the law, in regards to the zoning. That is it.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

GAIL LYLE- 736 Paul Road

MS. LYLE: Gail Lyle, L-y-l-e. I live at 736 Paul Road.

In regard to your question about Wegmans, I spoke to Ralph Uttaro, head of real estate with Wegmans, this afternoon. He said there has been no request to them for a road to connect to their plaza from the proposed developer as a back way out, which the County was concerned about, nor will

they give such permission for this. They are also concerned with the safety of shoppers pulling out of their plaza and having to connect with Grinell Drive, which is going to be a through road from there. So Wegmans is very concerned and they have already addressed this to the Town Supervisor, I believe, as of my conversation today.

Also, last month when I talked to you, I said the Town had promised us this property would never be rezoned again. I went back in the minutes. In Town records of April 19th, 1989, it states, "Site plan approval. If construction of the principal building print and a valid building permit is not diligently prosecuted within not more than two years from the effective date of any resolution designating an area RB, then the area shall automatically revert back to the district in effect prior to such designation. At any time prior to such revision, the Town Board by motion, upon recommendation of the Planning Board, may grant an extension which should expire no later than three years after the effective date of the resolution designating the area as RB." Therefore --

DON FASO: That is on a specific request from an applicant to rezone the property. The Town on its own motion has rezoned that property. That caveat does not apply in this particular instance.

MS. LYLE: Well, that is what they promised us they would do and it is there in the records. I think you better go back and read it.

DON FASO: In what year?

MS. LYLE: It is April 19th, 1989. Also you're talking about the drainage. I talked to an elderly resident of Chili who has lived here for 80 years. He knows the area well. He has recently been in there. He has walked it. It is Beaver Creek that goes under Paul Road. I thought it was Black Creek. It is Beaver Creek which goes under the railroad tracks, under Chili Scottsville Road to Black Creek. From Paul Road to the railroad tracks it is almost completely blocked with debris from previous storms that nobody has bothered to go in there and clear out. The water does back up and it backs up onto our property and has flooded us. So if anyone is building in there, this is going to be a major problem with the drainage. It has already been evident with the insurance company when we had to file for the damages that it caused with our flooding.

BERNICE WILCOX - Stuart Road

MRS. WILCOX: There are a couple questions I would like to ask about this project, and one of them is, are those going to be private roads?

DON FASO: At this point?

MR. CARPENTER: Yes.

MRS. WILCOX: They will not be Town roads.

DON FASO: I believe he said they will be dedicated.

MR. CARPENTER: Actually we're thinking private roads.

MRS. WILCOX: Since there is a large area that is wetland, who is going to be the lead agency on SEQR?

MR. FASO: Probably the Town on the rezoning, the Planning Board on the site plan.

MRS. WILCOX: The DEC will not be involved with this?

DON FASO: Oh, they will be notified. They could take claim if they so choose. The process, Bea, would be that somebody has to declare themselves lead agency. Typically it is the Board that has the most significant approval power. On the rezoning, that would be the Town Board. All of the affected agencies that would have some past approval process will be notified that the Town has declared itself lead agency, and if they object to the Town being lead agency, they could notify the Town. The Town can then relinquish control to that particular agency voluntarily and that agency becomes the lead agency. If the Town does not want to relinquish control, then the dispute will be settled by the Commissioner of DEC and the Commissioner alone will determine who the lead agency will be.

MRS. WILCOX: Well, it has come to my attention that in the case of the Golf Links on Ballantyne Road, that the Town -- or the DEC should have been the lead agency for SEQR, and I think that the Town has been very lax in involving the DEC with the wetlands in Chili, and I would like to know if any fill permits are going to be issued on this property.

DON FASO: I think it is way too soon to answer that question. We're considering -- we're

considering a rezoning application.

MRS. WILCOX: I understand that.

DON FASO: We're looking at a schematic of what the project could look like. There is no guarantee it will look like that. It could change several times between a rezoning hearing and the actual preliminary site plan approval back to the Town. I assume that the applicant would want to come in for a discussion, if it does get rezoned, on the potential layout to discuss it with the Board so they have some direction as to how they should pursue the application.

MRS. WILCOX: I disagree with you, because I think now is a good time to look into the fill permits that are issued in this Town, because they are endangering our flood insurance according to the DEC and I have put in a Freedom of Information to DEC last winter, and I had been before the Planning Board with the Golf Links on Ballantyne Road. And you said there were no problems over there. And there were problems since the Year 2000.

DON FASO: I didn't say there weren't any problems.

MRS. WILCOX: No, you weren't on the Board.

DON FASO: Maybe my predecessor did.

MRS. WILCOX: But there were others on the Board that did, and there proved to be many problems over there. And they still are not resolved. There are two pages of remedial measures that they have to do, and there was a \$3,000 fine. I have the documents to prove what I am saying. And I think it is high time that you people took some notice of what is going on in this Town with the fill permits, and I would like to know if there is going to be any filling done in this area, because very recently an area was flagged on Park Place and that area has been bulldozed over.

Now, I think something is very seriously wrong in this Town. It is affecting the drainage in the Town. It is affecting the quality of life in this Town. It is affecting the environment, and I would like to know when you are going to do something about it. And give some answers to us.

DON FASO: We will address each application as it comes before the Board. Typically a developer in developing a parcel of land will try to do what is called an earthwork balance where they don't have to truck any fill out and don't have to truck any fill in. So will a fill permit be required? I do not know. I cannot answer that question. I don't think that the applicant's engineer can answer that question tonight.

MRS. WILCOX: Well, I think somebody needs to start minding the store then and make sure that these regulations and improvements are -- fill permits are --

DON FASO: So noted --

MRS. WILCOX: -- carried out, done properly.

DON FASO: So noted.

JERRY BRIXNER - 14 Hartom Road

MR. BRIXNER: Don (Faso), I hope you agree with this: I don't think the Board is speaking loudly enough for the audience to hear, and I think that applies to the applicant. If you could speak up or have your microphones working.

DON FASO: I didn't realize it wasn't plugged in. I hope I corrected the problem.

MR. BRIXNER: Even in the second problem --

DON FASO: Shouldn't have a problem hearing me. I have a booming voice. I don't even need a mike, see?

MR. BRIXNER: You're fine.

Please compare this plan to that that the applicant presented on the last meeting on August the 12th. If you can. Can you give me --

DON FASO: For the site plan?

MR. BRIXNER: Can you show me where you have changed? And perhaps can I ask Mr. Carpenter if he could go to the -- would it be easier if he could kind of point out some sketches?

DON FASO: Once he puts it up, I think it would be quite obvious to the changes.

MR. BRIXNER: I thank him, and I thank you, sir.

DON FASO: As you can see, Jerry (Brixner), by the first layout that was submitted to the Board, it is kind of a -- you know, a grid pattern, straight streets. The new pattern there is more

curvilinear.

KAREN COX: More neighborhood type feel.

MR. BRIXNER: I thank you.

DON FASO: I think the new plan, he is also -- if I am not mistaken -- in taking into account senior housing, it has putting greens and some trails.

MR. BRIXNER: I thank you for that, Mr. Applicant, Mr. Carpenter.

How many units did you have proposed in the last plan, and how many units do you have proposed in your current plan?

MR. CARPENTER: This is 152 (indicating).

KAREN COX: The current is 148?

MR. CARPENTER: The current is 148.

DON FASO: You have to remember, Jerry (Brixner), that is subject to change when he comes in for site plan.

MR. BRIXNER: Well --

DON FASO: It is a rezoning hearing tonight.

MR. BRIXNER: What concerns me is last week you were very emphatic.

DON FASO: We needed something more dramatic. You know, better presentation, and --

MR. BRIXNER: I was just kind of searching in my mind what the differences may be. I thank you for answering that question.

Now, there is a sizable wetland in the center. If I recall correctly, at the last meeting, there was some infringement into that wetland.

DON FASO: I believe that was corrected. He is going -- obviously he will need permits and mitigation to cross that wetland. He has two roads crossing a wetland now --

MR. CARPENTER: Right.

DON FASO: -- that he will have to mitigate with the DEC.

MR. BRIXNER: In other words, provide an exchange of sites on his property?

DON FASO: Yep. DEC is not typically opposed to enhancing a wetland.

MR. BRIXNER: You mean enlarging it?

DON FASO: Or enhancing. Creating better habitat for wildlife.

MR. BRIXNER: But at today's presentation, are we enlarging the wetland, or aren't we?

DON FASO: I don't think he is altering the wetland in size.

MR. CARPENTER: We're actually showing some intrusion, but we have limited it to half an acre, which will be --

DON FASO: Mitigated?

MR. CARPENTER: Right. Ideally -- you know, this may change. The idea, the entire plan is fluid. But ideally we would like to have under a tenth of an acre which would only require a nationwide permit. So we're clear, this is not a DEC wetland. It is a federal wetland, not under the jurisdiction of the DEC.

MR. BRIXNER: My last question is -- I'm a little confused -- this property abuts the Wegmans property?

DON FASO: Correct.

MR. BRIXNER: It abuts it.

DON FASO: Right. There is one common lot line.

MR. BRIXNER: One common lot line.

Would there be any opportunity to cross between Wegmans and into this property?

DON FASO: That is one of the things that we have been discussing, and --

MR. BRIXNER: I didn't understand it.

DON FASO: The applicant would obviously like to have that. Wegmans is somewhat reluctant to grant that, from what we have heard. So it all needs to be worked out. It has not been resolved.

MR. BRIXNER: Okay. That clarifies it in my mind. Thank you very much.

BEVERLY NEDER - 82 Attridge Road

MS. NEDER: The property being under 50 acres, is the long EAF form from the DEC required

on this?

DON FASO: Oh, yes, this is no doubt a Type I action.

MS. NEDER: Will that be done before rezoning? Before it is presented to the Town Board?

DON FASO: I'm not sure a long Environmental Assessment Form would be required for rezoning.

KEITH O'TOOLE: I think so.

DON FASO: You think a long form would be required?

KEITH O'TOOLE: I think so.

IRENE BRIXNER - 14 Hartom Road

MRS. BRIXNER: I just wondered, you know, this wetland, this water all around here and people complaining about having a fear of water draining more into their backyards and into their culverts, I'm wondering, at what point do the drainage people get involved in this? I mean has this gone --

DON FASO: Site plan review. Has it gone to the Drainage Committee, no. I don't suspect there have been any drainage calculations performed on this property yet.

MR. CARPENTER: Nothing of that significance.

DON FASO: We're --

MRS. BRIXNER: It is just amazing to me.

DON FASO: We're considering the proposed use of the property.

MRS. BRIXNER: I understand that, but it is backward. Kind of backward.

KAREN COX: The Drainage Committee will want to look at calculations and piping and -- you know, if there is going to be a pond on the site.

MRS. BRIXNER: Right.

KAREN COX: I know because I served on the committee. If I looked at this, being on the committee, I would say, you know, this is not showing me much except that we definitely want to see it when it comes for site plan review. Yes, there's a wetland there, and we want the applicant to be aware of all of the issues associated with it, but again, it doesn't show me, as a Drainage Committee member, anything much to comment on except those items.

MRS. BRIXNER: So you will okay this or not okay it by just looking at these individual apartments. You don't need to know the size of the apartments? You don't have to need to know anything like that?

DON FASO: Not at this stage. Not technically, no.

MRS. BRIXNER: Holy Toledo.

DON FASO: Actually the applicant is under no obligation to submit any type of site plan whatsoever. Believe it or not.

MRS. BRIXNER: I think it is awesomely weird.

DON FASO: We have requested it and we have requested changes to it. The applicant has complied. We have sent him back when we tabled it for some additional items and he has given us those items. So now he is looking for a recommendation, positive or negative, from the Planning Board, and whether it is positive or negative, he can still apply to the Town Board for a rezoning application.

MRS. BRIXNER: I think it looks very divided. You know, retail on one side and housing on the other side. And it is so full, so -- wow.

DON FASO: But then again, if you take a look at it, if you were in a residential dwelling, would you want retail right next-door? It is kind of divided off, petitioned --

MRS. BRIXNER: But I thought the planned overlay, the neighborhood -- the neighbors would be able to use that -- those --

DON FASO: That should be within easy walking distance for office and retail.

MRS. BRIXNER: Thank you.

MS. LYLE: When does the delineation study with the Corps of Engineers have to be done?

DON FASO: Probably in the site plan review.

MS. LYLE: That has not been done --

MR. CARPENTER: It has already been done.

DON FASO: I'm sorry, the delineation.

MR. CARPENTER: In fact, I think I submitted --

DON FASO: You did say that at the last meeting. He did delineate the wetlands. He did say that --

MS. LYLE: Aaron Smith at Corps of Engineers says they have no paper on the property at all.

DON FASO: He had a private firm do it.

MR. CARPENTER: Environmental Resources. It was submitted two months ago. I know the Corps usually is a 90-day, but it seems like they would have seen it by now. I guess it is conceivable they may not have.

DON FASO: You have done the flagging and submitted to it DEC?

MR. CARPENTER: I thought I submitted a wetland report with the application.

KAREN COX: No.

DON FASO: Maybe to the Town Engineer.

DAVE LINDSAY: I don't have anything in front of me here, but I could check with Larry (Nissen).

DARIO MARCHIONI: April 21st, 2003 you have noted on the plan.

MR. CARPENTER: Right.

KAREN COX: That is when they were delineated by the private firm.

This would get submitted to the Corps, correct, right, not DEC, because it is --

MR. CARPENTER: Just the Corps of Engineers really for their concurrence. In the event that we actually have any filling, the delineation report would be submitted to the Army Corps of Engineers for their concurrence. In the event that he were actually proposing any filling, that would -- depending on the size and the nature of the filling and the activity within the wetland, and so that is done later because it is -- depending upon the activity and the scope, it could be one of two permits.

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: Refresh my memory here. When was this delineation done?

DON FASO: April 21st, '03.

MS. BORGUS: What are the dates on these two maps?

KAREN COX: The one you're looking at now is 8/21.

MR. CARPENTER: This one, the date is March, but it is actually from like May.

MS. BORGUS: Those are both done after the wetland --

MR. CARPENTER: Yes.

MS. BORGUS: Can you tell me why the shape of the wetland is different?

MR. CARPENTER: In the current plan we're proposing some intrusion into the wetland. We're trying to keep it to a half an acre. Under this scenario, the wetlands would be either mitigated on site or off site or enhanced. There are a number of different ways, and that would all be a function of the Army Corps permit that we would make after -- just so you understand, these are extremely conceptual plans.

MS. BORGUS: But they're done to scale?

MR. CARPENTER: Oh, yes.

MS. BORGUS: Just to my unpracticed eye, that one (indicating) is much smaller than this one (indicating).

MR. CARPENTER: Yes. We're showing about a half acre, three-quarters of an acre on that --

MS. BORGUS: There again, to my unpracticed eye, that looks a lot smaller than that, comparing the two.

DON FASO: And it could change entirely between the time he gets rezoned until the time he comes in for preliminary site plan.

MS. BORGUS: Well, I agree with Mrs. Wilcox. We have a wet town here, and we aren't doing ourselves any good lately with what we're doing with wetlands. I understand there was a wetland up at Park Place -- or Parklands and it is gone. You know, I mean -- we go through all this to save wetlands. We have a Conservation Board that works on these things. They walk the property many times. They put their two cents in. They give the opinions, and then the bulldozers come and it is gone.

This is a wet piece of property, it seems to me, and we're playing with a dangerous thing here. Very dangerous. And if people along Paul Road currently have drainage problems, I am wondering who is going to keep this drainage way clear in time, if this is built this way, because it is never left -- it is never defined who is going to be responsible for keeping a drainage way clear. I can't really see the Town being responsible for that much of a project. That would be a big expense for the Town to go through there and keep that cleaned out. That's a lot of area.

DON FASO: I would guess that it would probably remain in private ownership with the Town having an emergency access easement to get in there and alleviate any emergency situation.

KAREN COX: Who cleans it out now?

MS. BORGUS: You already have a problem on Attridge Road that has been taken to court because the Town didn't -- has the same thing. They haven't --

KAREN COX: You could not go in and just clean this all out in a federal wetland. You would have to get a permit and there would have to be a really good reason to go in and dig out and clean out, if you will.

MS. BORGUS: The good reason is going to be that the people on Paul Road are flooded. It is a good reason.

KAREN COX: Why has nobody gone in and asked to have it cleaned out already?

MS. BORGUS: These people from Paul Road have said they have been complaining forever to get the drainage problem taken care of.

KAREN COX: Then you're digging into a wetland and Mrs. Wilcox has just talked about not wanting any wetlands touched. You can't have it both ways.

MS. BORGUS: I would be interested in knowing if mitigation takes place off site, whether this would happen.

KAREN COX: Probably in the wetland bank.

DON FASO: There is always that option of a wetland bank.

MS. BORGUS: That is another farce. Thank you.

JAMES PERNA - 26 Florentine Way

MR. JAMES PERNA: When I was a child, I used to hunt on this land at the time it was being farmed and it was never wet. There was a ditch that ran along that property line, and just -- if it was my property, it still would never have been wet because I would have cleaned the opening out at the end so it would never have gotten wet. That was not a wetland. It never was a wetland. And Mr. Wilcox knows it was never wetland. He used to farm around there, too. That was all being farmed. My uncle died and let it grow up wild and that is why they have a wetland there today, but it was never a wetland.

DON FASO: Thank you, Jim (Perna).

CHARLES RETTIG - 1032 Coldwater Road

MR. RETTIG: This wetland area that has been delineated by a private company -- and the records from that are supposed to go to the Army Corps of Engineers; is that correct?

MR. CARPENTER: Yes.

DON FASO: They have been submitted?

MR. CARPENTER: Yes.

MR. RETTIG: Can you tell me what the acreage is of the wetland shown for the largest --

MR. CARPENTER: 6.75 on site.

MR. RETTIG: With that wetland, is there not a 100-foot buffer zone required --

MR. CARPENTER: No. Not on federal.

KAREN COX: Not on federal.

DON FASO: Not on federal.

MR. RETTIG: The only thing I would refer to is what Mrs. Lyle referred to, the 4/19/89 Planning Board minutes. They should be reviewed to make sure that the Town is legally following up on their responsibilities.

MS. LYLE: When were these delineations sent to the Army Corps of Engineers? Because

Aaron Smith in Buffalo has never received anything from you.

MR. CARPENTER: I --

DON FASO: He has done his part. He has submitted them to the Corps.

MR. LYLE: Well, they don't have them.

MR. CARPENTER: I didn't submit them personally. We contacted a wetlands specialist, Environmental Resources, and I believe they submitted them 45 -- a month and a half ago.

MS. LYLE: Believe. Then you don't actually know it has been done.

MR. CARPENTER: I can find out. He gave me the transmittal. I don't know the date off the top of my head. But it was a month to month and a half ago.

MS. LYLE: As of today, they said they don't have any paperwork from you at all regarding this property.

MR. CARPENTER: That is not surprising.

MS. LYLE: I'm very concerned because I'm the one who is going to get flooded first.

MR. CARPENTER: Okay. I guess I would tell you that typically the Army Corps takes 90 days to review any submittal. I don't believe it has been 90 days yet.

KAREN COX: Is Aaron Smith the one who would typically do it? Because there are several people at the Corps that review permits.

MS. LYLE: Right. But he said that he checked through the computer for anything that was up-to-date as of today and there are no papers from this particular developer.

DON FASO: Okay. The engineer will follow through on that.

STEVE GINOVSKY - 19 Hubbard Drive

MR. GINOVSKY: I have been hearing going back and forth wetland and such. 36 acres. The whole thing is for Restricted Business to a Planned Neighborhood Overlay District. We have sidetracked off the whole thing on the Army Corps. If there is 90 days, table until you get the information. Do we --

DON FASO: Steve (Ginovsky), I will stop you right there. We're looking at a rezoning recommendation. All the things that we are discussing, believe it or not, fall under site plan review. They really, really do.

MR. GINOVSKY: It was asked, do you have it?

DON FASO: And believe it or not, there are no conditions placed on a rezoning application. It is either yes on a recommendation or no. There are no conditions.

MR. GINOVSKY: Guess what? Then put no. Instead of keep passing more land off this way.

DON FASO: Okay. Thank you.

It meets the criteria as set forth in the Comprehensive Plan. If we make a rezoning recommendation to the Town Board, the Town Board will hold a public hearing and discuss the issues all over again and make a determination as to whether they are rezoning or not. If the Town Board chooses to rezone the property, then the applicant comes back for site plan approval. So with that, I think I have seen and heard enough to make up my mind that the proposed rezoning to PNOD is compatible with the Comprehensive Plan, and the criteria set forth in the PNOD.

So with that, I will move that we make a recommendation to the Town Board that the property be rezoned from RB to PNOD.

RAY BLEIER: Second.

DON FASO: Okay.

I will vote yes, but I want the applicant to know that I am going to take a very, very hard look should this get rezoned by the Town Board when it comes in for site plan.

As far as I'm concerned, he has a long way to go.

KAREN COX: I would agree with Ray (Bleier). I know this is a conceptual plan, and that it can change and probably will change and the applicant has heard the concerns and so has the Board. So if and/or when it does come back for site plan review, Drainage Committee will review it. All of the issues that have been brought up tonight will be looked at very carefully in that time. So I am going to vote yes.

JOHN HELLABY: I vote yes as well, as much as it is inconsistent with the intentions of the

Town's Comprehensive Plans. He has his work cut out for him.

DARIO MARCHIONI: I know there are many, many issues to be addressed here and yet the applicant is aware of all of those. They know what they're going to get into. So with that transfer of knowledge to them, I am voting yes.

DON FASO: I will vote yes also.

So, therefore, the Planning Board will make a recommendation to the Town Board to set a public hearing to rezone the property. But let me make one thing clear for the audience. On a rezoning, if 20 percent of the contiguous landowners sign a petition objecting to the rezoning, then it will take a super majority of the Town Board to rezone the property. Not a simple majority. There are five members of the Town Board. A simple majority would be three votes to rezone. If they get a petition that has 20 percent of the contiguous neighbors in opposition, it will take four votes to rezone the property. Okay?

On procedure only, because the hearing is closed. The hearing is closed.

MS. LYLE: If anybody wants to come down to my house, please don't come with flashlights and walk around. I would be glad to meet you in the daytime and show you whatever you want to see, but don't run around my yard with flashlights.

KAREN COX: What?

DON FASO: I don't understand that. Hearing is closed.

MR. CARPENTER: In the event we come back for site plan, I would be looking for some guidance from the Board and maybe we could set up an informal session, and I appreciate your time and indulgence.

DECISION: Unanimously approved by a vote of 5 yes to recommend to the Town Board rezoning of 741 Paul Road to Planned Neighborhood Overlay District.

The Town Board will be notified of the Planning Board's decision by copy of the Planning Board's decision letter. The applicant is advised that the applicant must now petition the Town Board, through the Town Clerk's Office to set a public hearing before the Town Board on this rezoning application.

PUBLIC HEARINGS:

1. Application of Gerald Testa, owner; 429 Brookwood Drive, Webster, New York 14580 for preliminary subdivision approval of two lots with site plan on one lot to be known as Testa Subdivision at property located at 25 Greyson Road in RAO-20 & FPO zone.

John Sciarabba and Mr. Testa were present to represent the application.

MR. SCIARABBA: John, Sciarabba, S-c-i-a-r-a-b-b-a, and my office is 1344 University Avenue, Rochester, 14607. Mr. Testa is here this evening, too, to answer any questions that I can't address.

Number 25 Greyson Road is located on the other side of Greyson Road west of Scottsville Road. We're proposing to subdivide the existing lot back almost to original configuration back in 1990 -- or, excuse me, 1922 to when the Riverdale Subdivision was created. At this time, this was two lots. We're proposing to create Lot 1. On Lot 1 we're proposing a new home. Lot 2 will be the remainder of the parcel with an existing house.

The proposed house will be serviced by existing utilities. There is an 8-inch sanitary sewer, 6-inch water main and gas and electric at the site. One of the main reasons why we're here this evening and it didn't go through in-house staff review is the fact we're in Flood Plain Overlay District. The flood plain in this area has an elevation of 523 which encompasses most of the site, and adhering to the Town requirements, we're proposing our structure to have a first floor elevation of 527 1/2 which is roughly 4 1/2 feet higher than the flood plain, and after conversations with Mr. Testa, we're also proposing just to have a crawl space so we'll meet all of the requirements of the Town code being in a Flood Plain Overlay District.

This lot and all of the setbacks on the proposed house meet all of the zoning minimum requirements and this evening we're just asking for approval of this project.

I do have the comments from the Town Engineer. I can go through those at this time if you would like.

DON FASO: Both of them?

MR. SCIARABBA: Yes.

DON FASO: Go ahead.

MR. SCIARABBA: Well, I don't have that exact copy. Again --

DON FASO: The letter I have dated September 11th. Number 1, all proposed construction in the FPO District must meet the requirements of Section 115-10 of the Town code. Number 2, this should not be construed as a complete and final engineering review. If the Planning Board approval is granted, we request that it be contingent upon engineer's approval.

MR. SCIARABBA: That is fine. That note has already been added to the plan regarding the -- meeting those requirements of the section of the Town code.

DON FASO: Is that what you were referring to earlier with the crawl space?

MR. SCIARABBA: Yes. That will be noted on the plan, as well.

DON FASO: Dan (Kress), I don't have County comments on this. Were there County Comments?

DANIEL KRESS: Yes, there were.

MR. SCIARABBA: I don't believe so. I also note in May this was added to the Drainage District of the Town.

DON FASO: Is there a question on the correct address?

MR. SCIARABBA: That was on the homeowner's mailing address. Mr. Testa's mailing address was incorrect.

DON FASO: Okay.

County Comments: First one is standard note about flood insurance. Second note, it may contain a portion of CI-6 and wetland. Any work in the wetland will require an Article 24 permit.

MR. SCIARABBA: There are, I believe, no wetlands located on this site. It is all residential in nature, lawn.

DON FASO: Number 3, it is located within the one-mile boundary of the airport approach departure corridor. Airport approval has been granted on this application, and so ends the County Comments. Excuse me. Subdivision. Standard note about filing with the County Clerk. No comments from County Health, and Environmental Management. The project was not sent to Soil and Water, and Department of Health, Water Quality Management did not meet the criteria for review. And no response from DEC. D.O.T. has not reviewed. Thank you, Dan (Kress).

DON FASO: How will you screen the property from the adjoining houses?

MR. SCIARABBA: Currently on that site there are two -- or several large pine trees. We are eliminating two of those trees. The rest of the trees are to remain. It will still be one ownership. We have no proposed screening of the new house between the house to the east.

DON FASO: Would you discuss for the Board the drainage runoff? How are you going to handle it?

MR. SCIARABBA: This site is very flat. After reviewing the Town Engineer's comments, they asked us to connect the roof leaders to the existing storm sewer system, which is basically a swale along the roadside ditch. So we're proposing our roof leaders will connect to that. Drainage apparently in this area is rather poor, but we're proposing our connection to that roadside swale.

RAY BLEIER: Those trees are beautiful. I would hate to see you lose two, but due to the tight restrictions, that is the only choice.

KAREN COX: Both lots will be owned by the same --

MR. SCIARABBA: Mr. Testa is retaining both houses.

KAREN COX: Is he building a house and renting it?

MR. SCIARABBA: Possibly. He currently rents the existing house.

KAREN COX: Oh. That was all I had.

JOHN HELLABY: Just to correct a statement you made earlier, I think you stated that the new

house was on Lot 1. That is not the way the drawings --

MR. SCIARABBA: Excuse me. I must have misstated that.

JOHN HELLABY: It meets all of the zoning requirements. I guess we have no questions at this time.

DARIO MARCHIONI: You don't have a garage here.

MR. SCIARABBA: No proposed garage.

DARIO MARCHIONI: What if anybody wants a garage in the future? Does the setback allow for it? You don't have any land on either side of the house.

MR. SCIARABBA: It would be very hard to do. We're not proposing a garage at this time, and the rear yard would not support it.

DARIO MARCHIONI: So if anybody wants a garage here, they would have to come and get a variance to put it where the proposed driveway is there right now?

MR. SCIARABBA: Right.

DON FASO: Seeing the side setback on both sides is 11 feet, that pretty much -- that would be a pretty narrow driveway.

KAREN COX: He was talking about the garage would have to go in the front. That's the only spot for --

DARIO MARCHIONI: Yes. These situations happen that people buy houses without a garage and later on they want a garage.

DON FASO: The Zoning Board would be hard pressed to grant that variance because that definitely would be a self-imposed hardship. It would not meet the test for a variance on that because the applicant is aware of that.

DARIO MARCHIONI: There have been about three homes built on, I think Chestnut -- on Morrison Avenue, they all got garages, you know, and --

DON FASO: They probably predate the code.

DARIO MARCHIONI: No. They're just built right now, the homes. They were just built this winter. Three nice homes they built right on Morrison Avenue. They all got garages. It is the same size of the house, in fact, around the same size. They had a garage on one side and the entrance.

MR. TESTA: I wouldn't be objecting to a home with a garage underneath. Two-story house with a garage underneath the house. So this way here it would still meet the setbacks and the garage would be under the upper bedrooms.

DON FASO: Are you Mr. Testa?

MR. TESTA: Yes. In fact, that is one of the plans I looked at that does fit the lot. May not be the one I proposed to John (Sciarabba).

DARIO MARCHIONI: There is a possibility you will have a garage here?

MR. TESTA: Yes. I understand it --

DARIO MARCHIONI: It happens. People buy a house. Next thing they want a garage. Or then they have a carport in the front, a little shed. Especially one of this size, there is no -- you're creating a problem for the future here.

MR. TESTA: I agree.

DARIO MARCHIONI: I just --

MR. SCIARABBA: When we first started looking at this plan, we tried to find a way to fit something in here. We looked at having a common driveway with the existing driveway, but we felt that would encumber the lots even more, so we kind of went with this alternative.

MR. TESTA: I would be happy to propose a home with a garage because I have found a couple plans that do match, do fit and have the garage under the bedrooms on the right side.

DANIEL KRESS: I'd just like to comment that this lot as proposed may meet the minimum zoning requirements, but I frankly think it falls far short what is necessary to provide adequate room for storm water drainage when you're looking at the distance to the lot next-door. I received communication from the people next-door. They're very concerned with that issue in terms of the house being so close to the line.

CHARLES ROBINSON: The Conservation Board did not receive any plans at all from this applicant. However, we didn't see any environmental impact whatsoever.

DON FASO: You are proposing some landscaping, right?

MR. SCIARABBA: Just typical residential in nature.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

LLOYD MARTIN - 21 Greyson Road

MR. MARTIN: Lloyd Martin. I live at 21 Greyson Road. With all due respect to Mr. Testa, and his being a businessman and all of this, but I can't see a house being built right on top of me. It is supposed to be a rural area. We got some beautiful trees there that they want to take down. Isn't there a Town code or something that prohibits taking beautiful trees down to put up a dumb house? He doesn't need a house there. And I don't need to look out my windows and see a two-story building that is 15 foot from me. Right now our zoning -- we have adjoining lots. He has a nice piece of property, with a nice house on it. Now you wants to go ahead, divide that lot, make me miserable by putting a house right on top of me. He doesn't need a house there. As far as I know, he is going to rent it. He doesn't even live in the area. So I really oppose this proposal. And it will not make for good neighbor relations.

DON FASO: Thank you, Mr. Martin.

KAREN COX: It is a narrow lot. When you said the neighbor called and they were concerned about the drainage?

DANIEL KRESS: It was Mr. Martin.

KAREN COX: Okay. That house is right on top of the other one. I wouldn't want it.

DARIO MARCHIONI: He is draining his roof leaders to the front.

KAREN COX: But the grading is higher around the house. If you look at the contours.

DON FASO: Well, if you remember the engineer's letter of September 11th, this should not be considered as a complete and final engineering review. If the Planning Board approval is granted, we request it be contingent upon the engineer's approval. So it is going to go back to the Town Engineer for scrutiny on the drainage. John (Sciarabba), there is no other way --

MR. SCIARABBA: I just want to go over the drainage again, talking about the roadside swale. We are installing storm pipe. I forgot to mention that in my initial review, and a catch basin which is basically right at the property line to Mr. Martin, and we're putting a short section of pipe. So if there is a preexisting problem, we're trying to capture his water and bring it into the system to expand the system there. So we're proposing 12-inch pipe along our frontage, catch basin to collect the water on site and hopefully not negatively impact him, but hopefully improve his situation.

KAREN COX: There is no way you can move the location of the house further back because of the setback.?

MR. SCIARABBA: Yes. We're close to the rear setback this -- it is 25 feet and we're about 40. But having the fronts line up or the rears, it is still going to be affecting his house.

DARIO MARCHIONI: This house is lined up with the neighbor next-door?

MR. SCIARABBA: Exactly. It --

DARIO MARCHIONI: So you are not actually intruding on his vision for the front?

MR. SCIARABBA: Right. The current house on the site is actually quite a bit further back, too, but we're trying to keep some continuity with the houses that are along the straight line.

DON FASO: It is unfortunate that Mr. Martin only has a 5-foot side setback on there.

MR. SCIARABBA: We pushed our side setback to 11 where only 8 is required. We tried to get it over.

DON FASO: It is at the minimum --

MR. SCIARABBA: We could.

DON FASO: -- on all four sites.

MR. SCIARABBA: We could put it in the center of the lot -- if Mr. Testa agrees, we could push the house 2 feet to the west, which would increase the setback by 2 feet on his side and we would have 9-foot setback on our west property line.

DON FASO: Which would still be only a foot over minimum.

MR. SCIARABBA: I wouldn't want to put it right to the minimum.

DARIO MARCHIONI: I think that sounds better.

MR. SCIARABBA: We could try to help him out that way, and I don't see a problem with that.

MR. TESTA: No.

MR. SCIARABBA: Mr. Testa agrees to do that.

JOHN HELLABY: Dan (Kress), do you know, are there any other lots -- I know this subdivision goes back quite a ways. There are lots way in behind the Fire Department down there that will never be developed, but are you aware of any of the other lots that are configured down there like this, or are they all basically 200 to 300 foot deep?

DANIEL KRESS: Off the top of my head, without sitting down and having the map in front of me, I believe most of them are in that configuration.

JOHN HELLABY: I know most of them are 50 foot wide through there, but I guess my point is are any of them configured to look like flag lots down there? I can't recall any off the top of my head.

DANIEL KRESS: I think you would -- clearly, although the Town doesn't have any rules on, you know -- or a definition what constitutes a flag lot, per se, that is what this is, and you're -- you know, you're looking at the potential for that in other locations in that area.

JOHN HELLABY: You know, that is my biggest concern. I understand that it meets minimum zoning requirements, but I am -- I quite honestly, I can't see how this is consistent with the surrounding neighborhood down there. I mean you're just asking for an explosion down there personally.

KAREN COX: If there are other lots that were like that -- it kind of sets a precedent.

JOHN HELLABY: I know you have to judge each application on its own merits, but there have been families living down in that area for 30, 40 years down there, and I personally don't feel it is fair to them to have this type of thing go on. I mean, like I said, the minute you say this is okay, because it meets the zoning requirements -- well, they knew darn well when they bought that place on that size lot that is what they were getting.

MR. SCIARABBA: If I can speak at how we arrived at the planning we're speaking about this evening. Our intention was to split the lot back 50 and 50, but the garage would be right through the property line. Well, should we jog the property line around the garage to push it all of the way back, that wouldn't look very good either. Then we said what if we stopped the property line short of the existing garage to meet the minimum requirements, and that is how we arrived at the configuration. So technically -- also, too, I think if you're looking down the road, you will not realize, you know, you have 50 foot of frontage as you go through here -- you will not really see that they don't have the depth. It will still be maintained as a lawn back there on Lot 1. So there is really not going to be any change of landscaping.

JOHN HELLABY: I guess it wouldn't be so intrusive if it was shoved back to the same line as the other house on that property. Has any thought been given to relocating the existing garage and having it moved over several feet to get the side setback variance for that, to run the lot all of the way back and get these houses in line with each other? That way it's not right on top of the neighboring house.

MR. SCIARABBA: I mean moving a garage and -- for the residential nature of this site, it would look cost prohibitive for the plan, also timely with the variances to come up with a plan that meets the requirements. So be it the minimum requirements, but we are exceeding it for side setback. The lot is actually bigger than the minimum, as well.

DARIO MARCHIONI: It would be lined up with the house next-door, though, right, so you're basically --

MR. SCIARABBA: We're lined up with the house further west and Mr. Martin's house.

DARIO MARCHIONI: So there is another house on the west. So the only house really that is odd is this one, the existing house there, the way they have it there?

MR. SCIARABBA: Yes.

DARIO MARCHIONI: You have one on the right and the left, and they're lined up?

MR. SCIARABBA: Yep.

DARIO MARCHIONI: So I would assume if somebody tore out Number 25, they would probably bring it up towards the front, too.

DON FASO: I think, Al (Hellaby), you have raised a very interesting scenario.

JOHN HELLABY: Well, I just think if they investigated relocating the garage, sliding that house back, it affords them the opportunity to save those three mature trees in the front without tearing them down, puts the house on the same plain as the existing structure back there and it doesn't set it right on top of the neighboring property.

DON FASO: You also have raised an interesting point about would this be the start of an explosion of resubdivisions down there.

JOHN HELLABY: I honestly think it will.

KAREN COX: How many lots have that type of --

JOHN HELLABY: It is a very strange subdivision down there. I have had a lot of friends down there over the years in that neighborhood. I worked surveyor for a good number of my younger years, and I know for a fact that there is roughly hundred -- help me out, Dario (Marchioni), there is 100 and some lots in behind that Fire Department down there that will never be developed because they're all land locked, but they're actual building lots and they're --

DARIO MARCHIONI: A lot don't have roads.

DON FASO: They're all paper streets, and it is --

JOHN HELLABY: Exactly.

KAREN COX: How many lots are there like this where it originally was going to be two lots.

JOHN HELLABY: I think there are --

DARIO MARCHIONI: Originally the subdivision, they were all 50 foot, but people combined them to make them 100. It was Town policy some 25 years ago, if you owned two lots side by side 50 and 50, you would combine them together in order to get approval to build a house. That was the policy then, but...

KAREN COX: Now people can come --

DARIO MARCHIONI: What people used to do, if they owned two lots next to each other, they used to sell one to the son to build on the 50. There was a lot of...

MR. SCIARABBA: Going to one of the Board member's points, moving the house back, pushing this lot through, moving the garage, we're still going to have a house next to another house which would be the existing house at 25. We're still going to be removing additional trees. We're really not saving any trees.

KAREN COX: But I don't think if you move the new -- the proposed house back, at least it will not be right on top of house Number 25, as much as it is now right on top of Mr. Martin's house.

MR. SCIARABBA: I understand. I understand that.

KAREN COX: That is very -- 11 feet sounds like a lot, but it is not.

MR. SCIARABBA: As we stated, we would like to give him more if we could, pushing it to 13.

KAREN COX: Even though you can do it and it is nice of you to do it, it would still seem like it is right on top of his house. I would assume he would probably have some side window, some view that will be blocked.

DON FASO: Building on what Al (Hellaby) said earlier, I think we should probably take a look at the tax map for that area to see what the current configuration of the neighborhood is, what lot size. Maybe Dan (Kress) can do a history on how many have been combined and how many have actually been split for the neighborhood.

There are probably more that --

MR. SCIARABBA: I reviewed the tax map and have it with me this evening, but they are all 50s and some are combined to 100s. There are no lots that stop short of going all of the way back as I have this, but the -- I think what we're looking at is width issues.

DON FASO: You're saying they're 50 by 274, 275?

MR. SCIARABBA: Yep.

DARIO MARCHIONI: I tend to agree with that.

MR. SCIARABBA: I don't believe there is anything in this configuration, but if you look at our reasons for doing this, it is not to make a small lot. There are setbacks on the garage, and not putting a line through the garage.

DARIO MARCHIONI: How old is the garage that is there?

MR. SCIARABBA: I don't know when the garage was built.

DARIO MARCHIONI: Do you have to keep that garage there?

MR. TESTA: It is functional. There is nothing wrong with it.

DARIO MARCHIONI: Relocate it or build a new one?

MR. TESTA: Could I relocate the garage? I suppose I could.

DARIO MARCHIONI: Could you move it?

MR. TESTA: It wasn't part of the original plan.

DARIO MARCHIONI: I'm trying to solve a situation here.

KAREN COX: It runs the risk of having a whole bunch of houses being shoved in there.

DON FASO: Why don't we make a recommendation that we table it.

JOHN HELLABY: I make a recommendation that this application be tabled and allow us the opportunity to look into the existing situation and the surrounding properties down there, and also, afford the applicant time to reevaluate whether or not they can relocate or remove the garage and make this lot deeper and push this house back in line with the house that is presently on that property.

DON FASO: Or split the difference.

JOHN HELLABY: Exactly.

DON FASO: Dan (Kress), can you do --

RAY BLEIER: If you look at the rear setback, what is required is 25, and he has 45. Even if you moved the house back 20 feet, under the proposed resub here, you know, that would certainly help.

MR. SCIARABBA: We don't have a problem moving the house back to the minimum setback.

DARIO MARCHIONI: Why don't you do that.

MR. SCIARABBA: Of the current configuration, we --

RAY BLEIER: You might -- I don't know if you get rid of the one in the back, if you did that.

DARIO MARCHIONI: He is complying with the zoning. The zoning allows this.

KAREN COX: I just worry if we approve this, it will -- like Al (Hellaby) --

DARIO MARCHIONI: I doubt it. There is not that much development in that area.

RAY BLEIER: As far as I'm concerned --

JOHN HELLABY: Dario (Marchioni) --

RAY BLEIER: -- it is a legal lot. He's not requiring any variances. I think you're going to have a hard time denying it.

JOHN HELLABY: Well, again, I made the motion, and inasmuch as I realize it is minimum zoning, but also it is not in keeping with the surrounding properties. I would like to be afforded the opportunity to see what is down there, and have them look and see if we can make this a full depth lot.

MR. SCIARABBA: If I can reiterate again, we don't have a problem moving this to the minimum setback, rear setback for the lot and to the west. I don't know if that gets us closer to move ahead with this application this evening. I guess I can tell you that you're going to find unique -- when you drive down that street, you will have houses in a line. I have been down in that area several times. Once in a while you will see houses set way in the back. So as you a drive down a year from now, if this house is built, nothing will change as you drive down the road.

DON FASO: One question, where will you relocate the pole?

MR. SCIARABBA: We'll work with RG&E to determine that.

DARIO MARCHIONI: One of the things by building the house in the area, it actually improves the neighborhood. I noticed on Morrison Avenue, they build those three houses, and the whole neighborhood looks better. It improves it.

DON FASO: Al (Hellaby), would you be willing to live with granting the subdivision, waiving final on the subdivision, granting preliminary on the site and not waiving final and get it back in here to look at it? It is a legal lot. We would be hard pressed to deny the legal lot. Our concern is the site plan. It could probably be mitigated by increasing the one side setback and decreasing the rear setback and make it fit better on the lot.

RAY BLEIER: Don (Faso), the application is for preliminary sub only, not site plan.

DON FASO: With site plan of one lot.

RAY BLEIER: Okay.

DON FASO: So we grant and waive final for sub. Grant preliminary on the site. We'll withhold

final until we get a revised plan showing the proper setback.

DARIO MARCHIONI: Sounds good to me. Could you bring it closer to the garage?

MR. SCIARABBA: We wouldn't meet the requirements for the garage setback on the adjacent lot.

MR. MARTIN: You say the new home will increase the value of other homes in the area. I disagree. If I am looking for a home, small home, in this area, and I find what I like, but I see a house right on top of it, it makes it undesirable. If I decide I want to sell my property, who is going to buy it? And besides that, if he is allowed to do something like this, the gentleman is right, everybody else can do the same. I can even do mine, and I only have a 50 foot wide.

DON FASO: No, you wouldn't meet the code.

MR. MARTIN: Why not?

DON FASO: You wouldn't have enough frontage.

MR. MARTIN: I would build in the back.

DON FASO: No, you wouldn't.

MR. MARTIN: Why?

DON FASO: Because you couldn't have a -- about a public highway by 40-foot for a legal lot. If you only have 50.

MR. MARTIN: 50, right.

DON FASO: You never get a flag lot.

MR. MARTIN: Who would want to buy it?

DON FASO: What we're faced with -- hear me out. What we're faced with is the fact that per our Town code, it is a legal lot.

MR. MARTIN: I agree.

DON FASO: It meets all of the criteria for subdivision approval.

MR. MARTIN: I agree.

DON FASO: What we're questioning is the placement of the proposed house on the lot for the site plan approval.

MR. MARTIN: Right.

DON FASO: That is why we're taking your consideration into our deliberation on what is the best approach --

MR. MARTIN: I appreciate it.

DON FASO: -- to resolve this.

MR. MARTIN: I appreciate that, but I'm looking to turn this proposal down, not to subdivide it.

DON FASO: We would be hard pressed to deny it because it meets code. He is not asking for any variance. If we were to deny this, he could sue us, and he would win.

MR. MARTIN: This is true?

DON FASO: I know it is true.

MR. MARTIN: It is more a hardship on me. He has no hardship.

DON FASO: Hence our dilemma. Hence our dilemma.

MR. MARTIN: I know. And I appreciate anything you can do, because I really don't like to see that divided up in there. It is a pretty site. Both properties are a pretty site. We have wildlife.

DON FASO: The Planning Board understands that perfectly.

MR. MARTIN: The trees.

DON FASO: That is why we have not made a decision on this. We're still discussing it and trying to resolve it so everybody walks away happy, the laws are all met and we don't get sued and lose.

MR. SCIARABBA: Could we help Mr. Martin? Would he like a fence along that line, a board-on-board, something to help him out?

DON FASO: If I were Mr. Martin and he only has a 5 foot -- you only have a fence 5 feet -- or a wall 15 feet away.

KAREN COX: I think we're moving further to the west --

DON FASO: I think moving it is further to the west.

KAREN COX: And back.

MR. SCIARABBA: To the 26-foot setback on the rear?

DON FASO: Yes.

KAREN COX: Then he would at least have -- you will be blocking -- you know, only a portion of the new house would be right next to his.

MR. SCIARABBA: Yes.

KAREN COX: Put it back as far as you could go.

JOHN HELLABY: In the process, you might be able to reconfigure the driveway slightly to try to save the two front trees and maybe just possibly lose the one that is about centered at the house now and one towards the back of the lot or something. It is just something to look at. We can look at -- one of the reasons the driveway was centered a little further west was not to have so much pavement near the line.

KEITH O'TOOLE: I have a question. In terms of your lot configuration, is there anything that prevents you from sliding the house way back?

MR. SCIARABBA: Because to project the new east line of -- the new west line of Lot 2 would go through the existing garage.

KEITH O'TOOLE: Why don't you configure it pretty much in the essence of a flag lot?

MR. SCIARABBA: That was one of our original ideas. We could still do that, jog around the garage.

KEITH O'TOOLE: Yes.

DON FASO: 40-foot frontage --

MR. SCIARABBA: If that is one of the concerns of the Board, we could jog our property line of Lot 2 around the garage and create a little notch in that --

KEITH O'TOOLE: There you go.

KAREN COX: Slide the house.

MR. SCIARABBA: But sliding the house further back would run into hardships with the existing garage. So we could extend the lot -- if that is an issue, issue number one. I don't think that is a problem. Then we could keep the house, move back to where we originally stated and over to the west 13 feet.

DARIO MARCHIONI: But you're dealing with a 17 by 24 foot garage. How much can the value of the garage be? That is creating a problem for the whole project, that garage. I mean isn't he willing to do something with that garage so we could have the 50 foot lot all of the way back to the back, be consistent with the neighbor next-door. He has his lot going all of the way to the back. 20 foot. Then we're -- you know, all it is is a garage. It is a 17 by 24 garage. It is an old garage, like you said, right? I mean this is the question. This solves everybody's problem and we go home.

MR. SCIARABBA: I think we could get a lot -- I understand your point, moving the garage, but if we jogged around so that Lot 2 did go all of the way to the back, we're still looking at the house issue.

DON FASO: I don't think giving a 40-foot frontage and shifting it all around is going to improve the overall problem on that. I think the best approach is to grant the subdivision approval and just shift the lot for the site plan, move it to the west and slide it back so there is a 26-foot rear setback.

DARIO MARCHIONI: There is a question with the 20-foot setback. Some people want a swimming pool in the back. You know, what are they going to do later on? They will --

DON FASO: They can't.

DARIO MARCHIONI: That is what we should plan on so people can do these things. So people can utilize the property for a garage, swimming pool. People do want these things in a home. But my suggestion is to bring the lot all of the way to the back, 50 foot. That way you have backyard and they want to enjoy a little bit of a backyard. They could do it.

JOHN HELLABY: If I can interject one more thing -- I hate to keep stirring the pot here, but he is building a single-family residential home. That is not what it is. It is rental property. It is still -- he has no -- if I understood him correctly, you have no intentions of living there, correct?

MR. TESTA: No. I may build it to sell it, but I have no intentions of living there, no.

DARIO MARCHIONI: If he is going to sell it, somebody is --

DON FASO: Then the attorney would definitely note that that meets the minimum requirements for setback, and you can't put anything in there without going for a variance and it is a self-imposed

hardship.

DARIO MARCHIONI: But as planners, this is what we should look into and make suggestions.

DON FASO: We have. And I think shifting it is the best solution to the property, because I don't think the flag lot is going to be appropriate for that neighborhood. I think shifting it, splitting the difference on the setback is the only solution to that. The engineer is going to retain approval so he is going to make sure the drainage works. Mr. Martin's situation will be a little bit improved. He is not going to have an entire house next to him, so he is going to have some clear view out the side of the windows. I think that is the best way to go myself. That is what I would do. Is there concurrence? Opposition?

RAY BLEIER: I concur.

KAREN COX: Yes, me, too.

DON FASO: Then let me get my paperwork.

Don Faso made a motion to declare the Board lead agency as far as SEQR, found this to be an unlisted action and made a determination of no significant environmental impact, and the Board all voted yes on the motion.

Don Faso reviewed the proposed conditions with the Board.

DANIEL KRESS: These properties are already in the Drainage District.

DECISION: Approved by a vote of 4 yes to 1 no (John Hellaby) with no conditions on the subdivision approval and two conditions on the site plan approval:

1. Pending approval of the Town Engineer.
2. Increase the minimum side setback on the east property line to 13 feet and the rear setback to 26 feet.

Note: Final subdivision approval only has been waived by the Planning Board. The applicant will need to resubmit for final site plan approval.

2. Application of Open Door Baptist Church, owner; 350 Chili Scottsville Road, Churchville, New York 14428 for resubdivision approval to combine two lots into one lot in the Ball-

Rob Fitzgerald was present to represent the application.

MR. FITZGERALD: Rob Fitzgerald, Project Engineer with Avery Engineering. Like the Planning Board Chairperson read, my client owns two existing parcels, one which they had the church on and they also bought the parcel to the north. They're simply looking to combine those two parcels tonight which would be the elimination of one lot line. This is one parcel here (indicating), and they also own a parcel to the north, so they would be eliminating this lot line (indicating). That is it.

DON FASO: And the purpose would be just to have one tax account number?

MR. FITZGERALD: Yes.

DON FASO: That is the only --

MR. FITZGERALD: For tax reasons.

DON FASO: No intended use on it -- of the property other than what it is currently being used for?

MR. FITZGERALD: Correct. There are no proposed improvements at this time.

KAREN COX: There is not much they can do with it.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

Don Faso made a motion to declare the Board lead agency as far as SEQR, found this to be an unlisted action, and made a determination of no significant environmental impact, and the Board all voted yes on the motion.

DECISION: Unanimously approved by a vote of 5 yes with no conditions.

3. Application of Westside Properties, Inc., owner; 495 Stoney Point Road, Spencerport, New York 14559 for preliminary site plan approval to erect a 6,900 sq. ft. addition for John Deere Dealership at property located at 3161 Union Street in G.B. zone.

Rob Fitzgerald and David Perry were present to represent the application.

DON FASO: Anything change since last month?

MR. FITZGERALD: A little bit.

DON FASO: I have some engineer's comments on the letter here. Number one, "It appears that the installation of the number of catch basins proposed -- some are located outside the boundaries of the referenced property. In addition, it appears that a new storm sewer outfall is proposed at the existing detention pond. A portion of the pond is proposed for installation on Town property. We request clarification on the extent of the proposed storm sewer and catch basin construction."

MR. FITZGERALD: I can clarify that from the get-go. There are two existing buildings on the parcel. One is a carwash and one is a garage. What we're doing is proposing a building in the front of that, so it will be a U-shaped building. With that we're creating a depressed area, if you will, so we're proposing one catch basin there and another one as kind of a junction box, make the turn and we're proposing to discharge into the Town's pond. That is our only proposed drainage improvements.

We're also looking to discharge our roof leaders to that pond, as well.

DON FASO: I'm sorry?

MR. FITZGERALD: We're also looking to discharge our roof laterals to the pond. We're only adding approximately a quarter of an acre for the increase area, and if we were to dig a pond, it would be more a nuisance pond, so we would like to utilize the Town's pond if we could.

KAREN COX: I don't know what he meant by catch basins outside the limits.

MR. FITZGERALD: Drafting. There are other catch basins -- it is pretty busy. It was not delineated which catch basins were proposed and which were existing.

DAVE LINDSAY: I spoke with Larry (Nissen) today. It is the darkness of these lines going across the bottom of the parcel, but Larry (Nissen) believed they might be proposed --

KAREN COX: That is what I thought.

DON FASO: He is requesting engineer's approval on it.

MR. FITZGERALD: That has since been changed.

DON FASO: I'm sorry?

MR. FITZGERALD: That has been changed to make it a little clearer.

DON FASO: County Comments, standard note about soil siltation control. Monumentation with the County. No comments from County Health and Environmental Management. It did not meet review criteria for Soil and Water. The Department of Health and DEC and D.O.T. has -- did not participate in the coordinated review. They wouldn't have to anyway, would they?

KAREN COX: State D.O.T.? No.

DON FASO: There are no proposed new cuts --

MR. FITZGERALD: No new cuts. We're using the existing cuts.

DON FASO: That it is for County Comments.

I'm going to ask a question for my absent colleague. Are you going to clean up the rear of the property?

MR. PERRY: It won't be my property, but...

DON FASO: You are using the property, and --

MR. PERRY: The property that is there?

DON FASO: Yes. Anything that is outside for repair will be stored indoor?

MR. PERRY: In the plan, it will all be stored -- anything that comes in for service will be stored in this area (indicating), which would be in between the buildings.

DON FASO: Okay.

MR. PERRY: So you won't --

DON FASO: So your portion of the rear of the present shopping center will be cleared out?

MR. PERRY: We won't be there.

DON FASO: So anything that you have there waiting for service or waiting for pickup or waiting for pickup for -- for sale --

MR. PERRY: It will be stored in the center there.

DON FASO: So the rear of that building will not have your equipment there?

MR. PERRY: The rear of the building I am in now, we're out -- we won't be a tenant there any more. Our whole --

DON FASO: Well, then, John (Nowicki) will have to deal with the new guy.

MR. PERRY: Everything will move here.

DARIO MARCHIONI: Tell me how this will conform with the surrounding buildings like the post office. Tell us how you will build this building, what it will look like.

MR. PERRY: Just like in the picture.

DARIO MARCHIONI: The color?

MR. PERRY: It will be a grayish, tannish color.

DON FASO: Metal clad?

MR. PERRY: No plaid.

DON FASO: I don't want plaid. I don't want a Grossman's.

MR. PERRY: It will either be metal or vinyl siding of some sort. It will probably be a vertical siding which goes along with the current -- the building right there, the professional building that is right next to the post office. The post office has horizontal siding.

DARIO MARCHIONI: What color? I don't want something standing out.

MR. PERRY: This type of color, a grayish, tannish color depending what is available.

DARIO MARCHIONI: It will conform with what is in the area?

MR. PERRY: We want to be seen, but we don't want to stand out.

DON FASO: Are you going to have any outside display of equipment?

MR. PERRY: Yes. We'll display products in --

DON FASO: Under the overhang?

MR. PERRY: We'll have some stuff under the overhang. We may have tractors in the lawn areas and so on and so forth.

DARIO MARCHIONI: Will you have signage in the front?

MR. PERRY: We'll probably apply for a sign in the building. There is also in the permit a sign -- for the road sign.

KAREN COX: Will the front sign need a variance?

DON FASO: Depends on size.

KAREN COX: They're showing 25 feet high. My question is, the sign that is shown on the second page, is that going to need a variance? That is the one that is going to be out by the roadway. Will that be lit?

MR. PERRY: Yes. It is not a sign that is a full-face lit. It is lit where the John Deere emblem is. In other words, the whole sign does not light up.

DANIEL KRESS: If it is more than 32 square feet in area or more than 20 feet in height -- we're potentially looking at a variance there for the sign.

MR. PERRY: There is, I believe, a 20-foot version of that one. But I don't know what the square footage -- does it say on there?

KAREN COX: 8.6 times --

JOHN HELLABY: 64 feet plus or minus --

KAREN COX: Too big. Too big not to get a variance.

MR. PERRY: Some of those signs we saw on another one, they did -- they actually included --

I would have to check on that, but they included some of the sign pillars in their measurement instead of just the sign itself.

KAREN COX: Well, it is going to be 2 -- 6 1/2 times 8.6. That is already 48 square feet plus or minus.

MR. PERRY: So we may need a variance on that one?

KAREN COX: It is awfully big for that area. I mean if it was on the Buffalo Road side where there is already a sign or the plaza, that's a little different, but...

MR. PERRY: It is a beautiful sign.

DON FASO: John Deere would spare no expense.

MR. PERRY: This is a nice looking one. I only have one picture. (Indicating). That is the one we put up in Henrietta.

MS. BORGUS: Too big.

MR. PERRY: As far as the sign goes, it is pretty.

KAREN COX: The look is nice.

MR. PERRY: We can address that as a separate piece, I guess.

DARIO MARCHIONI: You did show a dumpster in the back. I see it. It is going to be enclosed; is that right?

MR. FITZGERALD: Yes.

DARIO MARCHIONI: Anything you will do on the back of the building -- you will show where it meets the next property -- in the back of the building, you show shrubbery and everything there?

MR. PERRY: In the back are evergreen trees, 10 or 15-year-old trees.

MR. FITZGERALD: I believe we can keep all of the trees on the parcel.

We did submit quite an extensive landscaping plan with foundation plantings as well as extending the evergreens on our north property line.

DARIO MARCHIONI: You don't have any appliances on the roof?

MR. FITZGERALD: Any HVAC units or anything?

MR. PERRY: No plan for that. They should all fit inside.

DARIO MARCHIONI: You did address the lighting on this, right?

MR. PERRY: The exterior lighting?

DARIO MARCHIONI: Yes.

MR. PERRY: As far as?

DARIO MARCHIONI: The building itself, will you eliminate the building?

MR. PERRY: Most of the lights there are actually on the telephone poles that light quite well.

DON FASO: You won't have any lighting on the building?

MR. PERRY: There may --

DON FASO: Security lighting?

MR. PERRY: There may be some, but no more than is there at the present time. There is lighting around the outside of the building, mercury vapors and such.

JOHN HELLABY: Where this new building ties into the existing garage structures, how are you going to treat the face of that to make this blend together? Those are just masonry structures.

MR. PERRY: The intent is whatever -- the only part that will be sided is this wall (indicating). The intent is whatever we put on this for siding, so run it down that building (indicating). Because existing building has -- the carwash doors we have to cover up anyhow, so we're just going to go do that whole side. The rest we'll probably leave painted because nobody will ever see the rest of it.

JOHN HELLABY: Where does the security fence you have running down the right-hand side that wraps around the back and sort of disappears --

MR. PERRY: It goes along here (indicating). We have it going along the inside edge of the trees and over to the building (indicating).

JOHN HELLABY: Is there a gate there?

MR. PERRY: Yes, we'll put a gate or something. And depending on when we do the second phase, or depending on what the tenants do here -- they have another year option on their lease, so we may not begin the second building until this time next year and then we wouldn't do the fence until we got that done.

JOHN HELLABY: What does your construction schedule look like? I'm trying to envision in my mind how this guy will work around your operation.

MR. PERRY: If these guys stay there, we'll just build the main building and we'll have to leave the driveway tied into it.

JOHN HELLABY: Oh, so they will be able to come around the front?

MR. PERRY: Yes. We have to leave it that way, unless they can come in the back way.

KAREN COX: But not the carwash.

MR. PERRY: Our shop has been in there for 10 or 15 years, our repair shop. We're already in there. There is just two -- there is one guy over here (indicating) that does car repair and another guy who's a property maintenance person. They have an option on our lease. We don't know if they're going to exercise it or not.

DON FASO: Is the carwash guy relocating someplace?

MR. PERRY: Yes.

DON FASO: Who owns that?

MR. PERRY: My brother.

DARIO MARCHIONI: That is a good business. I have to wash my car, I have to wait an hour.

JOHN HELLABY: That property out back there, does the development come all of the way back to that hedge line that runs back there?

MR. PERRY: Yes. Up to the trees.

JOHN HELLABY: The only question I have is if all your storage is in between the two buildings, an outstanding place for it, instead of a chain-link fence there, could you possibly come up with like board-or-board over the chain link or something so it is not --

MR. PERRY: This side of it (indicating) is going to be inside the trees. This side (indicating) we would put outside the trees --

JOHN HELLABY: Not the security fence. The fence closing off your -- the area between the two buildings.

MR. PERRY: This area here (indicating)?

JOHN HELLABY: Yes. The way you have shown on your drawings, it is sort of halfway down in there, though. But I mean if you're storing equipment and used mowers and things that you're working on in the center area, just -- like I said, I'm not sure what the development plan is -- in fact, I can't picture -- I am sure there are things going on back there that they would like to have that screened, too. If it was more of an opaque closure so you couldn't see in there.

MR. PERRY: That wouldn't be a problem except you wouldn't see in there anyhow because you can't see through those trees. Those are 12 to 15 years -- they are close together. You would have to walk up to all those trees along the back edge. If you stood out in the field, you can't even hardly see the building. But we want it to look nice. If we can't see what is in there, people won't look so much either.

RAY BLEIER: That driveway is in pretty rough shape. What are your plans for paving it, repairing it?

MR. PERRY: Nothing immediately. I mean there are two patches that have been made, and other than that, the driveway on the property we own is pretty reasonable. Now encroaching on the neighbors, it needs some repair and I can't speak to their time frame, but the driveway itself that would be on our property is in pretty decent --

RAY BLEIER: But up close to the carwash area, it was pretty rough up there.

MR. PERRY: Out here (indicating)?

RAY BLEIER: I don't know how close it was. I thought it was on yours.

MR. PERRY: This area is all sound (indicating).

RAY BLEIER: Speaking for John Nowicki, and the plaza, you have nine enclosed dumpsters. I know it is not your issue, but there are nine of them back there. We have to do something about those from a Town standpoint. I have no other questions concerning this particular application.

Oh, what do you do with all your equipment in the winter, by the way, all your equipment that you have outside?

MR. PERRY: Most we sneak inside at nighttime. We roll it out in the daytime when we're

working in the shop.

RAY BLEIER: What kind much business do you do in the winter?

MR. PERRY: Snowplowers and tune-ups. We do a lot of tune-up work over the wintertime. And we get ready for spring. That takes quite a while, too.

DON FASO: I have sat in the parking lot when my wife is shopping, and when they close up shop, it is quite a production.

DARIO MARCHIONI: I didn't see any handicapped locations here.

MR. FITZGERALD: We will have two handicapped locations. One in this corner here (indicating), and then another one around the corner of the building.

KEITH O'TOOLE: As a condition of approval, I would like to see that prior to any building permit being issued, the property owner is going to have to obtain an easement from the Town of Chili for use of our pond.

DON FASO: Have you seen the plans?

CHARLES ROBINSON: The Board saw the plans, but they were lacking in a couple instances. The existing trees didn't have the density size on them. We usually have a planting legend denoting the size.

MR. FITZGERALD: For the existing?

CHARLES ROBINSON: That is right. It also was a recommendation coming from the west side, there was one or two that were filled in because it was anticipated that there be a lot of traffic there that will be visible. So kind of screening.

MR. PERRY: Along back this area (indicating)?

CHARLES ROBINSON: That's correct.

MR. PERRY: When I did this, I had the tree there, but I moved it so you could see the door. There are two in the plan there.

CHARLES ROBINSON: We talked about that, filling that in more density wise and to get it depicted on the plan.

MR. FITZGERALD: We can add that when we come back to see you the next meeting.

CHARLES ROBINSON: Besides the tractors, is there anything else going to be stored inside the actual building itself?

MR. PERRY: Tractors and parts and accessories, that type of stuff.

CHARLES ROBINSON: The last thing, if it is going to be used for anything else, we would recommend besides storage, any drainage be routed to a holding tank instead of going into the storm system.

MR. PERRY: You mean from inside the building?

CHARLES ROBINSON: That's correct.

MR. PERRY: I don't even think there is any -- other than the carwash, which that goes down the sanitary.

DON FASO: Does your shop have floor drains?

MR. PERRY: No. Well, there is one in there that doesn't work.

DON FASO: Dan (Kress), will they need an oil separator?

DANIEL KRESS: Probably some sort of separator will be called for.

DON FASO: You will have to meet the building code.

MR. PERRY: When we moved the shop -- they will actually move to the different base and we probably won't even have a floor drain.

DON FASO: What about spillage from oil and --

MR. PERRY: We don't spill it. I mean we -- we don't. We collect it. We collect it and we pay to have it hauled away, oil and stuff like that.

CHARLES ROBINSON: Emergency exits. We were concerned if there are any emergency exits in and out of the building.

DON FASO: I got to stop you. That is not a Conservation Board issue.

CHARLES ROBINSON: Well, they just put it out there. We just threw it out there.

DON FASO: Watch your boundaries. Seriously, that is not a Conservation issue.

CHARLES ROBINSON: Just throwing it.

DON FASO: Now, if Bill (Arnold) asked that, that might be another matter.

BILL ARNOLD: No comment. I would have to assume there are emergency exits in the building.

DON FASO: Do you store gas inside?

MR. PERRY: We have some gas, but probably just a -- five gallon pails, so we maybe get four or five of them. There might be 20 to 30 gallons.

DON FASO: Typically what do you hold in a tank for a new tractor for sale?

MR. PERRY: A gallon or two. There is some in all machines.

DON FASO: Will that be sprinklered?

MR. PERRY: We had not intended to.

DON FASO: Would that be something by code?

DANIEL KRESS: Don't know yet. Don't have enough information about the building to answer that question. It is certainly a possibility.

DON FASO: I'm sure if the Fire Department responded to a call there, they would assume there would be flammable liquid?

BILL ARNOLD: Yes. Do you have storage of any flammable liquid?

MR. PERRY: Yes, but I don't know how much we use it. Usually a lot of the times the gas cans they set outside during the day, put in at night.

BILL ARNOLD: Carburetor cleaner?

MR. PERRY: Those are in metal containers.

DON FASO: You meet all of the OSHA requirements for storage of cleaning fluids?

MR. PERRY: We don't have a lot of that. We only have the Safety-Kleen for the parts cleaner and that is an OSHA approved product by Safety-Kleen. The only other things are aerosols and stuff like that.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS - 31 Stuart Road

MS. BORGUS: Just some clarification on this automotive repair shop. The lease is renewable in a year or is renewable now for a year?

MR. PERRY: Now for a year.

MS. BORGUS: Either way, you will finish that building?

DON FASO: Now or later.

MR. PERRY: Within a year.

MS. BORGUS: What I am concerned about is this thing will drag on and this building wouldn't be put up this way.

MR. PERRY: The only thing that wouldn't be put -- the whole front would be there, but it would just be the end extension, so it would look like that (indicating).

MS. BORGUS: I would like a condition put on them they have to complete this in a year plus a few months' leeway. I wouldn't want to see the automotive repair stay there. Somebody change their mind at the end of the time, have the building put up partly at this point and then have somebody decide they want to renew the lease for the car place and we have a hodge-podge back there. It is wonderful the way it is, but I want it seen through to completion it comes out like that.

DON FASO: If you didn't finish that off, if you look at the existing, we would still see the three little garage bays?

MR. PERRY: The main building that we're building is this (indicating). This is going to encompass -- turn these two buildings into one big building. This is just -- the main reason for that building is extra storage, but it also blocks off this area (indicating), so the only access comes from behind.

DON FASO: All right. I'm clear.

Don Faso discussed the proposed conditions with the Board.

DON FASO: I don't want to deny them the right to display new equipment on the site. So define "outside storage."

The Board discussed how to define outside storage for conditions.

MR. PERRY: In the backyard there will be pallets, but they will be in the yard there.

DARIO MARCHIONI: He keeps a clean operation so I'm not worried about that.

KAREN COX: I think you need to worry more about the operation next-door.

Don Faso made a motion to declare the Board lead agency as far as SEQR, found to be an unlisted action and made a determination of no significant environmental impact, and the Board all voted yes on the motion.

DECISION: Unanimously approved by a vote of 5 yes with the following conditions:

1. Pending approval of the Town Engineer.
2. Applicant shall enclose the dumpster per Town code.
3. Landscaping plans shall be submitted to the Conservation Board for review and approval.
4. Request a variance from the Zoning Board of Appeals for the sign.
5. Request an easement from the Town to allow storm water discharge into the Town detention pond.
6. There shall be no outside storage of material or debris.

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

DARIO MARCHIONI: It's a beautiful project. I commend you.

4. Application of Mr. & Mrs. Chalmers, owner; 3252 Union Street, North Chili, New York 14514 for preliminary site plan approval to erect a 1,100 sq. ft. addition to gift shop at property located at 3252 Union Street in G.B. zone.

James Perna and James Chalmers were present to represent the application.

MR. JAMES PERNA: James Perna with Perna Homes representing the applicants, Mr. and Mrs. James Chalmers. Nice to see you, Mr. Faso and Board.

We're here tonight to discuss a proposed addition on the back of the Glue Factory. The addition will be 25 by 44. We have adequate parking. We have the dumpster enclosed already. We're all set to go. Handicapped parking is just going to be relocated from here to here (indicating) and we'll relocate the door on the side here (indicating) that is presently here (indicating).

The drainage system will still stay the same. We're not doing anything with that. This is all going to be storage, the part we're putting up now, just storage. The other storage area will be turned into more like a showroom, display area.

DON FASO: Jim (Perna), do you know what the intended use is?

MR. JAMES PERNA: Storage.

DON FASO: Strictly storage?

MR. CHALMERS: There is one -- there are offices in the back on the back side.

MR. JAMES PERNA: This office is -- that is located right here (indicating), we're just going to

put a little -- like a 10 by 12, something like that.

DON FASO: You're Jim (Perna)?

MR. JAMES PERNA: That is Mr. Chalmers, yes.

DON FASO: And the office is for?

MR. CHALMERS: We have an office now, but it is in the middle of the store where it is not advantageous in the store. You get too much conglomeration. We're moving it back in the storage area which has no retail traffic there. It is more private.

MR. JAMES PERNA: The look of the building will be the same. We're adding the two dormers on the new addition, so it will still look as appealing as it does now. That last addition we did was a storage area, so it will just blend in with what is there. She is growing out of room. She has to buy more land pretty soon.

DON FASO: That's a good thing, isn't it?

MR. CHALMERS: Yes and no.

Don Faso read the County Comments.

DON FASO: D.O.T. did not participate in the coordinated review.

DARIO MARCHIONI: On this site plan, would you explain to me -- you have a solid line where it shows this addition is 12 feet from the solid line. What is the other line?

MR. JAMES PERNA: This piece here (indicating) --

DARIO MARCHIONI: The dotted line, with the contours on it.

What --

MR. JAMES PERNA: These here? (Indicating), this is the --

DARIO MARCHIONI: You show the addition is 12 feet from the solid line.

MR. JAMES PERNA: I don't know what you're talking about. Let me see what you're talking about. I don't have my glasses with me.

DARIO MARCHIONI: You have 12 feet. What is this line here (indicating)?

MR. JAMES PERNA: This is the property line (indicating).

DARIO MARCHIONI: What is this line here (indicating)?

MR. JAMES PERNA: This right here is the property line (indicating).

DARIO MARCHIONI: What is this line (indicating)?

MR. JAMES PERNA: Property line.

DARIO MARCHIONI: What is this line then (indicating)?

MR. JAMES PERNA: That is the property line.

DARIO MARCHIONI: Two --

MR. JAMES PERNA: Oh, excuse me. What he is talking about, Jim (Chalmers), this line right here (indicating) -- this line right here (indicating), this dotted line?

MR. CHALMERS: That is an extension. The property back here is divided, half commercial and half residential. That is the commercial line right there (indicating) of the property behind us.

MR. JAMES PERNA: This is residential on this side (indicating) and commercial on this side (indicating).

MR. CHALMERS: It's a split property.

DARIO MARCHIONI: You don't own this property here?

MR. CHALMERS: Not this way. I own up to the dotted line right here (indicating).

DARIO MARCHIONI: So you're dividing the zoning?

MR. CHALMERS: Yes. That has always been that way for years.

DARIO MARCHIONI: I just wanted an explanation. I was kind of confused. It looks like a nice addition. I really don't have any concerns right now.

There will be additional employees?

MR. CHALMERS: No. This is strictly for storage.

DARIO MARCHIONI: Will this add more traffic?

MR. CHALMERS: The parking lot is big. We required 5, so we need 30, but we have 38. So we're okay there.

DARIO MARCHIONI: I'm glad your business is growing. That is good.

DON FASO: You need to see Dan Kress tomorrow morning.

MR. JAMES PERNA: About this?

DON FASO: Yes. It is a legal question.

MR. JAMES PERNA: Do you want to give me the question?

DON FASO: See Dan (Kress).

MR. CHALMERS: What is the legal question?

DON FASO: See Dan (Kress).

MR. JAMES PERNA: We'll talk about it tomorrow.

DON FASO: It does not affect the site plan. It is a question that came up to my mind, and it is an interesting question, and it should be resolved by tomorrow.

MR. JAMES PERNA: Okay.

DAVE LINDSAY: Just a question on the drainage I am sure Larry (Nissen) is going to bring up. On the back of the proposed addition, it just looks like there is sheet drainage running into the building --

MR. JAMES PERNA: What we're going to do -- we'll build -- when we do the foundation, I will take it out and slope that back down and -- in and around there. That is the way we did it the last time.

DON FASO: Dave (Lindsay), I don't have a letter from Larry (Nissen) behind --

DAVE LINDSAY: I have a letter.

DON FASO: I guess I didn't get a copy of it. What does it say?

RAY BLEIER: Here (indicating).

DON FASO: I got it. Yes, I did. I left it with Keith O'Toole. Site data. Required property line setback, zoning, blah, blah should be delineated on the plan.

MR. JAMES PERNA: Right here (indicating).

DON FASO: Must not have been on the plans that the engineer reviewed.

MR. JAMES PERNA: This is the plan. The site plan -- this site plan was done two years ago, okay, when we did -- when we did this little one, but it has 38 parking spots. We only need 32.

DON FASO: All right. Property line setbacks?

MR. JAMES PERNA: Yes.

DON FASO: Zoning parcel?

DAVE LINDSAY: I think he is talking about this standard block information that goes on all of the plans.

DON FASO: Okay. This should not be considered as a complete and final engineering review. If the Planning Board approval is granted, we request it be contingent upon the engineer's approval.

MR. JAMES PERNA: Do you see a problem with that?

DAVE LINDSAY: I will show you this (indicating).

CHARLES ROBINSON: The Chalmers have been to the Conservation Board. We approved the plans with the condition of a letter stating that they're committed to move the plantings to the new side of the building.

MR. CHALMERS: That was submitted. Didn't you get that?

CHARLES ROBINSON: I did not see it.

MR. CHALMERS: It was given to Kathy (Reed)-- it was attached to the three plans. Kathy (Reed) was supposed to put them in your box.

CHARLES ROBINSON: If you did that, we're all square.

MR. JAMES PERNA: The plantings we're taking out for the addition, he is going to stockpile them in mulch and topsoil and then replant them.

BILL ARNOLD: Overall square footage of the entire building will be what?

MR. CHALMERS: 1600 square feet, give or take a few feet.

BILL ARNOLD: Any consideration from an insurance standpoint of possibly a fire separation in the event of fire between the storage and shop area?

MR. JAMES PERNA: In the store area --

BILL ARNOLD: I don't believe it is a requirement, but --

MR. JAMES PERNA: Well, we could put -- this wall here -- they're saying use 5/8th drywall. We could do that.

MR. CHALMERS: Whatever you want.

BILL ARNOLD: Just the consideration in the unlikely event --

MR. CHALMERS: It is good to have a firewall.

DARIO MARCHIONI: Self-closing doors.

MR. JAMES PERNA: We already have them anyway. That will work.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

BEVERLY NEDER, 82 Attridge Road

MS. NEDER: I just want to say it is the most gorgeous building in North Chili and if they could just inspire some of the other surrounding properties.

KAREN COX: It is the most gorgeous building inside, too. I was in there a week ago.

MR. CHALMERS: I don't have to lose any sleep over this legal question, do I?

DON FASO: No.

For the audience, I needed a legal clarification on a question and I was supplied. I'm satisfied.

Don Faso made a motion to declare the Board lead as far as SEQR, found this to be an unlisted action and made a determination of no significant environmental impact, and the Board all voted yes on the motion.

DECISION: Unanimously approved by a vote of 5 yes with the following condition:

1. Pending approval of the Town Engineer.

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

5. Application of Lisa Huson, 4 Madaket Drive, Penfield, New York 14526, property owners: Marjorie Wehle & M/M Anthony Stendardo; for preliminary subdivision approval to combine three lots into two lots in a portion of the Wehle Section 2 Subdivision at properties located at 169 Brook Road, 615 Ballantyne Road and 150 Coates Road in A.C. & FPO zone.

Lisa Huson was present to represent the application.

MS. HUSON: I'm Lisa Huson. Broker/owner of BrightSkye Associates and I'm here on behalf of Mrs. Marjorie Wehle, W-e-h-l-e, and Mr. and Mrs. Anthony Stendardo, and there is a correction on the name Stendardo from the legal notice. It is S-t-e-n-d-a-r-d-o.

What we propose, what we would like to do is take a landlocked parcel at 169 Brook Road and subdivide it and combine it with two other existing parcels.

I think the best way is to kind of point out here.

DON FASO: Yes. And I had trouble. We had to follow this with our fingers.

MS. HUSON: I color-coded it to make it easier for the Board. This parcel we would like to subdivide is located right here (indicating). This is 169 Brook Road without any dedicated road access. It's a landlocked tax account. This is Brook Road up here at this top line (indicating). This is Ballantyne Road right here (indicating). What we would like to propose is to subdivide this property, taking 40 acres -- it is a 60-acre parcel. We would like to take 40 acres west of the railroad track and sell it to the Stendardo family. The Stendaros currently own this tax account here (indicating), this property down to here (indicating), and there is a 17 foot and just under 18 foot access from their existing property to this 40 acres. The remainder of the 60 acres -- 20 acres here would be combined with Mrs. Wehle's already existing property. This is all here (indicating), horse farm here (indicating), east of the railroad track, and this is currently hay field (indicating), so this 20 acres would be combined with this hay field where she has her horses. This is a flag lot here (indicating), so the dedicated road access to this property is on Brook Road here (indicating).

This property here (indicating) that Stendaro owns, if it was combined with this additional 40 acres, has dedicated road access on Ballantyne Road right here (indicating). There is no proposal for any development, any construction. Stendaro's property is currently vacant, and he uses it for hunting, so the addition of this land here (indicating) would give them additional hunting land and it would benefit Mrs. Wehle because it would consolidate their holdings and her plan was to sell off the access lands, and this is west of the track.

DON FASO: And the parcel to the north of that is her property, but under a separate tax account?

MS. HUSON: This parcel is owned by RG&E, right here (indicating). This is the rest of Mrs. Wehle's property here (indicating). Going out to Scottsville Road. This is Coates Road right here (indicating) which goes out to Scottsville.

You can see the yellow property is Stendaros. The green outline here (indicating). This is the 60 acres that is 169 Brook Road, we would like subdivided east of the track, west of the track. And then the blue outline here (indicating) is a portion of Mrs. Wehle's land. She has 450 acres.

DON FASO: See how easy it is when it is color-coded?
(Laughter.)

DON FASO: You should have seen us trying to follow it with our fingers.

Typically when we subdivide like this, we would like to have affidavits from all of the owners saying they are in complete agreement with this. And a notarized letter would suffice. Unless all three are here tonight and willing to stand on the record.

MS. HUSON: The adjacent owners -- the property is Mrs. Wehle's property. Um, with the exception of -- this is Louie Krenzer here (indicating).

DON FASO: No, but the properties that we are resubdividing. Are the owners here?

MS. HUSON: No. I do have a notarized letter from them.

DON FASO: Okay. That is what we need for the Building Department.

MS. HUSON: Okay.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

Don Faso made a motion to declare the Board lead agency as far as SEQR, found this to be an unlisted action and made a determination of no significant environmental impact, and the Board all voted yes on the motion.

DECISION: Unanimously approved by a vote of 5 yes with no conditions.

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

6. Application of Jodi Jackson, 158 Hillary Drive, Rochester, New York 14624, property owner: J.E. Crawford Realty; for preliminary site plan approval for a change of use in portion of building to allow a graphics design studio (former dance studio) at property located at 3774 Chili Avenue in G.B. zone.

Jodi Jackson was present to represent the application.

MS. JACKSON: I reside at 158 Hillary Drive. I'm here this evening to ask for an approval for my application to change the use from a dance studio to a graphic design studio.

DON FASO: Okay. The engineer has no comments from an engineering standpoint and does not request engineer's approval. I don't have County Comments. I don't see why it would be a simple change of use.

DANIEL KRESS: I guess we did not get them.

DON FASO: No County Comments.

DARIO MARCHIONI: Are you putting different signs in the front of the building, or changing the building face at all?

MS. JACKSON: No. We won't even be changing the inside as it suits our layout perfectly. We don't need to change anything.

DARIO MARCHIONI: There is a dumpster on this site for your purpose? Will you need one?

MS. JACKSON: I'm not sure about that. I have to look into that.

DON FASO: It will probably be a common dumpster, wouldn't it be, for all of the building?

DARIO MARCHIONI: You have enough parking there for your operation?

MS. JACKSON: Yes. I believe we'll only be using two spaces, maybe three at one time.

DON FASO: Is this the current configuration of the building? You are not making any interior changes?

MS. JACKSON: Absolutely not. It is perfect for us.

JOHN HELLABY: Hours of operation?

MS. JACKSON: Monday through Friday from 8 a.m. to 6 p.m. and Saturday from 10 to 6.

KAREN COX: Is this a place where people would come -- forgive me for being naive. Is this a place where people would come to get copies like Kinko's, or is it more they come and they want you to do graphic design, desktop publishing?

MS. JACKSON: Exactly. There will be one copier in the front area for people to use for single copies or just, you know, small copies, but basically it will be graphic design, documents.

KAREN COX: So you don't have a lot of drive-in traffic. It is destination-type business?

MS. JACKSON: I believe a lot of it will be done electronically as well, via e-mail.

RAY BLEIER: Do you have any other employees working with you?

MS. JACKSON: No, just me.

RAY BLEIER: Just yourself?

MS. JACKSON: Yes.

RAY BLEIER: Certainly should cut down on some of the traffic there. That is a positive.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

Don Faso made a motion to declare the Board lead as far as SEQR, found this to be an unlisted action and made a determination of no significant environmental impact, and the Board all voted yes on the motion.

DECISION: Unanimously approved by a vote of 5 yes with no conditions.

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

Karen Cox left the meeting.

FOR DISCUSSION:

1. Calvary Assembly of God Church - proposed church at 3429 Chili Avenue in R.B. zone.

PASTOR REEVES: Robert Reeves. I reside at 16 Springbrook Drive in North Chili and serve as Pastor of Calvary Assembly currently at 740 Marshall Road. Our purpose tonight is to present our proposed construction of a church on property that we're contracted to purchase on Chili Avenue. We're not looking for any approvals tonight, just asking any concerns that may help us be prepared for when we do make formal presentation and approval.

What I will do is introduce someone to help field those questions and after that, we will be requesting conditional use permit for that. But this is David Secor, and he is in charge of the design aspect of the building. If one of our cell phones goes off during our discussion and he rushes out, it is because his wife is due today.

DON FASO: Oh, okay. Then that would be permissible. Make sure it is on loud.

MR. SECOR: Good evening. My name is Dave Secor with Secor, Luncke and also Secor Engineering. I just wanted to speak briefly about our preliminary design and then will pass the podium

back to Pastor Reeves to continue.

What we have put together initially is approximately a 12,000 square foot wood frame building with most of the parking primarily behind the structure as shown on the preliminary site plan. It would be again a wood frame structure with concrete floors, floor finishes, carpet, tile, a variation depending on what room we're talking. It would be an architectural shingled roof. Combination of siding treatments, wood, vinyl, a little bit of stone or brick veneer at the entry.

Design would also include a nice amount of architectural glass which should add to the curb appeal of the structure. The building would be designed to meet all New York State Building Codes and the site would be designed to meet all of the Town of Chili site plan requirements.

And I don't know if there are any questions about the structure which I could field at this time before Pastor Reeves continues.

DON FASO: Have you read the code? Have you read our code book?

MR. SECOR: I have reviewed the site plan code. I have a copy of that, yes.

DON FASO: I guess the question would be for you to convince us how you feel it would fit into a Restricted Business.

MR. SECOR: That I would probably defer to Pastor Reeves.

DON FASO: Let me read to you restricted business, permitted uses. "Licensed professional and offices including the following: Attorneys, physicians, architects, accountants, specialized businesses or commercial schools, employment agencies, credit bureaus, data processing, management consultant, manufacturing agents, commercial artist. Conditional uses. Hospital equipment and supplies, medical and dental laboratories, uses of similar character, but not specifically listed in this subsection or subsection B must apply to the Planning Board for a conditional use permit. Such permit shall be granted upon the finding by the Board that said use is indeed in the same general character as the above permitted uses."

So why do you feel you are here to put this structure in a Restricted Business zone?

PASTOR REEVES: Primarily it is our understanding that the purpose of Restricted Business Zone is to act as a buffer between more intense areas like General Business and Neighborhood Business Districts and more residential areas. We think our facilities do provide that kind of a buffer zone.

We also believe that the property being used for religious purposes is of the same general character as those businesses permitted under a restricted business zone. We do have an example of what is our typical weekly schedule now which demonstrates that our high traffic times take place on Sunday mornings obviously between 9 and 1. The reason those hours are extended, because currently we do two services. Also, if you combine the attendance on the two services, it is about 175. The other high traffic time occurs on Wednesday evening from 7 to 9 o'clock and average attendance there is between 50 and 75. Most of the other involvements are either office hours which are 1 to 5 people, or they are a small group gatherings, which are anywhere from 5 to 40 people. I think our facility would provide a professional and attractive looking facility that would be comparable to physicians, architects or accountants' office. We also think that this -- the impact of this property would not differ greatly from that of a business or commercial training school.

In addition to the worship opportunities, we foresee our facilities being accessed and used for various community events. We think overall that is a positive impact on the Chili community in general, and a good use of the property in particular.

DON FASO: One full-time and four part-time?

PASTOR REEVES: Yes, currently.

DON FASO: Total membership in the congregation?

PASTOR REEVES: The average attendance now is about 175 on a Sunday. Membership would be less than that.

DON FASO: When there is so much land available that is zoned properly for a religious institution, why would you want to go into the Restricted Business?

PASTOR REEVES: It is the best piece of property in Chili.

DON FASO: Herein lies my problem. It is a good piece of property for Restricted Business.

Chili is a growing community and I think the land that is zoned for business should be reserved for business. We're going to need business land to support the growing community. That is my take on this. I would be hard pressed -- not that I have anything against churches. I'm a churchgoer myself.

PASTOR REEVES: Glad to hear it.

DON FASO: Putting a church in a Restricted Business zone is using up valuable business space, and I think this community is going to need it 20, 30, 40 years down the road.

PASTOR REEVES: I don't disagree with your assessment of that. Quite honestly, I don't think Restricted Business is going to gain the kind of attraction just by reason of the fact that the property is so valuable. I think that -- for it to get that kind of dollar value on the property itself it is going to have to be rezoned anyway. The way it currently is it would require a minimum of 5 acres and doctors' or architects' office going in for 5 acres at 20, 25, 30,000 an acre when they can set up an office around the corner somewhere for much less than that, I think that it would have to be rezoned anyway. So I don't see us as being a negative impact in that regard.

DON FASO: Have you got a purchase offer on it or have you bought the property outright?

PASTOR REEVES: We have a purchase offer and a contract that has been signed and we're waiting -- there are some contingencies to take care of.

DON FASO: I see "now or formerly listed" on the map with a tax account number.

PASTOR REEVES: I am not understanding the comment.

DON FASO: There is a note, now or formerly Assembly of God and it has a tax account number which either indicates you now or were formerly the owner of the parcel.

PASTOR REEVES: Well, we have a signed contract.

DON FASO: Has it been filed? Has money exchanged hands?

PASTOR REEVES: Money has changed hands.

DON FASO: You filed this deed in the County Clerk's Office?

PASTOR REEVES: I couldn't answer that question. The final closing is estimated to take place sometime at the end of November.

DON FASO: And your attorney didn't advise you to make anything contingent on Town approval?

PASTOR REEVES: Yes, he did, and it is in there.

DON FASO: All right. Well, I would be willing -- I would like to hear what the audience has to say.

RAY BLEIER: This is a tough call. With what I am reading, I would have to kind of agree with you that, you know, it doesn't fit under the Restricted Business district. I'm trying to find some loop holes here, and I -- I can't see it.

DON FASO: I have read it several times. They're not big holes, if they're there.

RAY BLEIER: Actually, there is no district, I believe, that specifically allows churches. They're just conditional uses in R-1.

DON FASO: Yes. They're conditioned --

PASTOR REEVES: If I am not mistaken, the conditional use does not require that those specific purposes listed be the only ones used. It just simply says something.

DON FASO: If you can convince us your use is similar in character to a Restricted Business classification, then we have some teeth to base our decision on. It is up to you to convince us.

PASTOR REEVES: I guess I would not know what specific points that would -- you would -- that would be helpful to make that convincing argument about.

DON FASO: That is one of the reasons we're here for discussion. Hopefully you listen to us and --

JOHN HELLABY: I will not get real hung up on it. Personally, I don't see where it is a real big problem. I understand your concerns, but again, this land sat vacant for all these years. As a matter of fact, Wegmans held this particular piece of property close to 30 years before it handed it over to the Town.

DON FASO: You mean the current location.

JOHN HELLABY: I don't see anybody knocking the door down to buy the property. You folks have an available plan. You seem to be doing a good job and quite honestly I can see that that

might fit in there some way, shape or form, even if you consider -- he made a point about specialized schooling. They have classrooms and teach Sunday school or whatever. Granted it is a fine line, but, you know, it is one of those things.

DON FASO: Sunday school is part of the ministry of the church. It is not part of an educational program.

JOHN HELLABY: I don't see anybody else kicking the door down to get in here for that piece of property. I do totally understand your concern.

DARIO MARCHIONI: John (Hellaby), I kind of recall Erwin & Associates had quite a project here for an office complex, and also one of the main things we asked for was realignment of Beaver Road to Chili Avenue, which that is a terrible corner over there. It is pie-shaped there. This is something we're going to ask and insist on this project. We need area there, and that intersection has to be addressed. The other thing I want to ask, did you do any investigation down Beaver Road because there is a lot of vacant land down Beaver Road for sale, but -- about a quarter mile down. There are hundreds of acres that some are -- you know, did you check to see if it is more appropriate for this operation?

PASTOR REEVES: There --

DARIO MARCHIONI: Why this location? Did you check around other locations?

PASTOR REEVES: We did check around other locations. There was criteria we brought to the table in looking for property. Our developers told us it should be a minimum of 10 acres or more, and so that was the first criteria. A number of properties fell off the table as a result of that. We were also very committed to staying in the Chili area, so that took a number of properties off. There are some other properties that if you have lived here a long time, you can find them, but they're not readily accessible or available to people just to be able to drive by and stop in and visit.

And then thirdly, we were looking for something that was a highly visible piece of property. There is some property down Beaver Road next to the graphics plant there that is available. I don't think that is as an attractive location for a church to be in.

DARIO MARCHIONI: Also next to Jehovah's Witness there is a hundred plus acres that are available, a big sign for sale. That is -- so that -- I don't know if you have looked into that.

PASTOR REEVES: I'm not aware of that particular piece.

DARIO MARCHIONI: That's a nice piece of property. I would say your operation, you have environment, clean areas, breathtaking views because you're up on the hill there. This area you're going to have traffic all around here, continuous traffic.

PASTOR REEVES: We see continuous traffic as a plus for a church situation rather than a minus.

DON FASO: But a church is not an impulse trip. By impulse trip, it means somebody is driving down the road, oh, a church and pull in, like a convenience store, like, oh, I need milk and pull in. Dario (Marchioni) has a point. You could go down the road and people would seek you out. It is not an impulse trip.

PASTOR REEVES: It is true. A church in a visible location that they drive by in a routine basis, warm building, people going in and out, congregation, that is a great thing. There are people who attend our church because they drive down Marshall Road and see a full parking lot. I think having a visible area is a huge benefit for a church.

RAY BLEIER: What was this property before RB?

DON FASO: I would say it was probably residential.

RAY BLEIER: Dan (Kress), do you know what this property was zoned before RB?

DANIEL KRESS: No, I don't.

MS. RAGUE: Agricultural.

DON FASO: RA-5? 10?

MS. RAGUE: I don't know.

DARIO MARCHIONI: This has been zoned for many, many years to the present zoning. Mr. Easton wanted to put shops here.

DON FASO: Oh, I remember that. I was on the Board along with Ray (Bleier) when it was a New England type village. Rie probably remembers that plan years ago. I personally thought it was a

nice plan.

DARIO MARCHIONI: Me, too.

DON FASO: Oh, well.

DANIEL KRESS: I had a number of conversations with the applicant where I suggested the appropriate way to talk about conditional use permit was to basically go through a list of exterior impacts and compare those to other permitted uses. The Board obviously can use what criteria you see fit, but that is what I had in mind when we talked about bringing these folks in here.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

RIE RAGUE, 3390 Chili Avenue

MS. RAGUE: I live across the street from your proposed church, and I just have one question and one comment. The question is, would there be any other buildings put on the parcel of land besides the church, or --

PASTOR REEVES: There --

DON FASO: The site plan they're showing, they do have a dotted lot line for future expansion

--

PASTOR REEVES: That is correct.

MS. RAGUE: -- of the church?

PASTOR REEVES: Of the church. There is no proposed construction of any buildings other than what would be part of the church.

What we have proposed in our first phase is a multipurpose use room that would serve as a fellowship hall, auditorium, classroom and office space, and then down the line as the church was able to afford it, to build a sanctuary.

DON FASO: What I don't see, would you propose any buildings for lawn maintenance equipment, lawn mowers, snow blowers, anything like that? Any ancillary buildings?

PASTOR REEVES: There is nothing specifically planned for that, but that is obviously something we would have to put in.

DON FASO: You have an awful lot of future parking there.

PASTOR REEVES: Well, what is interesting about that, I just talked --

DON FASO: I hope your congregation grows to fill it if it -- it is a lot of parking. It is a nice parcel of land. I will agree with that.

MS. RAGUE: So anyway, it would just be the church buildings?

PASTOR REEVES: Correct.

MS. RAGUE: My comment is, this is absolutely the best thing that has been proposed as far as the neighbors are concerned. There have been a lot of things that have fallen by the wayside that have been proposed for that piece of property, and I would be very much in favor of a church right across the street. I wish you luck.

PASTOR REEVES: Thank you.

MIKE FLINT, 3444 Chili Avenue

MR. FLINT: Likewise, I'm pretty much right at the corner of Beaver Road.

One question I have is, is the issue with traffic. It is a lousy intersection. There are accidents there on a monthly basis.

I guess I am concerned about the traffic entrance on Chili Avenue and Beaver Road itself. And it looks like an opportune -- an opportunity for people to avoid the intersection. So I would be concerned about that kind of thing where people come on Beaver Road, would cut through the church parking lot to come out onto Chili Avenue. That would be a concern.

But certainly the whole intersection issue needs to be addressed, and I'm not sure if that is part of this -- you know, should be part of this proposal, but certainly that is a concern I have as a neighbor there. But agreeing with what Rie (Rague) says, I think that a church is a good use of that property as far as I'm concerned as a neighbor. Don (Faso) I agree with you, from the standpoint of the business, the Town does need business property, but at the same time, it has been pointed out, you know, that

property has not been developed for a long time. So I guess I'm not really sure how I come down on it, but those are my concerns, mostly about the traffic.

DON FASO: Well, my dilemma is what I stated earlier. Dario (Marchioni) also said that the property has been for sale for a very long time, and nothing has materialized out of it. Ron Easton was one of the guys who used to beat me up all of the time when we gobbled up building land for commercial properties. He was always saying we never had enough. And now he is selling his property, so I find that rather amusing to myself.

I guess my opinion would be to pursue coming back for, you know, the site plan approval, better documentation on how you feel it fits into Restricted Business. Obviously the owner of the property has the right to return on his investment. It has been for sale for a long time. Dario (Marchioni), any opinions?

DARIO MARCHIONI: I'm concerned with that corner. With the other project we had proposed -- right around the corner there --

DON FASO: Yes. But you can't put the burden of that realignment on one applicant. The development you're speaking of before was going to be spread out over the cost of --

DARIO MARCHIONI: We have to address that issue sometimes.

DON FASO: But you can't put that reconstruction on one building. Especially a not-for-profit.

DARIO MARCHIONI: Well, we have to give up some land for the future expansion of that corner, future design of that corner. We want to prepare ourselves in case the time comes.

DON FASO: Put a reservation on that.

DARIO MARCHIONI: I would.

JOHN HELLABY: Well, I think that the layout he has got, it looks like it is viable that they could eventually do something. I mean -- so it looks like that has been thought of.

DON FASO: That probably -- that is probably where the right-of-way goes.

DARIO MARCHIONI: The other proposal -- we still have plans on that -- was a 90-degree.

DON FASO: A T-intersection.

DARIO MARCHIONI: Approach to Chili Avenue, which, you know, would give a lot of relief on Beaver Road. Because Beaver Road is -- you head back up almost to the -- to the -- in the evenings --

RAY BLEIER: Dario (Marchioni), you have to look at their time frame when they will be using the facility here. It is Sunday morning.

DARIO MARCHIONI: It is not the time --

RAY BLEIER: You have a problem there now, granted. I don't think that this particular application would compound that problem.

DARIO MARCHIONI: At least the land could be set aside for future --

RAY BLEIER: I agree.

DARIO MARCHIONI: -- in case we approve that, the land is available, instead of a legal battle with the owners. Or condemnation proceedings and all of the other stuff.

DON FASO: Even if you require a reservation for future highway purposes, it shows a line on a map. When it comes to fruition, they still have to buy it.

DOROTHY BORGUS - 31 Stuart Road

MS. BORGUS: Two points I would like to make. One is that earlier in tonight's session, you, Chairman Faso, brought it to somebody's attention -- I believe it was the Conservation Board's representative to watch his boundaries. Well, Mr. Marchioni better watch his boundaries, because what he is dealing with here is not anything to do with the issue. In other words, a future movement of a road should not be a concern tonight.

DON FASO: Well, the Chairman would rule that that could be pertinent.

DARIO MARCHIONI: We're planners.

MS. BORGUS: And I understand, too, that you want to keep commercial land for commercial purposes. However, the neighbors have not wanted anything that Mr. Easton has wanted to put on that

land. They didn't like the New England style village. They didn't want a bank. I mean pretty soon you reach a point where if this doesn't please the neighbors, I don't know what does. And I would suggest that if this doesn't please them, they ought to pool their money and buy it from Mr. Easton. Thank you.

DON FASO: I guess the consensus would be to proceed. Come back in for preliminary site plan.

PASTOR REEVES: We are aware that there are traffic challenges in that intersection, and what I was hoping to demonstrate with our church schedule is almost all of our traffic occurs in non-high traffic times.

DON FASO: We realize that. But it was also pointed out that that could be a very good cut-through on high traffic --

PASTOR REEVES: Our counsel brought that up. My suggestion was to put a toll booth in there, but they voted that down.

DON FASO: Actually, if you were to move the driveway on Chili Avenue further to the east to make it really inconvenient where you really have to do a lot of turns, that would eliminate that problem.

PASTOR REEVES: Okay.

DON FASO: But as it stands right now, that is an easy cut-through. You make it difficult, people won't use it.

PASTOR REEVES: Okay. I'm certain we would find a way to make it difficult, I know there are speed bumps, opportunities and things like that.

Just in terms of concerns that you might have, as to how the building is laid out on the facilities -- on the property itself --

DON FASO: You meet all of the setback requirements?

PASTOR REEVES: Yes.

DON FASO: Probably would sit there very nicely. That is a nice parcel of land. I'm very familiar with it. I drive by it all of the time. I'm surprised it hasn't developed sooner.

I do have a question. I'm looking at your title -- building solutions, you have architectural, structural, general contractor. Who is your civil engineer? Who is going to wet seal the plans?

PASTOR REEVES: We're working on that right now. We have contacted three different engineering firms and we're waiting to see who can give us the quickest response time, quite honestly.

DON FASO: You are going to need a wet seal on the plans. You will need landscaping plans. You will need to see the Conservation Board. I can't see any zoning variances you will be requesting. You meet all of the setbacks.

BILL ARNOLD: Mr. Chairman, what about the existing structures on the property?

DON FASO: I think last month they said that they were going --

BILL ARNOLD: Demolished, okay.

PASTOR REEVES: The owners have accepted responsibility of removing those structures.

DARIO MARCHIONI: Mr. Chairman, I want to make a comment.

DON FASO: Fire Department comment?

DARIO MARCHIONI: We're here for discussion.

DON FASO: Right.

DARIO MARCHIONI: Okay. Dorothy (Borgus), this is discussion. Where are my boundaries in the discussion you said?

MS. BORGUS: I'm just making the point --

DARIO MARCHIONI: This is for discussion.

MS. BORGUS: I don't see where the relocation of that road, way down the line, if it ever happens should be -- have any bearing a --

DARIO MARCHIONI: We're discussing the issue. That is all we're doing. If you want to put boundaries on what I can ask --

DON FASO: Let's leave that one alone.

Okay. I'm satisfied. What you need to do is get all of those plans in the Building Department at least 30 days prior to whatever month meeting you want to come in before because they have to go down to the County for review and we have to schedule a public hearing. Any procedural questions, call Dan (Kress) in the Building Department. Anything else you need from us?

PASTOR REEVES: Regarding the conditional use, is that something we're still to pursue?

DON FASO: You need to prove it to us. Yes.

PASTOR REEVES: Is there someone we can take that to to work through that process?

DON FASO: You can give me a call or Dan (Kress) a call.

PASTOR REEVES: Very good. I will do that. Thank you.

The meeting ended at 11:50 p.m.

CHILI PLANNING BOARD

October 14, 2003

A meeting of the Chili Planning Board was held on October 14, 2003 at the Chili Town Hall, 3333 Chili Avenue, Rochester, New York 14624 at 7:00 p.m. The meeting was called to order by John Nowicki.

PRESENT: John Hellaby, Dario Marchioni, Karen Cox, James Martin, John Nowicki and Chairperson Don Faso.

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

John Nowicki 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.

JOHN NOWICKI: One of the applicants -- Mr. Kress, correct me if I am wrong, Application Number 2 of Lane Enterprises has called to table that application.

DANIEL KRESS: I have been -- although I haven't received any written confirmation, we have been requested by the applicant to table that application. They may have to withdraw it all together, but for the time being, let's table it.

JOHN NOWICKI: Okay. So the people in the audience know that. We'll take the first application and call the applicants first and then we'll have the Board members question that application and we'll have the audience question the applications on the public hearings.

Number one.

Don Faso arrived.

JOHN NOWICKI: Mr. Faso is now with us tonight. He'll be sitting as Chair. Don Faso explained he was late due to a medical matter.

PUBLIC HEARINGS:

1. Application of Anthony Comunale, owner; 51 King Road, Churchville, New York 14428 for preliminary site plan approval to allow two accessory storage buildings (12' x 24' and 12' x 20') at property located at 51 King Road in L.I. zone.

Anthony Comunale was present to represent the application.

MR. COMUNALE: I mean there is not a whole lot to it. I have those two portable garage buildings that I have there that I use one to store my lawn maintenance --

JOHN NOWICKI: Can I ask you to pull the microphone in front of you a little bit? Thank you.

MR. COMUNALE: The other one I keep my truck that I use for snowplowing in there. That is basically it.

DON FASO: Tony (Comunale), were you going to move that one that was close to the building?

MR. COMUNALE: No. I was going to move the other one.

DON FASO: Which one was that?

MR. COMUNALE: The one that was back in that stone parking area. We're -- where it shows on the site plan is where they are.

CHILI PLANNING BOARD

October 14, 2003

DON FASO: You do know you're encroaching on your neighbor's property with the gravel?

MR. COMUNALE: Yes.

DON FASO: He or she doesn't mind?

JOHN NOWICKI: What side is that?

DON FASO: We did check. Dan (Kress) and I did check. It is owned by other parcel, a different owner.

JOHN NOWICKI: Because he owns property to the southeast. You own property to the southeast also?

MR. COMUNALE: I would have to look at that with the directions -- or the compass points.

JOHN NOWICKI: Looking where the house is, this is King Road. So the left of this property line here (indicating), do you own that?

MR. COMUNALE: Yes, we do.

JOHN NOWICKI: There is activity on that site, correct?

MR. COMUNALE: Yes. We did a little more -- I started filling that property quite a while ago. We had had a site plan and everything for that. And it just sat there without anything being done for quite a while, so I wanted to grade it off and make it look a little better, and then also we stripped the topsoil off it before we did the filling, and I couldn't go any farther over that way until what we did now is move the topsoil. That is that big pile of topsoil that was there.

JOHN NOWICKI: On that particular site, have you taken out any fill permits?

MR. COMUNALE: Yes.

JOHN NOWICKI: Have you got fill permits?

MR. COMUNALE: I got one years ago when I was filling it, but I haven't put any more material in there since then.

JOHN NOWICKI: Do we have an approved plan for that, or do we have site -- something on that property?

DANIEL KRESS: Are we talking about the -- the property that is the subject of the application, or the property that is immediately to the southeast I guess it would be?

JOHN NOWICKI: Immediately to the southeast. I went by there.

DANIEL KRESS: There was a fill permit taken out for that property in 1992. It expired in 1993.

JOHN NOWICKI: It expired.

DANIEL KRESS: Any further work would need a new fill permit.

JOHN NOWICKI: We need a new fill permit on the site. Thank you.

DON FASO: You haven't done any more work there?

MR. COMUNALE: No. All we did was grade what we put in there years ago. Like I say, the big pile of topsoil there is the topsoil that we stripped off back then, and it got pushed over to the eastern -- you know --

JOHN NOWICKI: It looks like there was gravel being put in there?

MR. COMUNALE: No. That was there when we did all --

JOHN NOWICKI: Is that gravel or topsoil? It looks like you're pushing a big pile of gravel around.

MR. COMUNALE: No. There is a big pile of topsoil there.

JOHN NOWICKI: That is topsoil?

MR. COMUNALE: Yes. That is all the topsoil that we stripped off that whole area.

JOHN NOWICKI: I still think he should have a fill permit on that.

MR. COMUNALE: Well, I'm not filling anything.

JOHN NOWICKI: You haven't brought anything to that site at all?

MR. COMUNALE: No. Not since way back when I had the fill permit.

JOHN NOWICKI: Any questions on that, Mr. Kress?

DANIEL KRESS: The issue of whether or not fill is being brought is irrelevant. If grading is done by more than 6 inches, a fill permit is required.

MR. COMUNALE: To answer that question, you know, we graded it according to the topographical drawing that was done back then. So, I mean, all I did was, you know -- I --

DON FASO: You followed the original plan?

CHIBI PLANNING BOARD

October 14, 2003

MR. COMUNALE: Right. Back when we finished up then, every time I had a chance to put a machine in there and grade it off, it was too wet, and it just sat and got all overgrown and, you know, I thought I was making it look a little better than it did.

DARIO MARCHIONI: There is also another building there, I notice with a driveway going into it. Is that on your property? Another canvas type building.

MR. COMUNALE: Yes. That is on my property. But we went through everything with that however many years ago it was when we put it up.

DARIO MARCHIONI: I didn't see that one down on this plan here. Does it show here?

MR. COMUNALE: I don't know.

DARIO MARCHIONI: This one here (indicating). I thought it was right here with the driveway (indicating).

MR. COMUNALE: It is actually not on this piece of property here.

DARIO MARCHIONI: You're using it?

MR. COMUNALE: Yes. It is mine.

DARIO MARCHIONI: So you actually have three buildings for the same structure? There is a third one.

JOHN NOWICKI: Oh, it is on that -- on the parcel that he needs the fill permit for. Huh.

DARIO MARCHIONI: I'll reserve some more questions.

JAMES MARTIN: The fabric garages you have up there, what is the life expectancy of those?

MR. COMUNALE: Oh, I don't know, probably about 15 years.

JAMES MARTIN: I assume that you had those permits when they were originally erected on the property?

MR. COMUNALE: I did for the first one.

JAMES MARTIN: But not on the subsequent two?

MR. COMUNALE: No.

JAMES MARTIN: Would that be required, Dan (Kress), for a structure that is going to last 15 years?

DANIEL KRESS: Yes, sir, it would.

JAMES MARTIN: So it sounds like we have a problem with not having building permits --

DANIEL KRESS: For the two smaller structures, yes.

JAMES MARTIN: That is something that needs to be addressed.

As far as your comments about what you store in the buildings, I heard snowplow and lawn care equipment. There is nothing else stored in those buildings other than that?

MR. COMUNALE: No.

JOHN NOWICKI: The Conservation Board would like to know -- you just answered the question what is being stored in the buildings, but they also require the licensed landscaped drawings to be submitted to this Board for review. You need to submit a landscaping plan to the Conservation Board. Is that correct, Charlie (Robinson)?

CHARLES ROBINSON: That's correct.

JOHN NOWICKI: So we need you to do that also.

The other question I had for you was that the setbacks on these buildings, again, I'm going to have to ask the Building Department, because I think -- one here looks awful close to that metal garage. Is that in compliance with the setbacks from the buildings? Is that 6 feet enough?

DANIEL KRESS: The map in front of me says 6 feet between the 24 by 12 shelter.

JOHN NOWICKI: Right.

DANIEL KRESS: The metal garage, minimum of 8 feet from side and rear property lines and from the principal building is required by the zoning regs so that should actually be moved out a couple feet.

DON FASO: Or variance from the ZBA.

JOHN NOWICKI: So he would need a variance on that.

The other thing I want to talk to you about are your signs. You have -- a variance was granted, I think, in July of 2000 for a 7 by 6 double-faced sign, 7 feet from the front line; a single sign on the building with no more than 100 square feet or 1 1/2 square feet for each foot of

CHILI PLANNING BOARD

October 14, 2003

building frontage facing the public way, whichever is less is permitted. What are your intentions with these signs on the property? Do you have permits for all these signs?

MR. COMUNALE: No. Well, I have permits for the -- you know, for the big sign. The other two were going to be talked about tonight, I thought.

JOHN NOWICKI: Well, it looks like you will need some more variances here, Mr. Kress, for these signs?

DANIEL KRESS: The zoning regulations permit a single freestanding sign. So if the other signs that are not on the building are going to remain up, then both approval of the Planning Board and a variance is required.

JOHN NOWICKI: So you will need sign variances. I think I will take a rest for now. I think I have covered most of the stuff I wanted to talk about.

JOHN HELLABY: How hard is it to move these structures?

MR. COMUNALE: It's not easy.

JOHN HELLABY: I guess the point I'm getting at is -- again, I know I'm putting you on the spot, but do you intend to get a variance for the 6 foot or do you intend to move it 2 feet? The only reason I ask, you're in here for site plan approval. Once they're shown on the drawing where they go, that is where they stay if it is approved.

MR. COMUNALE: Then I would get a variance.

JOHN HELLABY: You don't plan on moving it? You want to leave them where they are?

MR. COMUNALE: Right.

JOHN HELLABY: You said they had a 15-year life expectancy. Do you plan to leave them fully intact for that 15 years? You don't take them down in the summer months?

MR. COMUNALE: No.

JOHN HELLABY: So they're there for the 15 years?

MR. COMUNALE: Yes.

JOHN HELLABY: They have a fabric cover on them?

MR. COMUNALE: Yes. It is just a tube structure.

DON FASO: With a nylon.

JOHN HELLABY: What is the maintenance on these things? I would assume if there is a -- not non-zip, but they can be punctured accidentally. Are there patch kits? Do you have to take them down and have them sewn up?

MR. COMUNALE: I haven't had a problem, so I don't know really. I guess you would try to sew it up.

JOHN HELLABY: 10, 15 years down the road, if they become unsightly, could you buy new covers for the substructure?

MR. COMUNALE: Yes. Provided the company is still in business, which they have been for a long time, so I don't think that would be a problem.

KAREN COX: The reason you put these up is because you ran out of storage space in the other two buildings?

MR. COMUNALE: Correct.

KAREN COX: So if you run out of storage, more storage space, would you be looking to put more of these up?

MR. COMUNALE: No, I think I have already -- I already have all that I need. If I -- I'm not going to acquire anything else that requires storage space.

KAREN COX: You said -- the other buildings aren't --

MR. COMUNALE: You know, they're not full of things that I'm storing. You know, I have a business in there.

KAREN COX: Right.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS - 31 Stuart Road

MS. BORGUS: I was by there today on my way to North Chili. The first comment I would like to make is this gentleman has a very neat piece of property. However, having said that, I was here at

CHILI PLANNING BOARD

October 14, 2003

the Planning Board when he came and wanted the first one of these sheds, buildings, whatever they are. And as I remember, the Board wasn't very keen on it then, but you let him have the one. Now he is back; he has three. And two without building permits. One in violation of the zoning law. He is filling evidently land without a fill permit. He has had those illegal signs along the road forever it seems. Right after he was here for the shed. In fact, maybe they were there at the time, when he was here previously. And I would hate to think that that is all we want this town to look like is a bunch of fabric sheds, because if he can do that, so can everybody. It is a bad precedent to start. I thought it was when we allowed him to have the one, but since he didn't -- wasn't very honorable about his commitment with the one, I certainly hope you don't give him two more. Those signs should go.

I think it is a bad idea when people come in here and they have done things that are in violation to our law and the Board suggests to them that they can just go get a variance. That is not what this is about either, because if everybody did that, we would have a mess in this town, an absolute mess. I think it is time that we drew a line in the sand and we say take it down, get rid of it. Don't keep coming looking for variances for every time you don't want to obey the law. I hope the Board turns this down. Thank you.

DARIO MARCHIONI: On this 8-foot setback, side setback on this building here, you can actually bring that building real tight to the another one, right, without no setback at all, attach it to the existing building?

DANIEL KRESS: What I have told people is if they -- for example, what we would more commonly see is if there were a wood frame storage shed and they don't want it 8 feet from their house, I tell them if it is physically attached, leg bolted or some such thing to the back of the garage, I will consider that an addition to the structure, but it has to actually be literally physically attached in a permanent manner.

DARIO MARCHIONI: I see these are getting much more popular. I have seen actually three more in Chili. Could this actually be put on the side of a regular house?

DANIEL KRESS: I don't know in a case of a structure like this, because so far nobody has asked me this question, how it could be permanently physically attached to the structure.

DARIO MARCHIONI: But like what Dorothy (Borgus) was saying, if somebody has a house without a garage, could -- facing the road --

DANIEL KRESS: We have been treating these the same as other accessory structures. Under 100 square feet you need a permit, over 100 square feet in area you need a variance.

DARIO MARCHIONI: The other thing is, what is the value of something like that, to buy and install something like this? This type of structure -- I know it is a lot cheaper than a foundation, concrete floor and -- you know, as an addition to the house -- for use as a garage.

What does a structure like this cost you?

MR. COMUNALE: That's, you know -- that's the thing that makes sense about them. They only cost about \$500.

JOHN NOWICKI: They're also probably not very secure as far as people entering them. People could cut them with a knife, you know.

MR. COMUNALE: It doesn't matter what you make for a building. If someone wants to get in there, they will. What I keep in there, if -- if someone wants it that bad, they're going to get it no matter where it is. I mean there were cars stolen over on Bromley Road right in people's driveways weeks ago and things taken out of garages there. So any building could be broken into.

JOHN NOWICKI: Mr. Kress, is there a definition?

DANIEL KRESS: I found it. "Accessory use. A structure or use incidental and subordinate to the main structure for the principal use of the land on the same lot."

DON FASO: So that is LI. So accessory, so it is ancillary to the business.

JOHN NOWICKI: Again, there are some good valid questions because the interpretation of this type of building, the structure they're looking at, how many of these things do you want? It might be something that should be considered in a zoning review. I don't know how the Town feels about these things popping up all over the place or having more than one on the property.

DARIO MARCHIONI: 500 bucks?

JOHN NOWICKI: You could see these things popping up all over the place. We better be alert and maybe think about analyzing this and having our legal counsel and Building Department take a

CHILI PLANNING BOARD

October 14, 2003

serious look at this one.

DANIEL KRESS: The new building code that went into effect this year would require a permit for this type of structure. The old one did not. So we probably need to reconsider what we want in the way of zoning rules accordingly.

JOHN NOWICKI: I think that would be a good idea.

DON FASO: Right now I don't see any limit on it.

KAREN COX: On the number that could go on the property?

DON FASO: Right. As long as they're ancillary to the use.

KAREN COX: That is the reason I asked the question that I did. Because given they're pretty inexpensive, if you have a large piece of property, you could set up a whole bunch of them over time.

JOHN NOWICKI: I think it is something worth looking into.

DON FASO: But in absence of a regulation right now --

DARIO MARCHIONI: I would recommend we table this until we have some further.

DON FASO: Further study for what?

DARIO MARCHIONI: To find out with these buildings --

DON FASO: Well, as Al (Hellaby) pointed out, they're shown on the site plan. My notes indicate he needs a building permit with the new code. He has to go to ZBA for setback and ZBA on the signs.

JOHN NOWICKI: And a fill permit.

DON FASO: That is another lot.

JOHN NOWICKI: It is still part of a condition --

MR. COMUNALE: You people keep saying I'm filling over there. I have not put any fill --

JOHN NOWICKI: Did you hear what Mr. Kress said?

DON FASO: But Tony (Comunale) is saying he has complied to the original drawing.

KAREN COX: This person also said he is filling the lot.

MR. COMUNALE: I have not brought anything in there.

JOHN NOWICKI: You're changing the grade of the property.

MR. COMUNALE: Yes, but I have a plan for that. It was presented here years ago.

JOHN NOWICKI: Let me just back up here a minute. Hold on a second. You have gone ahead and you have popped up two more buildings. Now you're a businessman. You know you need permits. You didn't come in and get the permits. You went ahead and put additional signs out there and you know you have to come in for the Town to look at the signs you put up. You have been doing a lot of things on your own without even considering the Town's aspect or the Town's point and the Town being the people of the Town of Chili, not just you. There are other people in this Town. So I'm a little touchy, okay, right now about doing anything with this until you clean up your mess that you created and you get the variances and permits that you need to operate that business. That is how I feel. That is my bottom line.

MR. COMUNALE: Operate the business?

JOHN NOWICKI: What you're doing right now. What you should have done before. Clean the business up.

MR. COMUNALE: Clean what up?

JOHN NOWICKI: The permits that you need for the buildings.

MR. COMUNALE: Well, why didn't they tell me I needed permits before I came in here tonight? I would have done that.

DANIEL KRESS: Mr. Chairman, for the record, Mr. Comunale was informed of this in writing more than a year ago.

DON FASO: That he needed a building permit?

DANIEL KRESS: Yes.

MR. COMUNALE: No one told me I needed a building permit.

JOHN NOWICKI: If it is on the record, it is on the record. What you do with it afterwards is your business. Before I do it I want this gentleman to come in and get the permits and come back before the Board to show us he has the permits.

DON FASO: Now we have a catch-22. Typically you get the site plan approved and then you

CHIBI PLANNING BOARD

October 14, 2003

go into the Building Department with an approved site plan to get your building permit, so we have a catch-22 here.

JOHN HELLABY: Don (Faso) he is asking for preliminary. Give him preliminary, get the things cleaned up with the Zoning Board and --

DON FASO: If that is the Board's pleasure.

JOHN HELLABY: Then he could come in for final on this.

Would that satisfy your concerns?

JOHN NOWICKI: Um --

DON FASO: You don't approve the building permit without an approved site plan.

JOHN NOWICKI: I realize the catch-22.

DON FASO: He has asked for an approved site plan. As a result of this hearing, he also found out he needs to go in and get a variance from the ZBA for the setback and for the signs.

JOHN NOWICKI: I want a letter coming from your Chair, and that letter also indicating based on what Mr. Kress is saying, on the adjoining property he has a building permit he has to take out for a building he put up illegally and he needs to get a fill permit. Period.

JOHN HELLABY: I don't think that is what I heard. I think that one was erected legally. If I heard him right.

DON FASO: You did get a permit for the one on the other lot?

MR. COMUNALE: Yes.

JOHN NOWICKI: The other two are illegal?

DON FASO: These two, they're not permitted -- or he doesn't have a permit.

Larry (Nissen) or Dan (Kress), on the fill permit, did he submit a grading plan?

DANIEL KRESS: In 1992. Yes.

DON FASO: In 1992.

DANIEL KRESS: That permit expired in 1993.

DON FASO: Okay. But has he violated the extent of that original permit?

DANIEL KRESS: Don't know. Haven't been called out to make an exception. I would make the analogy it is sort of like the New York State inspection sticker I had on my vehicle in 1992. It still isn't good today.

DON FASO: Then the Board's pleasure is to grant preliminary site plan for the two structures, and as a condition, we send him to the ZBA for the setback for the closeness to the building and the signs.

JOHN HELLABY: And the landscaping.

JOHN NOWICKI: And the landscaping plan he has to submit to the Conservation Board.

DON FASO: Well, he has two cloth buildings. What is the total cost of two cloth buildings? What is 1 percent of that?

JOHN NOWICKI: You know what --

CHARLES ROBINSON: I have to make a comment about that.

DON FASO: Charlie (Robinson), just because you see the term "preliminary site" --

CHARLES ROBINSON: That is true, but still in all, when you put a structure up -- you know, you don't want to throw a structure up without any landscaping at all. If you open it up to that, you can say anybody can slap up anything and forget about landscaping.

DON FASO: I'm surprised you didn't come back and say a donation to the tree planting fund.

CHARLES ROBINSON: Fine. We can go there. I will accept that. I just want to see something, not nothing.

DON FASO: Because actually I don't, in my own opinion, think the place looks that bad. Considering the nature of the business, it is well kept up.

CHARLES ROBINSON: I tend to agree with you, and I do agree with you. However, there is a new structure. At a minimum, let's see a donation.

DON FASO: What is the cost of the structure?

MR. COMUNALE: They were about \$475 a piece.

DON FASO: Apiece.

CHARLES ROBINSON: So put \$100 in the tree planting fund. \$50 in the tree planting fund. Something in the tree planting fund.

CHILI PLANNING BOARD

October 14, 2003

JOHN NOWICKI: Make a donation to the tree planting fund as a condition.

DARIO MARCHIONI: Daniel (Kress), when he applies for a building permit on these structures, is the integrity of the structure checked to make sure it takes the wind load, the snow load, other aspects that this building would stand there?

DANIEL KRESS: Any structure that is going to be put up in New York State is subject to certain minimum requirements for things like wind load, snow load, not merely being able to support its own weight, but other exterior -- imposed loads. So the answer to your question is yes. According to the building code, they have to be treated the same as any other structures.

DON FASO: Who is the property owner to the southwest where the gravel encroaches?

MR. COMUNALE: Um, that belongs to -- the name -- Gary Squires.

DON FASO: Oh, Gary Squires?

MR. COMUNALE: Yes.

DON FASO: Can you get a letter to the Planning Board that Gary (Squires) is aware of the encroachment?

MR. COMUNALE: He is. And I know Keith (O'Toole) knows about it.

DON FASO: And what are you saying?

MR. COMUNALE: Well, no -- Gary (Squires) -- yeah, Gary (Squires) knows about it, and if I -- you know, if I have time yet this year, I'm -- what I was originally going to do -- I will just pull that stone.

DON FASO: Or a letter from Gary Squires just to make sure that the adjoining property owner is aware of it.

Don Faso reviewed the proposed conditions with the Board.

DON FASO: One of the things that I discovered at the New York Planning Federation Conference is we actually have to do a full blown motion on SEQR and actually take a vote and have to indicate that our determination, our SEQR determination is based upon evidence presented at the public hearing. So with that, gentlemen, I am going to move that we declare ourselves lead agency for SEQR, find this to be an unlisted action, make a negative declaration based on comments from this public hearing.

The Board all voted yes on the motion.

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

1. Upon final approval, applicant must apply to the Building Department for a building permit.
 2. Applicant shall apply to the Zoning Board of Appeals for a variance for the building setback and signs.
 3. Applicant shall make a donation to the Chili Tree Planting Program equal to 1 percent of the cost of new construction.
 4. Applicant shall furnish a letter from the adjoining property owner stating that they are aware that the gravel area encroaches on their property.
2. Application of Lane Enterprises, 150 Elmgrove Park, Rochester, New York 14624, property owner: Steven Hess; for preliminary site plan approval to erect a 35,000 sq. ft. manufacturing business (manufacture of engine parts) at property located at 39 Jet View Drive in L.I. zone.

DON FASO: For those that just came in, if you're here for Number 2, Lane Enterprises has voluntarily asked for a tabling.

CHILI PLANNING BOARD

October 14, 2003

DECISION: Unanimously tabled by a vote of 6 yes to table, at the applicant's request, until the applicant resubmits.

3. Application of Joseph Karpinski, Jr., DDS, owner; 68 Main Street, Scottsville, New York 14546 for preliminary site plan approval for a change of use to convert building to dental offices at property located at 3183 Chili Avenue in G.B. zone.

Carl Schoenfeld, Dr. and Mrs. Joseph Karpinski were present to represent the application.

MR. SCHOENFELD: Good evening, Mr. Chairman. Carl Schoenfeld, consulting engineer. With me tonight is Dr. and Mrs. Joe Karpinski here to also answer any questions that you folks may have.

What I would like to do is just update the Board on what items we have taken a look at since the comments received at our last meeting, and in addition to the fact that we had a meeting on the 8th with Mr. Faso and Mr. Nowicki, we also did some other things I would like to mention to you, and that -- as a result, we submitted plans just the last couple days updated based on that information for review tonight.

We had met with representatives from the regional D.O.T. office, and they verbally expressed their concurrence with the project as we had proposed it. They sent it on to the regional office for review and approval, and that approval is pending, so we're still waiting back for word on that. We expect that in the next couple of weeks. But in our initial discussions with the D.O.T., what would be required is a standard permit, and we revised the plans to reflect the details necessary for concrete sidewalks and pavement in their right-of-way.

Just for the Board members' information, the work that we're proposing would primarily be the replacement of a concrete sidewalk that is shown here in yellow, which would be at the same grade, same elevation as the existing sidewalk. The existing sidewalk requires a step up into the front of the building. This would be raised so there would be an at-grade entrance into the front of the building, which would be much safer for pedestrians and provide accessibility to handicapped individuals and would provide connection to the existing concrete sidewalk at the edge of the road. Right now there is no connection. So in the wintertime there is no pedestrian access to the side. We would replace an existing concrete stair that is in the advance stage of disrepair. We're looking to put the handicapped ramp in to provide accessibility to the rear of the structure for those that are parking in the rear.

In addition to that concrete work, we're also looking to widen the access into the site. Right now it is approximately 14 to 15 feet. There is an existing curb cut. We're not proposing to do any work with the existing curb cut or sidewalk. We're looking to widen, through relocating the sidewalk closer to the building, allowing 20 feet to allow the vehicle to park at the exit and allow vehicles to enter into the facility.

In our discussions with Mr. Faso and Mr. Nowicki, we looked at the accessibility to the site, the circulation of cars entering and exiting the facility. What we have proposed is for those vehicles that are exiting the facility, to make a left turn across two lanes of traffic -- we propose a no-left-turn sign which would minimize the opportunity for a vehicular conflict and potential accidents at that busy location on the street. Exiting movements would be only to the right. This information has been submitted to D.O.T.. As I mentioned, we're expecting response back from them. Preliminarily they were in favor of the work we showed, but we're still waiting for that.

If the Planning Board would like to consider the -- we, of course, wouldn't be able to do any work until D.O.T. permit was obtained.

We also spoke with representatives from landscaping firms about some existing vegetation on the site, an existing tree, a big large tree on the property -- northerly property line with Pontillo's. It was looked at determining whether or not that tree needed to come down as a result of being large and old, a potential hazard to the property. It appears that the tree should remain, just needing to be trimmed back. It alleviates an issue we had not presented before, but had discussed in the meantime with you folks.

Going down the items in the letter we had presented with our package earlier this week, we're looking at primarily architectural enhancements. For the most part, as we had shown at the last meeting,

CHILIBLANCO BOARD

October 14, 2003

we have -- I would like to initiate architectural improvements once approval is granted. But we would like to provide enough architectural enhancements to enhance the building with the character of the surrounding building community. That would include new windows, and not shown on this sketch, but we would also like to include shutters to give it a more architecturally enhanced appeal.

There is air-conditioning equipment in windows and the mechanical unit on the roof in the rear of the building. All that equipment will come down so it will look more residential as opposed to a cobbed-up type facility. Replace and repaint doors along the front. It is a mauve type color. We'll repaint it so it matches with the painting scheme. There is a retaining wall around the rear of the building. As I mentioned last month, it is in advance state of disrepair. That wall will be removed. New stairs put on. New door. This door on the rear is currently like a vestibule there that is in advance state of disrepair with roof leaking. We would like to have that be an accent color so it is more like a basement level entrance. This would be the entrance to two existing -- there are two existing spaces in the basement that would be left as is, but would be renovated with part of the building permit process. There is an existing dog groomers on the side entrance, on this side, so it could be used for secondary use. As far as the upstairs, we also are looking at new vinyl siding treatments at the corners and some work

on the roof. These are all items we would like to have done this fall because the building is in need of these improvements at this time.

Signage -- to clarify, this sketch shows a sign hanging on the building. We would like to remove the sign that is there now and focus it to a freestanding sign shown on the plan out in front with landscaping. Last month we also showed a couple pictures of the Karpinskis existing facility in Scottsville which is a very neighborly character and it would be very similar to that with the type of signage we propose.

Related to the schedule, since a lot of the work is maintenance oriented in nature, we would like to do those items this fall so that work is completed before the wintertime. Landscaping ideally would be occurring in the next month subject to the D.O.T. permit, since the work related to the sidewalks and landscaping would not be able to be initiated until the D.O.T. permit was obtained. But we feel we have a plan that is satisfactory for D.O.T.'s requirements.

Window replacement, interior renovations and first floor through the wintertime. The idea being that the first floor would be owner-occupied. The structure being an owner-occupied structure, he is very concerned about the safety of the patients. That being the reason for no left turn at the entrance, the widening for the entrance of the vehicles in and out and also the ADA accessibility to the rear of the structure. Final exterior enhancements and signage work will be completed in advance of the office being open in June and all of the restorations or necessary improvements could be completed in July.

As well as since we last spoke, we contacted Wegmans. There is some property right adjacent to our site to the east, a lot of bushes and trees that are kind of overgrown. Wegmans mentioned that they would be willing to work with our -- my client here to clean those areas up and enhance the look of that area, as well.

So with that, I would like to ask if the Board has any follow-up questions based on the information that we have presented. I know it is kind of short notice with the plans we have presented, but we would like to hear any questions you may have.

DON FASO: I just want to say that the Board at the last meeting kind of directed the Chair to meet with them and discuss the possibility of making those improvements that the Board was concerned about. Mr. Kress had a conflict and couldn't make it, but John (Nowicki) happened to be in the Town Hall that day, so I invited him and John (Nowicki) and I did meet with them. We expressed the Board's concern and apparently Dr. and Mrs. Karpinski seemed more than willing to take the Board's concerns under consideration and make the necessary improvements to satisfy the Board and to make it an attractive addition to the Town of Chili.

With that, Karen (Cox)?

KAREN COX: I have a few questions. The no-left-turn sign, is that something that is going to be enforceable by law?

DON FASO: That is something we discussed at the meeting.

KAREN COX: So people could thumb their nose at it and turn there if they wanted to?

DON FASO: Absolutely.

CHILIBLANCO BOARD

October 14, 2003

KAREN COX: Which will probably happen quite a bit.

The sign in front of the building, is that going to advertise all of the businesses that are in the building?

MR. SCHOENFELD: Yes, the primary signage would be the dental practice and the two uses in the basement would have smaller signs noting they're in existence there. We would try to keep it very low-key, very professional looking.

KAREN COX: So the side of the building that the dog groomer is on, that is also going to be improved in look?

MR. SCHOENFELD: That facade?

KAREN COX: Down below.

MR. SCHOENFELD: Yes. We're intending to provide a two-tone -- once we look at architecturally what we can do with that side of the building -- that is obviously a front from the Wegmans property. We want an enhanced look. Also the exterior, there is an air handling unit that will come down. It will look more like the front of the facility with the vinyl siding treatments.

KAREN COX: I just -- I mean there has been a lot of work done on these plans. I will say that. I have a concern that the no-left-turn sign is more of a suggestion.

DON FASO: That was a concern that we came up with, you know -- as the doctor admitted, some of these patients are elderly, and that's a very dangerous intersection and you will have cars cuing from Wegmans' driveway anyway.

KAREN COX: You know the gas station at the corner of Union and Chili has the entrance and the exit and people don't pay attention to those signs.

DON FASO: You're absolutely right.

KAREN COX: I would suspect maybe the elderly patients would be the ones that pay attention to the no left turn. The ones my age are the ones that are going to try to make a wrong move and floor it to get out. You know, that --

MR. SCHOENFELD: In any event, we're hoping it would enhance the safety at the site. Whatever we can do to deter the movement would be helpful, as far as we are concerned.

DON FASO: Most of the general public is not as finessed and wise to know it is almost impossible to enhance. They see a no left turn --

KAREN COX: Now I stated it. Well, if it looks official, then -- maybe people will follow it more.

JOHN HELLABY: What happens if a week or two down the road or whatever length of time it takes, D.O.T. comes back and says they're not interested?

MR. SCHOENFELD: We would have to obviously revisit the work we show within the right-of-way. The work primarily is the work of that sidewalk and the asphalt pavement, and if they don't want to have additional asphalt pavement in their right-of-way, then that would modify by locating the concrete sidewalk where it currently exists, so we're replacing it in kind. I don't feel the D.O.T. would have a problem with even replacement inside. But if they have an enhancement to the safety of the site, we could work with them to come up with a reasonable solution. If there are changes, we could come back to the Planning Board to revisit that issue.

JOHN NOWICKI: If they come back with everything they suggested they would do, I like what I hear in regards to the State because you're aware of what might happen there, so as long as you're aware of these situations that could develop, I don't have a problem with this. The attitudes are good. I like what I see so far.

JAMES MARTIN: One comment to the Chairman. This is just in our mailbox today. I have had really no opportunity to study this, and --

DON FASO: We only met last week.

JAMES MARTIN: I realize that. You know, it just leaves me in a position here where I really don't know, you know, what I can say.

DON FASO: Most of the changes, other than the driveway and the asphalt are charismatic, just to dress the site up.

JAMES MARTIN: It certainly needs to be dressed up. There is no question about that.

As long as they're comfortable with the fact that, you know, they have significant right-of-way issues, the State comes along and says --

CHILBLAIN ZONING BOARD

October 14, 2003

DON FASO: If we're approving the site plan -- if the State doesn't go along with it, what you're looking at is null and void anyway.

JAMES MARTIN: So I really -- I wouldn't know what to ask at this point since I just got the package.

JOHN NOWICKI: This came up in brief conversation. Have you addressed your landscaping plans to the Conservation Board?

MR. SCHOENFELD: The original preliminary plans which were unchanged, I believe were reviewed as any plan would be reviewed.

JOHN NOWICKI: I would just like to bring it up to the Building Department's attention, that their landscaping plan --

DON FASO: John (Nowicki), I have --

JOHN NOWICKI: If it could be compared with Pontillo's for safety reasons -- Charlie (Robinson)?

JOHN NOWICKI: Charlie (Robinson) had to leave.

DANIEL KRESS: I will be happy to fill in.

MR. SCHOENFELD: What we would like to do is coordinate our landscaping on that edge. We showed some screened-type plantings set back from the road so we don't inhibit the views, but recognizing they have arborvitaes, we would try to accent their landscaping and try to coordinate the construction with that, if possible.

DON FASO: I had Sherry (Thrash) pull out Pontillo's and make you a copy. Did you get it?

DANIEL KRESS: I was out of the office more than I was in it today.

DON FASO: I will give you this one.

JOHN NOWICKI: What kind of tree is it?

MR. SCHOENFELD: I don't know.

KAREN COX: It's not a maple.

JOHN HELLABY: Somebody has it mislabeled here.

JOHN NOWICKI: You noticed.

DARIO MARCHIONI: I would have preferred a new building setback in line with the other buildings, but this is a great improvement to this existing building. So with that, I'm all right with it.

DANIEL KRESS: Just of a couple of very minor cautions, if I may.

One is that the proposed location for the sign, there are three magic numbers you need to bear in mind. That sign is supposed to be a minimum 15 feet back from the property line, so you may be looking at variance application there. I don't think you have room to move it back 15 feet, but that is why you would be at the Zoning Board. The sign has to be no more than 20 feet high maximum and no more than 32 square feet in area maximum.

KAREN COX: 20 feet high? That would be ugly.

MR. SCHOENFELD: To follow up on Mr. Kress' comments, the height won't be any higher than 6 to 10 feet and the size, square footage of the sign will be very small, as well.

DON FASO: Are you 7 feet, because you said no more than 6 feet?

MR. SCHOENFELD: The square footage of the sign will be no more than -- there is an existing sign that will probably be brought to the site. It is a painted wood-type sign, very similar type -- maybe a little larger to add the rungs underneath.

DANIEL KRESS: My only other comment is what the D.O.T. giveth, the D.O.T. can taketh away. Please understand if they're okay with this now and we approve this now, we can't guarantee you five or ten years down the road they want another 5 or 10 feet and they want the front of your building. So just be aware of that.

JOHN NOWICKI: That is the risk you take.

KAREN COX: Check the TIP.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS - 31 Stuart Road

MS. BORGUS: I agree with Dario (Marchioni). I would much rather have seen a building further back.

CHILICOTTE PLANNING BOARD

October 14, 2003

DON FASO: Can't do it.

MS. BORGUS: Well, we have put an awful lot of effort, the Planning Board, the Town Fathers and the public, in pressure, have really worked very hard for many years to improve our main street and I don't think no matter how nice this is fixed up it will be a proper addition. I would be very upset if I were the neighboring building which has turned out so very, very nicely if I had that put next to me. I wouldn't be happy about it.

DON FASO: But it is there.

MS. BORGUS: How many parking spaces are going to be on this plan?

MR. SCHOENFELD: The existing plan shows 18, and those will be maintained. That is the minimum necessary for a facility with this square footage.

MS. BORGUS: That will be sufficient for three businesses?

MR. SCHOENFELD: Currently it has been sufficient for the four spaces that are there now. There are three occupied, but one is vacant, but since we're consolidating the first floor to a five-chair dental office, we're anticipating this to be sufficient, plus it is within zoning regulations as well.

DON FASO: Dr. Karpinski is a sole practitioner.

MS. BORGUS: Is he going to be moving the entire practice here or staying in Scottsville as well?

DR. KARPINSKI: My entire practice.

MS. BORGUS: I tend to agree also with Karen Cox. I think you're going to be -- I don't know what you can do about it, but there are going to be bad accidents coming out of the driveway.

DON FASO: That is what we're trying to avoid.

MS. BORGUS: They won't pay any more attention to that sign than they do at Union. They come in wherever they want and go out wherever they want.

JOHN NOWICKI: Colombini's is the same way. You take a risk getting a pizza there.

KAREN COX: The sign is a good way. I think knowing the way my parents drive -- that's not what I call elderly -- they don't like to make that left turn. My mother would turn right to turn left, but it would be somebody my age or younger who just says the heck with it, I'm going to -- and that happens at Colombini's, and it happens everywhere else, if people are in a hurry enough -- just like you see people driving through red lights now. But I think at least the effort has been made to suggest to people it would be wise to turn right. And there are times when you can turn left out of there without much trouble, but there are a lot of times on weekends where it is hard.

MS. BORGUS: It would be more times it would be difficult than easy. That's a very busy street. But I mean we don't have any more remodeled old buildings in Chili Center.

JERRY BRIXNER - 14 Hartom Road

MR. BRIXNER: Can you brief me real quickly as to the current businesses which are in the building and will they be retained?

DON FASO: Two of the three will.

MR. BRIXNER: Two of the three will.

MR. SCHOENFELD: We'll have room to retain two. One will be displaced as a result of the project, but we're really not at liberty at this point to determine who is -- it is just a matter of the owners --

MR. BRIXNER: So the current tenants are not apprised at this point whether or not they will be entitled to stay?

MR. SCHOENFELD: I believe they're aware of the project, but it is the owner's discretion how to handle it.

MR. BRIXNER: They don't know definitively whether they will or won't stay?

DON FASO: I think they were at the last meeting. This is a tabled application.

MR. BRIXNER: I didn't ask that. The tenants have not been informed -- each of the three tenants, whether they will or will not stay, have they?

DON FASO: I can't answer that. It is not subject --

JOHN NOWICKI: That is their business. That is not our business.

MR. BRIXNER: Will there be an increase in traffic coming out of the facility with the addition of the dentist relative to the fact that there were three?

CHILI PLANNING BOARD

October 14, 2003

DON FASO: I don't think that they could say what is generated now versus what is going to be generated -- with the addition of the dentist.

MR. BRIXNER: My point is obvious, that if you don't have any signs now, and -- in handling the traffic and you do not anticipate any further increase in traffic, maybe you don't need a sign. But it still might be a good idea to just have something available instead of a no left turn, a caution perhaps. Perhaps a caution sign on turning, just as an advisory type situation. That if a car coming out -- just would make a decision on whether or not --

DON FASO: I think anybody pulling out on Chili Avenue would know enough to use a little caution. Anybody that has pulled out of Colombini's --

JOHN NOWICKI: I live on Chili Avenue. I caution every visitor to my house to -- they're taking their life into their hands if they are backing out onto Chili Avenue.

MR. BRIXNER: I feel strongly, as I indicated last meeting, if the building is satisfactory now and can be improved with a repair set-up, that it is fine. It should be fine. Thank you.

DON FASO: I move we declare ourselves lead agency as far as SEQR, find this to be an unlisted action and made a determination of no significant environmental impacted based on the evidence presented at the public hearing.

The Board all voted yes on the motion.

The Board discussed the proposed conditions.

JOHN NOWICKI: You're doing all four sides of the house somehow?

MR. SCHOENFELD: Yes.

JOHN NOWICKI: We need an updated architectural detail plan.

MR. SCHOENFELD: Submitted through the Building Department?

JOHN NOWICKI: Yes.

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

1. Landscaping plans (signed and sealed by a licensed landscape architect) must be submitted to and approved by the Chili Conservation Board.
2. Architectural renderings must be submitted for the Board's review.

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

INFORMAL:

1. Application of Wegmans Food Markets, 100 Wegmans Market Street, Rochester, New York 14624 for revised site plan approval for additional parking spaces (near frozen food warehouse) at property located at 249 Fisher Road in G.I. zone.

JOHN HELLABY: Mr. Chairman, before you continue, I need to step down on the next application because I'm employed by Wegmans.

DON FASO: You're excused:

FOR DISCUSSION:

2. The Planning Board will hold an additional SEQR scoping meeting (at the request of the NYS Department of Transportation) regarding the application of Wegmans Food Markets for site Plan approval for possible future private road improvements (break in access to NYS right of way) which was granted by the Planning Board on 4/8/03.

Bill Moore and Art Pires were present to represent the applications.

CHILI PLANNING BOARD

October 14, 2003

MR. MOORE: Good evening, Mr. Chairman, Board members. My name is Bill Moore. I'm a project coordinator with Wegmans Food Markets. We're here tonight to request approval for a minor modification to our overall site at Market Street. Specifically, we request the approval to add additional parking spaces adjacent to our frozen food warehouse.

32 spaces are proposed to be constructed during shift changes in the warehouse. The parking provided at this point, 41 spaces, cannot handle shift changes where you have got people coming in and out of the building, and most or some end up parking right on the road, on the edge of the road. We would rather not have that happen. We would rather provide off-the-drive parking spaces for them.

DON FASO: In essence, this is where there was gravel parking anyway, correct?

MR. MOORE: Yes.

DON FASO: The gravel base?

MR. MOORE: Yes. To point out our plans, this is the overall Chili Market Street site (indicating). Chili Avenue up here (indicating), our entrance in here (indicating), office space here (indicating). Our frozen area in here (indicating). Recently, maintenance -- the maintenance building here (indicating), and more recently the water tank (indicating).

What we're requesting for is in this circled area (indicating), is -- again, a gravel area that was used, and we would like to update that to this and add 32 spaces at the north end in that gravel area.

Again, this is the construction barn, as we call it. The parking for the frozen warehouse, and the office and the -- I'm sorry, the -- excuse me, the water tank would be right here in this area (indicating).

DON FASO: Bill (Moore), that new pavement opposite the water tank, is that new? Is that -- the same --

MR. MOORE: I'm sorry. As a part of this, we're also going to pave this right here (indicating). It is all stone now, too, and we want to just bring that up and pave it.

DON FASO: Okay. So it is pretty straightforward.

MR. MOORE: Yes.

DON FASO: Who is doing the break in access?

MR. MOORE: That is him right there (indicating).

MR. PIRES: Good evening, Mr. Chairman, my name is Art Pires with Wegmans Food Market. Once again, good to see everyone here, especially you, Mr. Chairman.

Number one, we're here simply for a reapproval of the break in access that was granted by the Planning Board back in April of this year. The reason for that, the previous review and approval under the State Environmental Quality Review was done properly by the Planning Board. However, what we have been advised in providing that information to the State of New York, as one of the steps of the process of securing formal break in access from them, they asked that we have a coordinated review with the Town. Apparently it is their policy that they do not do uncoordinated review.

DON FASO: Did you supply copies of that State's letter to the Board?

JOHN NOWICKI: I got it.

MR. PIRES: I think initially that was submitted with that application. I have a copy here.

JOHN NOWICKI: The Nixon Peabody letter?

DON FASO: No. The original. It stated that although we realize the Board has the power to do it as an uncoordinated review, they would prefer to have a coordinated review.

MR. PIRES: There was no letter. Basically we sat back down with them after we secured your approvals and completed the SEQR. We then sat down with them and said, "Here is the Board's resolution. Here is our written offer as requested for them. Here is our tie down of the location of the break in access."

At that point they said, "Well, we understand your process. We understand the Town of Chili's. We're not challenging that. It is the New York State's policy, however, to have a coordinated review."

Apparently they don't like to do uncoordinated reviewed. It is as simple as that. So I have no formal letter with me here tonight. I can supply that subsequently.

DON FASO: Where did I read that?

CHILILAND PLANNING BOARD

October 14, 2003

MR. PIRES: There is a letter. I don't have with it with me tonight. I think we had done -- in a premeeting with Mr. Kress, we had shown you that documentation where they were requesting that.

So once again, the Planning Board and -- I believe Mr. O'Toole will concur with -- the process was appropriate under State law. It is a matter of New York State policy.

So they have asked us to come back to -- ask the Board if they would consider it. They didn't even demand. They said can you go back to the Board and ask them to do this as a coordinated review, the other agent being the New York State D.O.T. I believe Mr. Kress has received comment from the State. I'm not certain of that --

DANIEL KRESS: Actually, I have received a phone call from a gentleman at the D.O.T. who indicated he would not be able to be present this evening, but did intend to supply any relevant comments. I have yet to see those.

JOHN NOWICKI: Okay. Surprise. Surprise.

KAREN COX: He gave you the excuse he got burned out and couldn't get to his files, did he?

DANIEL KRESS: Well, I suppose if there is such a thing as a good excuse, a fire in the building that drives everyone out is probably as good as it is going to get.

KAREN COX: I have been hearing that one a lot.

DON FASO: Do I understand that we have to technically declare ourselves lead agency and indicate that we're going to have a coordinated review with N.Y.S.D.O.T.? How does this work?

KEITH O'TOOLE: If D.O.T. is the only other involved agency other than the Planning Board, and if we're comfortable we have sufficient evidence they want this to be a coordinated review with us as lead agency, it is enough that we declare ourselves lead agency.

DON FASO: For a coordinated review?

KEITH O'TOOLE: Yes. If you want to go to the next step asking them to confirm this in writing, we can declare our intent to be lead agency instead of declaring ourselves lead agency and give them the 30 days in which to respond.

DON FASO: Does that pose a problem?

MR. PIRES: Certainly not.

DANIEL KRESS: If I may add to that. My suspicion based on the communication I have had from the D.O.T., the latter is what they would prefer.

DON FASO: Now, we don't really have to do -- we did the intent -- you wouldn't have to do it unless it was a Type I. It was not a Type I originally.

KEITH O'TOOLE: It was unlisted. That is why it was uncoordinated.

MR. PIRES: That is where I believe we're -- our counsel was suggesting that since it was unlisted and it was an uncoordinated review last time, that the Board simply express their desire to be lead agency, if that be the case, that being your Board, and then the State would have 30 days in which to say they concur or they prefer to be the lead agency, which I think we all know the end result.

DON FASO: It will be no on the State.

MR. PIRES: Right. As far as any other involved agencies, because this is simply a break in access within the Town of Chili lands, we're not into the Town of Gates -- because it is strictly to seek that 50-foot wide break in access along the northerly line now as a first step in seeking a road connection from our property to the Chili Avenue, but we need to get past this break in access with the Town and then the State, saying yes, we concur and we'll grant you the break in access. Then we would come back at a future date with an actual plan with the geometry showing where that road would be passing through that break in access. I can point that out again for Mr. Chairman.

DON FASO: I know where it is going to be.

MR. PIRES: Right along here (indicating). So if and when the State does finally say, okay, fine, we concur, we accept your written offer, you have complied with SEQR, we have the Town resolution on file with the Town of Chili, then we would come and start our design. Quite frankly, we have had informal discussions with them on the geometry connecting A to B. We left it wide to have the engineering design option, but that point, that 500 feet -- this is per discussions with the State -- it would obviously be narrowed down to a practical right-of-way. Whether it be per the Town's right-of-way -- I don't know, 50, 60, whoever. But a 500-foot break in access allows the latitude for engineering design. Coming back full circle, that is why the only involved agencies would be, from our perspective

CHILI PLANNING BOARD

October 14, 2003

and I believe your counsel concurs, it is the Town of Chili and the New York State D.O.T. At some future date when we have the plans, the Town of Gates would be coming into play because the road would traverse.

DON FASO: Yes. Everybody would have to be notified then.

MR. PIRES: Correct.

DON FASO: First let's take care of the driveway. Seeing it is revised final site plan, we don't need to do SEQR. And there is no preliminary or final. It is revised final.

We're granting final revised site plan then.

DECISION ON INFORMAL APPLICATION #1: Approved by a vote of 5 yes with 1 abstention (John Hellaby) with no conditions.

DON FASO: On break in access, I move we declare ourselves lead agency regarding the break in access with the New York State Department of Transportation. We find this to be an unlisted action and have determined that there shall be a coordinated review with the New York State Department of Transportation. Is that sufficient?

KEITH O'TOOLE: Yes.

DECISION: The Chili Planning Board adopted the following resolution by a vote of 5 yes with 1 abstention (John Hellaby):

The Chili Planning Board hereby declares themselves lead agency with regard to the break in access to the NYSDOT property. We find this to be an unlisted action and have determined that this shall be a coordinated review with the NYS Department of Transportation.

INFORMAL:

- Application of Gerald Testa, owner; 429 Brookwood Drive, Webster, New York 14580 for final site plan approval to erect a single-family dwelling on Lot #2 of the Testa Subdivision at property located at 25 Greyson Road in RAO-20 & FPO zone.

John Sciarabba was present to represent the application.

MR. SCIARABBA: I'm here on behalf of Mr. Testa. My office is located at 1344 University Avenue.

Last month we were here and received final for subdivision phase of this project. This project consists of creating a new building lot on the existing lot that currently has House 25. At that time, we had some input from the public. We had some concerns with the neighbor to the east. Therefore, we modified the plan, and that is why we're here this evening. The plan has been modified to show a revised house location. Per that meeting we were requested to move the house 13 feet from the east property line, and put the rear setback of the proposed house at 26 feet from the property line; therefore, giving the neighbor to the east a little more room. But we were also able to save another tree on the lot, so we can kind of retain some of the natural amenities there. That was basically the hold-up on the site plan process, I believe, last time.

DON FASO: You were granted preliminary?

MR. SCIARABBA: Yes. I think that is all I have for you this evening.

JOHN NOWICKI: I wasn't here the last time. I had some questions here on the -- about the landscaping.

DON FASO: One of the things the old plan showed -- this was 8 feet away. This front setback was even with this front setback. So the house basically sat here (indicating). The neighbor -- I don't know if he is here tonight.

MR. SCIARABBA: I don't think so.

DON FASO: He was concerned about the closeness and the proximity. So we granted

CHILBLAIN ZONING BOARD

October 14, 2003

preliminary, and held final and asked him to come back; increase the distance to the west and move the building -- it is still within zoning.

JOHN NOWICKI: Okay. So no variances.

DON FASO: No variances. Still within zoning. Fits better on the lot and he can save a tree.

JOHN NOWICKI: Drainage okay?

DON FASO: Larry (Nissen) was concerned last time.

LARRY NISSEN: The drainage has been improved, I believe, so --

JOHN NOWICKI: Flood insurance requirement all set?

DON FASO: Dan (Kress), first floor elevation conforms?

DANIEL KRESS: Eventually we'll need an elevation certificate, but, you know, based on the information that is there, it looks like that should be sufficient.

MR. SCIARABBA: We're proposing no basement.

DON FASO: Do you know what the flood plain is?

MR. SCIARABBA: 253. I don't know if it is 253 or -- it runs -- that runs through there. I don't have a plan in front of me.

DON FASO: You mean 523?

MR. SCIARABBA: Flood elevation is 523, and the proposed first floor is 527 1/2.

JOHN NOWICKI: You're up there pretty good.

DON FASO: I move that we grant final site plan approval.

DECISION: Approved by a vote of 4 yes, 1 no (John Hellaby) and 1 abstention (John Nowicki) with no conditions.

FOR DISCUSSION:

1. Byrne Dairy - proposed 4,000 sq. ft. grocery store with fuel pumps at property located at 3771 Chili Avenue in N.B. zone.

Christian Burnell, Mark Byrne, Bob Eggleston and Vincent Byrne were present to represent the application.

MR. BURNELL: Christian Burnell, Director of Facilities and Real Estate for Byrne Dairy. I would like to introduce the people. Here I have the Vice President of Operations Mark Byrne. Our architect Bob Eggleston. Back here is Vincent Byrne.

JOHN NOWICKI: Founder?

MR. BURNELL: I call them. He has been there 59, 54, years -- since the Civil War -- no. As he will say. But what I would like to do before I get into my presentation with the site plan and other pictures that I have here -- some lighting, some signage and whatnot, I would like to have Vinny (Byrne) speak to give you a little background about Byrne Dairy, about our products and the grocery store we'll propose and the items we'll carry. I think you'll see once he explains what we do, in this area you guys are not used to it, used to our smaller type stores. I think Vinny (Byrne) will allude to the smaller grocery store.

MR. VINCENT BYRNE: I left my card up there. My name is Vincent Byrne. My father started this business in 1933. Actually this wagon (indicating) is so old it has the hard rubber tires on it. That was one of his first rigs. Actually at the time, and -- in Syracuse, when he started, there were 35 dairies just in Onondaga County, and there are not 35 dairies in the State any more. The business has changed very drastically over a period of years. One of the things is that this is a -- our horse and buggies. He was in another building and in '48, I was graduating from college. He moved to this building here (indicating). And we still are at this site (indicating).

JOHN NOWICKI: What year is that taken, that picture?

MR. VINCENT BYRNE: I tell you what. I tell you two stories. Number one is, we moved in November of '48. I was a senior in college. And that is the night that Truman beat Dewey, and when the -- well, I'm just telling you the history of it. And when -- you know my father, I get out of the Service and I was a hell-raiser and I didn't want to go back to school. He made me. So in any event,

CHILD LABOR BOARD

October 14, 2003

you know, I don't think he figured I was going to stay with him. But that night I stayed all night because we moved and I think that is the time he thought maybe this guy ain't so bad, but the point is that when the guys came to work the next morning, they wanted to know how Dewey did and when you told them Truman won, they said we were kidding them. That is when we moved to that plant. We expanded ourselves since there. I think, number one, to try to tell you we're very reliable people. We're also very conservative. This is the first store --

JOHN NOWICKI: You said 1948, right?

MR. VINCENT BYRNE: We moved in that building -- that night in November, 1948.

DARIO MARCHIONI: I was four years old.

JOHN NOWICKI: I was trying to remember during the Second World War my neighbor was Kunzer Allenwood Dairy. They had horse-drawn milk delivery wagons and the horses were trained to go up and down the city streets and they would walk in the sliding doors and carry in the full bottles of milk, but I don't remember them having rubber tires.

MR. VINCENT BYRNE: This one is the hard tires. There are the hard rubber tires they had in those days. Then they went to the -- those softer tires. But --

JOHN NOWICKI: Those were smart horses.

MR. VINCENT BYRNE: Actually, the thing is that the horse knew the stops better than anybody else.

JOHN NOWICKI: That is what I am telling you.

MR. VINCENT BYRNE: I have neither one here -- the one with the trucks -- you kept it. If somebody was sick, okay, and you drove a truck. I would say I will take the horse route. You take his truck. Because you could be going along the street looking for the address and the horse is there. Before the war, if you took a snow ball to a horse, you could go take the whip and hit a kid in the fanny. You know, but after the war, the parents came back and couldn't do enough for the kids and they used to -- we had to take them off. But we have been in business a long time. We're established. You know, we just wanted to tell you about some of our products, too.

The business had changed. After the war, a lot of guys got out of school in '45 and they had the G.I. Bill. They were accelerated. My brother got in three years because he was married, and so now they all went to work in '49 or '50. Now by '55, you know, they either had a business established or they became vice presidents or something and they got rich. They got a new car and they gave her the second car. That is what happened.

So the women would say, you know, well, I'm all through buying milk, and we used to go to the house -- as a matter of fact, three years ago, at the State fair, they had a -- one of the butter sculptures and it was a guy carrying a carrier -- he had milk bottles and the kids were at the door and the door was open. We used to knock on the door, "Milk man." She'd say, "Keep six quarts in the ice box." If there were two left, there was four. Now you can't get down the driveway with ADT. They have gates on most their houses. So the business really did change, you know, in the '50s. So what happened was the supermarket came along, plus the women got out to shop, and we started to go down.

So I think that what happened was that our answer, of course, was a dairy store to replace the milk man. Like you have some areas here -- we have an area like Fayetteville and DeWitt, where a lot of GE people are moving to Syracuse, so this was the first dairy store. Now you're looking at the most conservative guy that you ever saw. That was my first dairy store, right? And it is just the size of a three-car garage. That was built in '54, and -- in Central Square, New York. So that -- and from there we went on and we have over 55 stores, but the thing of it is the business again has changed. People want, you know, to make one stop, and they also want fresh dairy products, and we are, you know, the ones that have really developed that with a lot of our products.

We still carry the glass bottle. Some people like that. They have their own carriers and so forth.

We just came out with a new chocolate milk in paper carton, and this is it (indicating).

This is one of our products that we handle -- this is a certified milk (indicating). Now, you know, a lot of farmers give their cows BST which makes them give about 30 percent more milk. Of course, nobody knows how that is going to affect people. So we have to take two separate runs. In other words, we may have two farmers, and the third doesn't use BST. We have to send out another truck out to pick up his stuff, but a lot of people really want to have -- especially a mother that is nursing, what am I giving my child. She wants this BST-free milk. We're the only ones that really carry it in the

CHILD LABOR BOARD

October 14, 2003

Syracuse area. It is a lot of work for us, but we think we're different from the next person. I think that is important.

We also have carried fresh cream. Most of the places are carrying this ultra-pasteurized cream. We put a 14-day code on this product, and we have that in pints and half pints.

One of the biggest changes that we did make, not this son -- another son came out with that and I thought he was crazy, but in any event, we went to this pint (indicating). Now last year, not the complete year -- but last year we sold 500,000 of them a month. Now you divide that in two. That is 250,000 quarts of milk that the farmer didn't have two years ago, plus everybody is trying to wean these kids off soda and pop and so forth and so on. It is a full pint, 16 ounces. People like it, and we have -- we have expanded that into cappuccino and many other products. We also have a strawberry milk and so forth. So I think that that is important that we carry all these items.

So we -- a lot of people just have a store and they sell Lotto tickets and maybe some cigarettes and that's it, but we have a grocery set up. We have -- people can come in -- we're not competing with the chains. You can't spend a hundred dollars in our store. But if you need three or four, five items and the woman is working and he still has the car he gave her, then they can go in and get what she needs and go on from there.

So I think that is a very important thing to remember, that we're here for.

So I think that, you know, the only thing that has changed in that is that we have had to add gas, because people are in such a hurry. They prefer to make one stop and go ahead with their business. But we want good stores. We are very strict, you know, with kids and cigarettes and beer and so forth. We do the best we can.

We're in next to a school down in Hornell, and our little store runs right up to the -- adjacent to the school yard and we wanted to put a store in Phelps and they were kind of against us, so the Superintendent of the school in Hornell wrote the other Superintendent and he said, "I have been next-door to Byrne Dairy and that is our biggest ice cream stand." He said, "We have never had a dispute with that company in any way whatsoever." So we want to be a neighbor in your community, and we think that, you know, because we have a family business, because we carry a lot of varied products -- we have our own bread we have made for us. We have our own cheese and a lot of the products, and we come to the store three times a week, and we really have a lot of fresh milk that we put a 15, 16 day code on it. You know, you're really getting it fresh. So we appreciate your listening to us. They're going to go into the building more than I did, but we know the business. I go through the plant myself. You know, I know everybody on a first-name basis. We make our own ice cream. You know, they are kind of pampering me. I want a little bakery, too, but -- but that is where we are. We're very close to our people.

DON FASO: Your own egg farm?

MR. VINCENT BYRNE: No. But there is a family named Hudson that lives in Camillus and they were big milk people, and they -- two of the boys have taken it over and we handle their eggs exclusive. They do a terrific job for us. They bring eggs to our dairy and we bring them to the stores ourselves. They're made locally in Camillus, New York. A very nice family named Hudson.

JOHN NOWICKI: Where is your market area now? How far do you go in New York State?

MR. VINCENT BYRNE: I think you asked a good question. You know, we -- the store that we put here in Central Square, that we put up there in '54, this one here (indicating), so we used to -- the trouble with our business was in -- after the war was everybody got a camper and they went camping and the State licenses by counties -- actually they used to license you by towns and then villages. They wanted the local milk to be used locally. That is why they licensed it up.

So we tried to go up to Oneida Lake on the south shore in the summertime when the school is closed and we did a terrific business, so we wanted to get up to the next community, and -- in Oswego County up onto Lake Ontario, Sandy Pine and Pine Grove and so forth. As I told you, now I'm out of school, and, of course, I know it all. My father let us run the business. I bought a business there in Central Square. That was the first business that we did purchase, but now we have a depot in Watertown. We're right up the street from you here. We have a very nice -- you know so much about this community. Somebody said fence it. I said you don't have to fence it in this area. You know what I am trying to say? So we're here. We're in Buffalo. We're in Binghamton. We're in Utica. And now we're gone into Massachusetts.

CHILI PLANNING BOARD

October 14, 2003

JOHN NOWICKI: You are up that far?

MR. VINCENT BYRNE: We really have gone --

MR. MARK BYRNE: Not with the stores.

MR. VINCENT BYRNE: No. We distribute. We have stores in Hornell. We're opening one next week in Watertown.

JOHN NOWICKI: How new is the one you have in Geneva?

MR. BURNELL: Waterloo on -- it is two and a half years ago.

JOHN NOWICKI: That's a pretty good sized store.

MR. MARK BYRNE: It is about 4,000.

JOHN NOWICKI: Same size?

MR. BURNELL: Yes.

JOHN NOWICKI: Is your architecture the same on all of the stores?

MR. VINCENT BYRNE: Here is the architect. They have the plans, they're going to show you the store. We really appreciate your time and consideration.

DON FASO: I had an opportunity to stop into the Old Forge store. How big is that?

MR. MARK BYRNE: That is smaller.

MR. BURNELL: 36, I believe. 3625.

DON FASO: But you have gas on that one.

MR. BURNELL: Yes.

MR. MARK BYRNE: We wanted to make that bigger, but there wasn't enough room right there.

DON FASO: And you sell gas in Fulton?

MR. MARK BYRNE: Yes.

MR. VINCENT BYRNE: We just opened that.

DON FASO: My mother-in-law said it was very nice.

MR. VINCENT BYRNE: He is a snowmobiler, which I don't like. But any ways, they went up to Old Forge and we got turned down, so they went back and they -- now, in the Adirondacks, they have a committee. If you are going to put a building up, they want logs. They designed that store, or --

MR. MARK BYRNE: Bob signed it.

MR. VINCENT BYRNE: But they told them what they wanted. So we knew, you know, tried to cooperate with them.

DON FASO: It is called the Adirondack Park Agency. Very familiar with it.

MR. BURNELL: Again, I'm Christian. I will hand some things out. I have a site plan here. I will hand a few of those out. I have some pictures, what it is going to look like. I have some light packages with cut sheets, recessed lighting. I have a preliminary sign package.

JOHN NOWICKI: I want to address you on the lighting.

MR. BURNELL: This one has some minor modifications. We -- the location is at the southeast corner of Chili Avenue and Union Street, owned by Mr. Harris Gitsis, vacant. We're proposing to have a 4100 square foot Byrne Dairy grocery store with a fueling facility at the site. The architectural pictures we can get into after I address the site plan. We propose two curb cuts. One is on Chili Avenue, which is a State jurisdictional road, and the other one is a county road, Union Street.

I have submitted to the New York State Department of Transportation this plan right here (indicating), roughly three weeks ago. Mr. Dave Gerring (phonetic), Assistant Regional Director, I have dealt with on the Phelps project, I spoke with them last week. He is giving me a conceptual approval letter. At this time he told me it is not ready. He did review the plan quickly. He said right now he saw no concerns. We have worked with the D.O.T. exclusively on numerous projects over the last few years. So I have lined up with the furthest driveway on the convenience store across the street. We have lined those up so there is no left turn conflicts.

D.O.T. says you must have minimum 100 feet from an intersection. We have 206 feet, so more than double their standards. Again, that letter hopefully will be here in two weeks.

With the County side, the State does not have jurisdiction over 100 feet from an intersection, okay? This curb cut here (indicating) is 195 feet. Therefore, the State really has technically no jurisdiction on it. I have submitted that to Monroe County D.O.T. Mr. Henry Hertzik (phonetic). I have spoke with him numerous times, submitted more plans. I have lined this driveway up with a Citgo,

CHILBLAIN ZONING BOARD

October 14, 2003

whatever you want to call that, across the street. I have lined this driveway up again, mirrored it with it because I knew they would make me do it. We had the footage to do so, so we did it. They have requested some other documentation from me, drainage, which I will do after we have a better feel. They have requested a traffic analysis just on this one curb cut, so we are preparing that. My traffic engineer is doing that and it will be submitted by the end of this week to Monroe County. I guess it is kind of standard he does it on something of this nature.

Dave Gerring (phonetic) said they would look at this curb cut just to kind of look at it to make sure, you know, it would fit his needs, too, even though he didn't technically have a jurisdiction. He would just give feedback to them. So I think I have that handled so far preliminarily. Hopefully in a couple weeks when I am back in front of you I will have the letters for you.

To move on to the site, we have 44 parking spaces. We have -- preliminarily done the drainage as we did some overland flow direction with some catch basins. We have added an oil separator. This storm water management area is not sized. It is approximate until we get further and have a topo survey. Then we'll do that.

The fencing, we have -- did a combination of natural and fence, 6-foot stockade fence to the property corners, as I spoke with Dan (Kress), and then we put some natural 4-foot-high Blue Spruce to break it up. We would do a combination whatever you want. We're flexible with that. We thought the 6-foot-high stockade fence is nice for the back of the building and then some natural buffers here. In Fulton, like Mr. Faso said, that mayor down there requested and the neighbors asked us if we could -- we had a fence proposed at first. They asked us if we could plant trees. We said that is great. We planted 49 Blue Spruce trees 4 to 6 feet high. The city down there is appreciative. We like to work with our neighbors. In regard to the neighbors, Mark, Vinny and Bob met with neighbor here, Mr. Vargas (phonetic). They had preliminary discussions. I was out of town. I couldn't meet with them. These guys said everything went well. I talked to him a half hour on the phone. It is standard practice for us. I go, the owners go and meet with the neighbors. We let them -- we'll get one approved hopefully tonight in Hastings where I met the neighbors. I spent numerous hours, asked what they wanted. They wanted a fence, Blue Spruce. We'll work with the neighbors and give them anything that is feasible.

So, again, I sent certified letter to Mr. Walworth here and have been calling him morning night and day and he does not respond to me. So we'll get a hold of him, though. We're just going to ask what they would like to see. We want to cooperate with the neighbors. It is very important for us to cooperate with the neighbors.

As you can see, we want to drive around the store for deliveries. The signage, there is a signage -- those are kind of preliminary sketches. Everything meets your zoning in regards to the signage. I'm allowed one sign on the building, which is sign number one. There are pictures in there under the signage board. It is a 4 by 18 sign, 72 square feet. Fits right in the dormer. We have a kind of cow logo on the canopy because again, we're a dairy store, a dairy grocery store, so we put the cow on the canopy. The freestanding sign, 32 square feet, 10 feet high set 15 foot back, as Dan (Kress) mentioned before. Single faced. On that board there are just two kinds of different -- I had the sign guys play around a little bit, what they thought, and again we can tweak that design however you guys would like --

JOHN NOWICKI: Can you tweak that price?

MR. BURNELL: That was a couple weeks ago. But there are some ideas, you know, on the sign. It would be a nice tight monument sign we would put up here so everyone at the intersection could see. The only reason we do that is so everyone would know the price. The parking spaces, we segregate everything. Everything is geared towards the dairy store here with all of the parking here, easy accessibility to park here (indicating), with door here (indicating). There would also be an entrance here (indicating), you know, for customers to come into. We have a fence enclosure around the dumpsters which there is a picture of it there in a lighting spec you can see. Normally we will make an aged ivory type store and we match the slats in the fence to the store so you can see pictures in there. You will see you can't even notice the fence enclosure. It doesn't stick out. It blends in nice to the building.

Back here (indicating) we have a little refrigeration pad. That is enclosed the same exact way. It blends in with the building. You don't know it exists. Right here on the site plan (indicating).

CHILLINGWATER ZONING BOARD

October 14, 2003

JOHN NOWICKI: How is that addressed architecturally?

MR. BURNELL: With the slat fencing that blends right in. You can't really see it.

That is about it. With all of the zoning, we meet all your requirements. I think there are some issues with parking. We'll have to go in front of the ZBA for some variances.

JOHN NOWICKI: What is this -- are these your stores, these pictures?

MR. BURNELL: They're not ours. Big Ms, Shurfines that have fueling facilities along with their locations.

JOHN NOWICKI: Who do you use for your gas? Is it your name?

MR. MARK BYRNE: It is under Byrne Dairy.

MR. BURNELL: It is unbranded gasoline, but it is Byrne Dairy gas.

DON FASO: Old Forge was Mobil?

MR. MARK BYRNE: Yes. We're going to just use our own name.

DON FASO: Mobil sign was up two weeks ago.

MR. MARK BYRNE: I mean in the new stores.

MR. BURNELL: We have contract -- until our contracts run out, we're tied to the Mobil there. Our last new store in Fulton is unbranded.

MR. MARK BYRNE: We have one opening up Monday in Watertown.

MR. BURNELL: It is unbranded, Byrne Dairy, with the cow again, gas.

KAREN COX: Cow gas. My kids will like that.

MR. BURNELL: The landscaping is preliminary. I understand I would have to go in front of the Conservation Board with a very, very detailed plan. You know, to do that at this stage is early since this is preliminary for discussion. Our architect is here to talk about the building, the elevation, what it will look like.

MR. EGGLESTON: Architect from Skaneateles, New York. Byrne Dairy came to me several years ago looking for a new prototype for their buildings to fit the new type -- the new image they want to portray in their stores. One of the things we wanted to do was take it back to the roots and more of the farm market type thing. Again, you will see pictures of the interior. When you walk in the front doors, you don't see beer, Lotto tickets. What you see is dairy. And that is the main thing that they want to feature, and that is what they are, a dairy store. So we have picked up kind of the farm market type look. Most of the stores that we have have large porches that go around the perimeter. One of the things the store has is a dipping window for ice cream so they can sell ice cream directly to the people in the front of the store. The porch provides a place to put picnic tables like you saw probably up in Old Forge where people can sit, have the ice cream after a game, whatever. We love it when the games come out and they won. People all stop up.

So we're trying to -- we have used the colors, as you see in some of the pictures of the other stores, the cream colored siding, the green siding -- the green metal roof, again, to get that image across. We tried to incorporate the architecture, the signage into the architecture, so we have a couple dormers across the top and we put the main sign underneath the dormer. That way in the soffit of the dormer we can put the lighting so it bathes right across the sign so you don't have any intrusive lighting, nothing bright, something that just fits in and is subtle.

The Byrne Dairy in Old Forge that you brought up, they said we don't want just any old architecture. We want to have something that is appropriate for the Adirondacks. We actually went up there and talked to them and we worked with the community to come up with something that they felt was appropriate for their area.

So I think Byrne Dairy -- they obviously have an image they want to portray so that when you go into the various towns, it is recognizable, but they are willing to work with the community to make it appropriate for what the community feels they should have.

So I think it is an attractive building. We do have pictures of some other applications where we have done it.

We have changed the building to a square building which better suits this type. Typically it is a more rectangular type building. Again, we're trying to fit it in so that we have got the Byrne Dairy image, but also fit the appropriateness of the property in the site.

JOHN NOWICKI: Have you visited the site yourself?

CHILBLAINS BOARD

October 14, 2003

MR. EGGLESTON: Yes, I have.

JOHN NOWICKI: Because one of the things I would like to see is the -- I like your west and north, but I would like to see the south and east and what kind of treatments you have on that because of the nature of the way the land is situated around there. I would like to see architectural treatment on those two sides, as well.

MR. EGGLESTON: Exactly. And again, we met with the neighbors here to the -- I believe it is the south. We have talked to them about some of the issues. We have kind of paced out where the store was and that type of thing. What kind of things he would like to see. So we're getting a few ideas. Obviously he is interested in a fence because it provides immediate screening. You know, we're concerned about things like the lights, car lights coming out. We don't want any car lights to pass onto the residential properties and things like that.

As we develop the site, we develop the topography. We develop the screening. We'll be able to make those work well with the neighbors. Also, like you say, we'll develop these elevations so that, you know, that they're not just the back of the building, that they tie in architecturally.

JOHN NOWICKI: You brought up the subject of lighting. I happened to be going by -- it is new. I never seen this before. Some kind of new lighting. There is a name for it. I wish I could remember the name of it. It is very downcast, and it is -- it doesn't brighten up the whole sky. Do you know what I am talking about?

MR. MARK BYRNE: Ours are recessed like they would be in the ceiling here.

MR. BURNELL: Metal halide is what we use.

JOHN NOWICKI: At nighttime you can see the store and business going on, but it is very --

MR. MARK BYRNE: Stays in the area.

MR. EGGLESTON: I just installed lighting for my wife's dog training business, which is in a rural residential area, and they do have light fixtures with cutoff light fixtures that will direct the light exactly where it is pointed to and not let it escape beyond.

JOHN NOWICKI: I will find out where the lighting is. Ron Brand pointed it out to me in the Southern Tier.

MR. EGGLESTON: In the canopy area, under the fueling station, one the things -- a lot of people like to have the light stick down so it is real bright and kind of draws attention.

JOHN NOWICKI: That is what this eliminated.

MR. EGGLESTON: What we do is we do lights that are flush, recessed with the canopy, so again, the light is coming down and serving the purpose, but not creating an irritation.

JOHN NOWICKI: I will get you a location and name. I just can't remember it offhand. It was rather interesting and very unique, and it set itself aside from every other business in the area. I couldn't believe they did that.

MR. BURNELL: All our new sites we just started doing the recessed lighting. It is directional lighting. The cut sheets are in there. The parking lot, all these lights are directional. There are pictures of the actual lights in there. You can direct them any which way. We actually do it downwards. This is a Cobra head type lighting, there is a cut sheet with the spill.

JOHN NOWICKI: I will find it out for you.

MR. BURNELL: We don't want excessive lights because electricity is expensive, but we have to have it for safety.

JOHN NOWICKI: You have the convenience store across the street. You have got another gas station across the street. You have a lot of competition. I'm sure you're probably not afraid of the competition or you wouldn't be here. There is another corner -- the other one has a --

KAREN COX: Well, they came in -- they came in -- Perna came in with that plan three years ago, but nothing much has happened on that.

JAMES MARTIN: That is just speculation. You also have an F rated intersection there. There was a study underway by one engineering firm here when there was a proposal to put a Thruway interchange on Union Street three miles south. That intersection was studied and it is F rated. It is failing right now to meet minimum requirements for traffic flow. It is a major bottleneck. That entrance into Arrow Mart across the street from your proposed location is a significant accident hazard. They

CHILIBLANCO BOARD

October 14, 2003

have got a sign up there that says "exit only." People totally ignore it all of the time. People come down around that corner, you know. If they have a green light and there is somebody that is trying to get into the exit only, entrance into Arrow Mart, there have been several accidents there because people are stupid and I have a very significant concern about two more curb cuts, all right, within 200 feet of that intersection at this point. I know we're here for discussion, but I want to give you some clues here. It is a significant problem. The Town has been trying to pry some money out of the State to correct the situation there. There should be turning lanes and left arrows. All those things should be done. With the State budget situation the way it is, the County budget situation the way it is, I have no idea what year in the future they might spend money to fix that.

JOHN NOWICKI: There is a \$100,000 study going on from this intersection all of the way down Chili Avenue to Beaver Road and beyond. That is a study that is going on.

JAMES MARTIN: That is a study. We need money to fix the intersection.

KAREN COX: The question I have -- you guys can probably answer, if the State -- you know, if we have a failing intersection, why is the State still entertaining curb cuts?

DON FASO: Can't deny them an access. They're entitled one point of egress and per legal lot.

MR. BURNELL: We won't bring additional traffic to the intersection, we'll just use the traffic that is there and bring it in. It is not like people are coming from 100 miles to come to Byrne Dairy -- we hope they would, but the existing traffic will just come into here.

JAMES MARTIN: The problem is there is a lot of traffic because of the development south of here. There is almost 400 houses going in. There is a huge apartment complex across the street. There is an additional amount of traffic going through that intersection, and, you know, it is just -- you know, people come down that hill from 490 now. They have a green light and they go -- do a Kamikaze left-hand turn around the corner and somebody is stopped trying to make a turn into your place or Arrow Mart through the wrong entrance, and there have been many, many accidents there. I just think -- I don't know, obviously we're not going to be able to spend the money to fix it, but I'm warning you now, it is a significant concern on the part of this Planning Board, you know, how that traffic is going to be managed at that intersection, because it is a terrible situation.

JOHN NOWICKI: From what I see right now, you're probably going to have a safer means of ingress and egress than the other businesses.

MR. BURNELL: Ideally, this exceeds -- it is doubled. They love us.

KAREN COX: It would be helpful if somehow the business across the street could -- one of the -- the entrance nearest the intersection could just be closed off and eliminated and, you know, have one place to go in and out.

JOHN NOWICKI: They should give them another entranceway off Union Street. Close that one and give them an entrance off Union Street.

JAMES MARTIN: On the hill?

KAREN COX: That would be tough.

JOHN NOWICKI: Better than nothing.

DARIO MARCHIONI: They closed a house that had access there.

MR. BURNELL: That is why we mirrored the ones that were farther away.

JAMES MARTIN: I don't disagree. This is a much safer method of ingress and egress, but it is still -- traffic flow through that intersection is a disaster now and it is just going to get worse.

MR. MARK BYRNE: If we get the required approvals from the D.O.T. and the County, will you be okay with that?

KAREN COX: It is not our jurisdiction.

MR. MARK BYRNE: I'm saying if we get those approvals, will you still have an issue with our being there?

JAMES MARTIN: It will not fix the problem, okay?

JOHN NOWICKI: Your business is -- like I say, you have a better situation here than the other people have. It is a much safer situation than what I can see here. You will pick up probably a lot of that business he is talking about which is south of this intersection. All those homes going in there, you will have a lot of activity.

KAREN COX: Correct me if I am wrong, your business is -- you know, in looking at the pictures of the store layout and the products, to me it looks quite a bit different than what is offered at

CHILBLAINS BOARD

October 14, 2003

the Arrow Mart across the street in that they're more, you know, geared towards the people running in and grabbing a cup coffee, loaf of bread, cigarettes and back out.

MR. BURNELL: We're a grocery store. We have 21 cooler and freezer doors. They probably have six. I don't know how many they have.

MR. MARK BYRNE: We actually operate our own grocery warehouse, which is unique in our business, because we sell a lot of groceries. We have our own line of cereal. I don't know --

MR. BURNELL: The pictures are in there. 12 feet of cereal, 12 feet of bread. We have extensive amount of groceries.

KAREN COX: So your demographic is not the people coming to buy lottery tickets. Although --

MR. BURNELL: Dairy products is our main focus, bread and groceries. That is our main focus.

DON FASO: I think you will draw people from the area for Byrne milk in a glass jug. People go to Scott's -- your store in Spencerport.

JAMES MARTIN: There is no question about the quality of the product.

JOHN NOWICKI: You guys have done a great job from what I have seen in the Southern Tier.

DON FASO: Let's talk hours of operation. What are hours of operation?

MR. BURNELL: All new stores are 24 hours.

DON FASO: Gas sales, too?

MR. BURNELL: Yes.

MR. MARK BYRNE: Basically the 24-hour thing -- sometimes people have an issue with that. It is not that we really do any business in the middle of the night, but by the time your people are done and they have to clean the place up for the next day, there really would only be a gap for a couple hours, so we just -- just for security and stuff to have someone there because you have a lot of equipment, if something breaks down, we just decided to stay open all night.

JOHN NOWICKI: That's a good word. I was going to ask about security. Because of the situations that are going around these areas today, how are you dealing with security in these places? Protecting the people that work there?

MR. MARK BYRNE: One of the big things we talked about is lighting. You want to have good lighting. All of our stores are -- you can see there are a lot of windows. Of course, we have security cameras.

MR. BURNELL: There are hold-up buttons in all stores. The one in Watertown -- if you're familiar with Watertown, there is a hold-up button there. That is just what we do. At this site there would be cameras off here to the gas canopy. There would be some on here (indicating), here (indicating), here (indicating). When you walk in, you would see yourself. In the back room, we have an extensive amount of surveillance in the back room.

JOHN NOWICKI: It is hard to discuss that in a society, but our society is not getting any better; it is getting worse. We have to deal with it.

DON FASO: Where would you have your ice cream window?

MR. EGGLESTON: We're showing it right over on this location (indicating). It is just to the right of the main entrance.

DON FASO: And the attendant for the pumps will be located where? I'm driving at line of sight.

MR. EGGLESTON: What happens is the main counter is right here (indicating) in the corner, so they have visual access out both sides of the windows here, so they're looking this way, that way.

DON FASO: If he needs to hit the fire suppression button --

MR. EGGLESTON: It is right there.

MR. BURNELL: We have fuel shutoff buttons next to the fire suppression. Any bit of electricity from here out, is a red mushroom button that shuts everything all down. We have an all-stop button on registers and fire suppression system. We have three mechanisms. They're all trained before the store opens. I will go up to Watertown Friday to train the clerks on pulling the button; it shuts everything off. There's an all-stop key on the registers that stops all dispensing.

DON FASO: Anything else we need to know about that?

DAVE SAUR: Sounds like they're way over par on their operation there.

CHILD LABOR BOARD

October 14, 2003

DARIO MARCHIONI: I was going to ask what percentage is the gas to the whole business? Gas sales, what percentage of that do you estimate to be --

MR. MARK BYRNE: We have only been in the fuel business for, um, less than 20 years. Actually out of all our stores -- in all the new ones we put it in, okay? We have 55 stores. I think we have 16 stations.

The problem with society is everyone wants to get everything at once, so that is -- we're really kind of forced to selling fuel. It is an accessory business to the dairy business. Pretty much any new grocery store they're putting in gas pumps. BJ's has it. Sam's has it. Wal-Mart's are putting it. I'm not sure about Wegmans. I know they did have some before.

But it probably contributes to about 20 percent of the gross profit for the location, but the real thing is the convenience, that if someone wants to come get their groceries at our store, they can also stop and get their gas at the same time. We have a lot of locations where we are just a little grocery store, but then someone comes and puts like a convenience store across the street, so then they buy their milk when they're getting their gas over there and it really hurt us. To try to be on even keel with the competitor, now every grocery store -- you guys know. That is why we have pictures in there. Brand new Tops grocery down in Ithaca, they have pumps out in the front. Um, the other one is in Lyons there, which is not far from here. Lawson's, Big M. So it is really -- it is probably -- sometimes you don't make anything off the gas. We open the stores in Auburn. For the first year we basically made nothing on it. So it is not really a major profit center. Sometimes it is. Right now it is better because the margins were better than they were, but sometimes you're selling it for nothing. I mean you guys think it is nothing at \$1.69 or whatever, but that is -- right now we're probably paying \$1.59, so you make 10 cents on it and you have a lot of costs associated with it.

KAREN COX: It is more of a service to customers --

MR. MARK BYRNE: It is almost like having coffee or something. You just have to. Someone comes in and they expect to have it. Otherwise you're not on even keel.

DON FASO: I assume you would have coffee?

MR. MARK BYRNE: Yes.

DON FASO: Donuts and all that?

MR. MARK BYRNE: Yes.

JOHN NOWICKI: Do you sell lactose-free products?

MR. MARK BYRNE: Yes. What Christian was saying about the cooler doors is, is we have six doors for just milk and juices and stuff like this stuff right here. Then we'll have a 12-foot dairy case just for eggs and butter and cheeses and yogurts and all that stuff, and then we'll have another -- the freezer section in our stores we'll have six 30-inch wide doors just for ice cream. You can see in the picture, the different -- because we have three different major lines and there are different sizes. So it takes a lot of room up. Usually we have -- we have not actually designed the inside of this store. The newer stores, like you mentioned, in Geneva and Waterloo and stuff, we have three rows, three gondolas or aisles as you might say for groceries. They're 28 feet long each. Actually we just made them longer because we just put a dairy case in. We took a couple windows out of the store -- in Waterloo we're going to be changing that and put a dairy case in there. We had so many dairy products. We had them in six doors -- one on the side, 16 -- like we just came out with this product right here (indicating). We came out with this in cappuccino. And they just keep adding products and they just keep shipping them to me. You have to have room to display them. So we just keep adding, you know --

KAREN COX: I know that the trucks coming to deliver gas are going to be your standard size tanker trucks, but the trucks that would come to deliver the groceries, would you envision them coming in the entrance off Union Street?

MR. BURNELL: Yes. That is probably the way they could do it. Either way.

KAREN COX: What size would they be?

MR. MARK BYRNE: Most of the trucks now -- I don't know if you have been at our depot. The groceries come on a smaller tractor-trailers, and like the ice cream comes on one of the short straight -- straight trucks.

MR. BURNELL: With all of the graphics on the side?

CHILBLAIN TOWN BOARD

October 14, 2003

MR. MARK BYRNE: The mill, depends what they're delivering in. It can come on tractor-trailer. We get milk three days a week.

KAREN COX: You know the thing that I have noticed is when I have been over at the Arrow Mart across the street, they get their deliveries all different parts of the day, and then the parking is really a pain.

MR. MARK BYRNE: They don't have much parking there.

MR. BURNELL: This one is signed right here, the loading zone. Actually, this would be -- after Bob designs it, hopefully, this whole wall (indicating) and this whole wall (indicating) will be cooler and freezer so when they deliver, they walk into the cooler freezer. So you can see where all of the parking is situated. They will be right here (indicating), so not --

DON FASO: Where would you walk in with dry goods, the grocery, the bread?

MR. MARK BYRNE: They go right in the front door.

MR. EGGLESTON: Also what Mark was talking about with their distribution, they don't have 20 trucks every day bringing each individual product. It all goes to the warehouse and one truck brings 90 percent of the groceries.

MR. MARK BYRNE: One of the things we have done, we're unique in the industry in that we have our own grocery warehouse, and we try to like -- we have like our own baked goods, our own bread. We try to bring as much stuff into the warehouse on our own truck so we have a lot less little trucks coming in.

DON FASO: You have no outside storage?

MR. MARK BYRNE: No.

DON FASO: Or sales?

MR. MARK BYRNE: Well, we might put something on the porch, if you see in them pictures, there under the cover of the porch.

DON FASO: For sale?

MR. MARK BYRNE: Yes.

DON FASO: Like what?

MR. MARK BYRNE: I sell pumpkins at a couple of the stores. We actually sell some Amish made lawn furniture.

JAMES MARTIN: You do seasonal items like mulch and stuff like that?

MR. MARK BYRNE: We don't do mulch. Basically a lot of the things I do, I do sell some Amish-made furniture and that takes up -- I do quite a bit of that.

DON FASO: Well, this is where I was going with that. I don't think furniture sales would be considered permitted in a Neighborhood Business.

MR. MARK BYRNE: Okay. We're just being straightforward. We know --

DON FASO: I don't mind if you have a rack of pop that you have on sale, but items other than what you would normally find in a grocery store, and I don't consider furniture a grocery store item.

MR. MARK BYRNE: Okay. We're just being up front with you.

DON FASO: Appreciate it. It came to my attention, so I was just asking the question.

JOHN NOWICKI: I would agree.

DARIO MARCHIONI: Will you have shopping carts?

MR. MARK BYRNE: Yes.

DARIO MARCHIONI: Stored inside?

MR. MARK BYRNE: Yes. They're inside.

JOHN NOWICKI: Do you take all credit cards at the pumps?

MR. MARK BYRNE: Yes.

JOHN NOWICKI: Red Express?

MR. BURNELL: Yes, we take Red Express.

KAREN COX: I never heard of that.

MR. BURNELL: A lot of companies use Red Express. It is a great fleet card.

KAREN COX: Speaking of shopping carts, do you find your shopping carts take a walk every once in a while?

MR. MARK BYRNE: Once in a while. We don't have huge ones. They're like medium-sized ones so you can't really live in them and stuff.

CHILBLAINSING BOARD

October 14, 2003

KAREN COX: I'm talking about a certain group of individuals in my neighborhood that --

MR. MARK BYRNE: A lot of them don't really go outside. It is more in the store to get their stuff and then we bag it. It is not like, you know -- most people can carry their stuff out. So they don't really make it outside. Once in a while it makes it outside, but it is not like 20 shopping carts floating around outside.

JAMES MARTIN: Knowing the topography of that site, it will be interesting -- very interesting to see your site map, because obviously you have been there. It is pretty low, and I don't know how much fill you will have to bring in there. I don't know what elevation.

DON FASO: You will have to satisfy the Town Engineer.

MR. BURNELL: Yes.

JAMES MARTIN: That is going to be a project.

DON FASO: You're aware of the new storm water regs, right?

MR. BURNELL: Yes. Very aware.

DARIO MARCHIONI: No basement?

MR. MARK BYRNE: No.

MR. BURNELL: It's on slab.

JOHN HELLABY: I don't travel that intersection very often, but how bad does the traffic actually back up on Union Street?

DON FASO: Yes. All directions.

JOHN HELLABY: Would there be a tendency for somebody actually to use that back of the store as a cut-through? Would it be advisable to put speed bumps or something back there to deter that?

JAMES MARTIN: I think you will get people that will do that that are coming west on Chili Avenue trying to get south on Union Street.

KAREN COX: The main movement in that intersection, at least for now, not accounting for full build-out is south to east. South to east. Or west to north.

JAMES MARTIN: I think it will happen both ways. There will be a lot more traffic trying to turn south on Union Street, coming west on Chili Avenue.

JOHN NOWICKI: The housing development will come in and do business and go out.

JOHN HELLABY: Or will the majority come straight across?

JAMES MARTIN: They could use it as a cut-through.

JOHN NOWICKI: This goes easier than anything in that direction.

JAMES MARTIN: The flow is easier as long as -- you will have people coming through your parking lot that will not buy anything, I'm afraid.

KAREN COX: But that is going to happen anywhere. People will go through the northwest corner all of the time, you know, cutting off the light at 5 o'clock at night.

JAMES MARTIN: Through the mud and the dirt they go through the lot.

DON FASO: I would like to see if the State has anything on the trip generation for turns.

JAMES MARTIN: You know Clough Harbour?

MR. BURNELL: Yes.

JAMES MARTIN: They did the study for the Thruway exit. They did an enormous amount of traffic analysis in this whole area there.

MR. BURNELL: Trip generation is being done at this moment. It will be done by the end of the week. It is part of the traffic analysis done for the County.

JOHN NOWICKI: You guys are doing good.

JAMES MARTIN: It will need to be updated.

MR. MARK BYRNE: We're having our own study done by Jim Napoleon.

JOHN NOWICKI: Nice job, guys.

JAMES MARTIN: You can start there.

MR. BURNELL: It is done.

KAREN COX: The County has Clough Harbour's report?

JOHN NOWICKI: Is it reliable?

KAREN COX: It doesn't take into account the Iacovangelo's -- what are you insinuating?

JAMES MARTIN: I think they did a good study.

CHILD PLANNING BOARD

October 14, 2003

KAREN COX: They did a thorough study, but it did not take into account Bernie (Iacovangelo)'s tract because it wasn't on the books then.

DON FASO: I would say then proceed with site plan --

DARIO MARCHIONI: One more question. Just wanted to -- did you guys purchase this already or is it subject to our approval?

MR. MARK BYRNE: No. Subject to getting approvals.

KAREN COX: You certainly have done your homework, which we appreciate.

MR. MARK BYRNE: If we do enough homework, we cut out a meeting here or there.

DON FASO: What's your timeline?

MR. MARK BYRNE: As soon as you approve it, we'll build it.

DON FASO: November, December? When will we be looking at?

JOHN NOWICKI: You will be back here January or December?

DON FASO: Dan (Kress), are we probably close to November cutoff or past it?

MR. BURNELL: I got to do a topo.

DANIEL KRESS: We're within two days.

DON FASO: So you're probably looking at December.

MR. BURNELL: Yes.

MR. MARK BYRNE: We'll bring some egg nog.

(Laughter.)

MR. MARK BYRNE: Just came out today.

DON FASO: We don't take public comment on discussion.

UNIDENTIFIED SPEAKER: I just want to say how great this is to have something come into our community.

The meeting ended at 9:30 p.m.

A meeting of the Chili Planning Board was held on November 18, 2003 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 Don Faso.

PRESENT: Ray Bleier, John Hellaby, Dario Marchioni, James Martin, John Nowicki and Chairperson Don Faso.

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

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

PUBLIC HEARINGS:

1. Application of Robert Gonyo, owner; 903 Chili Scottsville Road, Scottsville, New York 14546 for resubdivision of one lot into two lots in the Gonyo Subdivision at property located at 903 Chili Scottsville Road in A.C. zone.

Rob Fitzgerald and Robert Gonyo were present to represent the application.

MR. FITZGERALD: Good evening. Rob Fitzgerald. I'm a Project Engineer with Avery Engineering here representing Bob Gonyo, who is with me tonight.

He presently owns approximately 49 acres on the west side of Chili Scottsville Road. There he has a single-family dwelling and also an asphalt business. At this time he is looking to subdivide the house out from the overall parcel. The parcel is approximately 5.6 acres. The remaining lands will stay with the present business.

So what we're proposing is a two-lot subdivision. We did get the County DRC comments as well as Town Engineer comments. I believe the Town Engineer didn't have any comments on this particular proposal tonight. The County DRC comments are mostly regarding around wetlands, flood plains, wooded lot, which is all towards the rear of the property, and, of course, we're not proposing any improvements tonight. Just adding a lot line, if you will, so we will not be disturbing any wetlands or woodlands or 100-year flood plain.

With that, Rob (Gonyo) and myself would be happy to answer any questions the best that we can.

DON FASO: You're proposing a cross-access easement for that driveway?

MR. FITZGERALD: Yes.

RAY BLEIER: Why didn't you have a separate entrance to this particular lot where the residence is?

MR. GONYO: We bought it about ten years ago. I was married to my wife. We split up. We put one driveway in and we just used that. It is a State road. The State frowns on two driveways, so rather than go through trying to get two driveways, we just used the one driveway for everything. The property falls down quite a bit to the south, and it required a lot of fill, so we just use the one driveway.

RAY BLEIER: I'm sure the State D.O.T. is in favor of that. They try to minimize the road cuts, however, there are not a lot of road cuts out there.

MR. GONYO: I did approach them on a separate driveway, a loop like this (indicating), several years ago and they denied me.

JOHN NOWICKI: It was not subdivided?

MR. GONYO: It was still one lot.

DON FASO: You are entitled to a curb cut now. One legal cut per legal lot.

JOHN NOWICKI: So if it gets approved --

DON FASO: You can petition the State to fix that.

JOHN HELLABY: Future plans with the parcels?

MR. GONYO: Well, the house is -- what is it, 5 1/2 acres?

MR. FITZGERALD: 5.6.

MR. GONYO: That would be by itself. Possibly in the future to build another home. Right now, no future plans. I got it in a CRP program which promotes wild small game through the government. It has some grasses and stuff for rabbits and pheasants. I would like to keep it natural.

JOHN HELLABY: You will not expand your business?

MR. GONYO: No. Not necessary at this point in time.

JOHN NOWICKI: You got the Department of Planning and Development letter?

MR. FITZGERALD: Yes.

JOHN NOWICKI: Item 3 -- do you have that letter in front of you?

MR. FITZGERALD: Yes.

JOHN NOWICKI: It seems to indicate that you did file an Ag Data Statement. Is that correct?

MR. FITZGERALD: I believe that would be correct. I would have to check my folder on that.

JOHN NOWICKI: Because they're saying it is required. You're 500 feet from the agricultural production of the southwest; therefore, an Ag Data Statement was submitted. It said it was submitted. I just want to make sure it was submitted. Has that been submitted to the Building Department by any chance?

DANIEL KRESS: Yes, it has.

JOHN NOWICKI: Okay. Then I want to go to Item 4. Can you address the concerns that they express in here under the statement, "In order to protect the stream corridor, consider the following:" Have you read that and what are your feelings and comments on that statement?

MR. FITZGERALD: Yes, I have read it. And how are we going to prevent and protect the stream corridor. We're not proposing any improvements on site so that should not disturb that. I think that is what we're referring to, as if we were to do some digging or proposed improvements, they would like to see that stream protected, but that is not the case.

JOHN NOWICKI: Somehow that should be recorded in the minutes or a condition made if we do approve this, that that is identified somehow.

The other question I have, you have a paving business?

MR. GONYO: Yes, we do.

JOHN NOWICKI: I will ask you the question, and Mr. Kress, also, do you know how long a conditional use, if one was issued, how long is it good for on that property, that business?

DANIEL KRESS: I just checked on that. It is good for another several years. It was just renewed a year or so back for five years.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

BERNICE WILCOX, Stuart Road

MRS. WILCOX: I'm wondering where this stream is that you're talking about. Where does it go from and to?

MR. FITZGERALD: I believe the stream they're talking about is on the back corner of the parcel.

MR. GONYO: It cuts across the parcel. It is not active all of the year. It comes about like this here (indicating) and goes like that (indicating).

MRS. WILCOX: Where does the stream come from and where does it go?

MR. GONYO: As far as I know, Union Street, that area, and then it heads over across towards Morgan Road. I never walked this, so I can't tell you for sure.

MRS. WILCOX: Thank you.

Don Faso made a motion to declare the Board lead agency for SEQR, made a determination of no

significant environmental impact on approval of this application, based on the testimony and the material presented at this hearing. The Board all voted yes on the motion.

The Board discussed the proposed conditions.

JOHN NOWICKI: I would like it mentioned he has to reapply for that curb cut so that we get -- I agree with Ray (Bleier), there should be a curb cut on the parcel.

If something happens on the property other than what we have here, you will get the same reaction on the stream. As long as they file the Ag Data Statement at this point and there is no further activity, I wouldn't have too many more concerns about it.

RAY BLEIER: I just want to make sure that easement is the way that is going to end up if they don't get that curb cut. That is definitely incorporated.

KEITH O'TOOLE: I don't need to see that easement because they have access to the public highway with or without it.

I understand what you're saying. If it was a landlocked parcel, I would want to see the easement, but since it is not landlocked --

DON FASO: No need for a condition?

KEITH O'TOOLE: No.

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

1. Applicant shall apply to NYSDOT for a curb cut for the re-sub lot.
2. Application of Gary Stout, owner; 4305 Buffalo Road, North Chili, New York 14514 for conditional use permit to allow a two-family dwelling at property located at 4305 Buffalo Road in R-1-15 zone.

Gary Stout was present to represent the application.

MR. STOUT: My name is Gary Stout, S-t-o-u-t. I reside at 4305 Buffalo Road, North Chili.

Basically I purchased this house roughly 23 years, 24 years ago and there has been an apartment in it at all times, and I applied for a home equity loan and ESL wanted to show proof of a double occupancy dwelling. My taxes showed that and my -- what I am applying for didn't, so I came to the Town Hall, got the paperwork I needed and proceeded to the hearing.

DON FASO: It is on the tax rolls as a double?

MR. STOUT: I have paid taxes as a double, yes. It was just a mix-up in the paperwork, I guess. They said it should have been taken care of originally when I purchased the property about 23 years ago.

DON FASO: It was a double when you bought it 23 years ago?

MR. STOUT: Yes. There was an apartment in it then. It just came to my knowledge two months ago, so I followed through with it and here I am.

DON FASO: Is it occupied by a renter or family?

MR. STOUT: It is occupied by a renter.

RAY BLEIER: Is this rented to a student by any chance?

MR. STOUT: Former student graduated from Roberts and has been there now almost four or five years. She likes it there, we like her, and...

DON FASO: I don't have any other questions.

RAY BLEIER: Is this in a Drainage District or not? It is not checked off on the application.

DANIEL KRESS: The property is not presently in the Drainage District and application will need to be made.

JOHN NOWICKI: Has not?

DANIEL KRESS: Has not. Will need to be made.

DON FASO: You will have to go see the Town Clerk about applying, petitioning the Town to put the parcel in a Drainage District.

MR. STOUT: You lost me here.

DON FASO: As a condition of approval, when these applications come before the Planning Board, we recommend that the parcel be placed into a Drainage District. And the paperwork needs to be processed through the Town Clerk.

MR. STOUT: What does that curtail? I don't understand what you're talking about.

DON FASO: The Town Board can elect to put this parcel into a Drainage District for levying taxes to help offset the cost of doing drainage work in the subdivision.

MR. STOUT: It is really not a subdivision. It is a property.

DON FASO: We're doing it lot by lot by lot.

MR. STOUT: Who do I need to see then?

DON FASO: Town Clerk.

MR. STOUT: Okay. Is that it?

JOHN HELLABY: The only question I had was the off-street parking situation. Did you say you had this rented out for the last 20 years and it has never been a problem?

MR. STOUT: No. The property that is just to the east of me also was an apartment at the time. It was owned by the McFee family. Between the two properties, there is an asphalted driveway which will more than adequately have parking for the residents that are renting.

JOHN HELLABY: There is no legal agreement, though? You just have a gentleman's agreement you all use the space?

MR. STOUT: Pretty much that way. It was asphalted and everything. There are new persons that own it now and we're both very much in agreement. It is a split driveway for the two houses to begin with.

JOHN HELLABY: I see it on the map. I'm just concerned if all of the sudden the neighbor says they're not interested in staying there and you end up with someone who doesn't want the situation, it could be a problem.

MR. STOUT: The property line is right in the center of the garage. There would still always be an area for a car to park there.

JOHN HELLABY: What do you want to do about this one? I don't have --

DON FASO: As long as the property line goes down the middle of it.

JOHN NOWICKI: This is not a very accurate map. It shows most of the driveway is over on his neighbor's property. So how can we tell that that is split down the middle? For his own protection, he should have some kind of cross-access agreement on it, if he is going to have this continue on, because -- is the property next-door to you a double, too?

MR. STOUT: Yes. They have an apartment, too.

JOHN NOWICKI: Do they have approval for rental property there?

MR. STOUT: The gentleman, when he purchased his property last year, he said that he had to go to -- to the same process. To -- you know --

JOHN NOWICKI: Can we check and see if there were any conditions placed on that property to get a cross-access agreement between these two properties and see if that was ever done?

DANIEL KRESS: Certainly.

JOHN NOWICKI: That would help. I would feel more comfortable knowing that application had been made for the Drainage District and saw evidence either for or against the fact that there is a cross-access agreement on the driveway.

DON FASO: We can make that a condition of approval.

JOHN NOWICKI: You better do that. This may be a little tricky here.

According to the notes here I also have is that the applicant, according to this, should be advised that a building permit will be required to convert the residence to a two-family dwelling. When that occurs, I would hope that the Fire Marshal take a look at this building.

DANIEL KRESS: That is what we have been doing and what I would propose to do here.

JOHN NOWICKI: Very good.

KEITH O'TOOLE: Due to the nature of the application, the Board may wish to consider making this a permanent special use permit rather than the one, three, five renewable.

DON FASO: Okay.

JOHN NOWICKI: I don't have a problem with that as long as we have all of the stuff documented and in the proper place.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

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

The Board discussed the proposed conditions.

An off-the-record discussion was had.

DANIEL KRESS: We allow one or two-family dwellings which do not speak to whether the buildings are -- the requirements do not speak to whether the buildings are occupied by owners or renters, just specifically the number of dwelling units. However, what we also have to use is the property maintenance code of the State of New York, which I periodically do have to use on rental properties and sometimes even on owner-occupied when, you know, various items are not being maintained.

JOHN NOWICKI: You have tools to address those issues?

DANIEL KRESS: That's correct.

DON FASO: Sandy, the discussion is involving the number of two family dwellings in the North Chili area.

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

1. Applicant shall obtain a cross access agreement for the common driveway.
 2. Applicant to petition the Town Board (through the Town Clerk's Office) to include this parcel in the Chili Consolidated Drainage District. This is to be done within 30 days of the date of this letter.
 3. Pending approval of the Building Inspector and Fire Marshal.
3. Application of Richard Krenzer and Tiffany Kemp, 1680 East River Road, Rochester, New York 14623, property owner: Marjorie Wehle; for preliminary subdivision approval of two lots to be known as Krenzer-Kemp Subdivision at property located 210 Krenzer Road in A.C. & FPO zone.

Rob Fitzgerald was present to represent the application along with Richard Krenzer and Tiffany Kemp.

MR. FITZGERALD: Rob Fitzgerald. With me tonight is Tiffany Kemp and Richard Krenzer. They have a purchase offer in on approximately a 174-acre piece of land which is illustrated by the vicinity map showing the overall parcel. On this land, the highest point of the land, they would like to build a single-family home for themselves. With that they would like to carve out approximately a 7-acre parcel. Pretty much this is the highest point on the land and the only portion of the land that is not in a flood plain or any type of wetlands. That is most of their -- all of the 7 acres. The rest of the land is -- well, it is being farmed. I'm assuming it will remain to be farmed. The house will be serviced by a private well and raised bed septic system.

DON FASO: You're dedicating the cul-de-sac area to the Town?

MR. FITZGERALD: It is my understanding that Bob Avery from our office has had some conversation with Joe Carr regarding that issue. Things haven't been worked out yet, but it is in the process. The process has been started.

DON FASO: Joe Carr did confirm that that discussion is ongoing.

JOHN NOWICKI: About the cul-de-sac?

DON FASO: Yes.

JOHN NOWICKI: I want to hear more about -- what do you mean by discussion going on?

DON FASO: The applicant is willing to give Joe (Carr) whatever he needs to turn the

snowplows around at the end of the street.

JOHN NOWICKI: Then we'll make it a condition, absolute condition that we get something legally from them to have it on file here so that we get this straightened out. I just don't want to hear conversation. I want to hear some paperwork in place.

DON FASO: The applicant has stated that they're willing to do that and Joe (Carr) has indicated to me that Avery has called him and started the discussion. Essentially, Mr. Avery told me that they're willing to do whatever Mr. Carr requires.

JOHN NOWICKI: I want it as a condition of approval.

DON FASO: Rob (Fitzgerald), the plans need to be wet-sealed.

MR. FITZGERALD: Certainly.

RAY BLEIER: What about the neighbors there, Titus? He has a construction business there. I'm sorry, I'm not familiar with that.

RAY BLEIER: That is what it looks like. Are you aware of what is going on there?

MR. KRENZER: I met with the gentleman. As far as I see, all he has is a house and a couple trucks. And a barn, like a small barn.

RAY BLEIER: I saw some piles of gravel there. It doesn't look like an awful lot going on. I was just wondering if that was a permitted use in that area.

DANIEL KRESS: I will look into that.

JOHN NOWICKI: Was there an Ag Statement filed on this?

DON FASO: I'm looking through County Comments.

DANIEL KRESS: Yes, there was.

JOHN NOWICKI: Do we have a copy of it?

DANIEL KRESS: Yes, we do.

JOHN NOWICKI: I don't have a copy of it. I would like to see it.

JOHN HELLABY: Do they plan on leaving that sign up?

MR. KRENZER: No.

JOHN HELLABY: I have been looking at that silo for 30 years. I see it from my front yard.

DON FASO: How will you find your way home?

(Laughter.)

JOHN NOWICKI: Does anybody have a copy of the Ag Statement?

DON FASO: I do not.

JAMES MARTIN: He said it was submitted.

DON FASO: I think it is on its way up.

MR. FITZGERALD: I believe we only submit four Ag Data Statements. One probably goes to DRC, and...

DON FASO: I found the County Comments in my mailbox, so I am taking a quick look at them.

JAMES MARTIN: Any future use for the 7-acre parcel that you're splitting off?

MR. KRENZER: Just a home.

DARIO MARCHIONI: This is not in a Drainage District.

JAMES MARTIN: I think they have submitted an application.

JOHN NOWICKI: That application has been made; is that correct, Mr. Kress?

DANIEL KRESS: Property is not presently in the district, but an application has been made, yes.

DON FASO: Were you copied in on a letter dated November 13th from Marjorie Wehle?

RAY BLEIER: Yes.

DON FASO: That was my concern, she be made aware of the fact cutting this parcel out leaves an illegal lot. She has submitted a letter saying she is aware the remaining parcel does become an illegal lot.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

CHARLES RETTIG, 1032 Coldwater Road

MR. RETTIG: Just a comment in regard to the drive, for negotiations going on, according to past procedures, if it does not meet Town construction standards, it should remain a private drive.

DON FASO: Then we have no way of turning the snowplow around. It is being used now to

turn the plows around.

MR. RETTIG: We should make things either standard or we should stick with the standard throughout this Town.

DON FASO: It is a very valid point. However, I would consider that a pre-existing, non-conforming use. Joe Carr just wants to take the liability out of the property owner and put it in the hands of the Town where it belongs.

MR. RETTIG: I think it should be reviewed on that fact as a condition to see if it can't be made to --

DON FASO: That would be at Town expense. That would be something maybe in the future Joe Carr would be willing to do, but we're not going to ask the applicant to make that cul-de-sac meet Town standards.

MR. RETTIG: Maybe that should be the case then.

DON FASO: Not on this owner.

MR. RETTIG: Then we're not setting standards across this Town.

DON FASO: This isn't being built by a developer. This is existing. Now Joe Carr just wants it dedicated to the Town for liability purposes.

MR. RETTIG: It is not dedicated now?

DON FASO: Right.

MR. RETTIG: Let's leave it not dedicated.

DON FASO: No. We're going to dedicate it and clean it up.

MR. RETTIG: It is obvious the Planning Board doesn't follow reasonable routines.

DON FASO: The Commissioner of Public Works, Superintendent of Highways has requested this be dedicated to the Town.

MR. RETTIG: He does not run this Planning Board.

DON FASO: No, but his opinion carries a lot of weight as far as I'm concerned. He is the Superintendent of Highways.

MR. RETTIG: He does not control what the Planning Board does.

DON FASO: No, he does not. We control what the Planning Board does.

MR. RETTIG: You are not following Town standards.

JOHN NOWICKI: Can I ask a question? Can we have a legal opinion on this?

DON FASO: Legal opinion on what?

JOHN NOWICKI: From our legal counsel as far as the direction that the Town could take on it.

DON FASO: Sure.

JOHN NOWICKI: Keith (O'Toole), would you like to comment on a legal position on something like that?

KEITH O'TOOLE: If this were a brand-new road, then yes, it would be built to public standard, but it is a pre-existing road. It predates the design criteria now in effect by the Town. There are some advantages from the Highway Superintendent's point of view of having dedication. Keeping in mind, too, that even roads built to Town standard wear out and have to be rebuilt, and they are continually rebuilt in this community. In time, this, too, will be rebuilt. There is an advantage having title to it, and it means if we want to rebuild it, we can do so without asking anyone's permission. Since that's a long way to back out, all of the way down Krenzer Road, the advantage is obviously for dedication.

JOHN NOWICKI: We could make it a condition as far as getting the paperwork on this application?

KEITH O'TOOLE: In a word, yes.

JOHN NOWICKI: Keep it as a condition.

MR. RETTIG: Just one more question. What is the process for making this a dedicated road with the discussions going on?

KEITH O'TOOLE: If I may, Mr. Chairman?

DON FASO: Sure.

KEITH O'TOOLE: The standard procedure is that the developer or applicant, property owner makes an offer of dedication, which they have tonight, and they state the same on the record, and it is so shown on the map. Later they would offer up a deed of dedication for the land in question to the Town, just like selling any other piece of land, and -- there is other paperwork that goes along with it, and

assuming that the Town Highway Superintendent accepts dedication, the Town Board would then accept the deed and it would be recorded in the County Clerk's Office.

MR. RETTIG: I thank you for the explanation.

GEORGE BARTNETT, 30 Cross Bow Drive

MR. BARTNETT: Mr. Chairman, you made a comment that Mr. Carr's opinion carries an awful lot of weight with this Board. I hope you remember that comment later on at this meeting. Thank you very much.

BERNICE WILCOX, Stuart Road

MRS. WILCOX: Isn't it the usual procedure to have a road meet Town specifications before it is dedicated?

DON FASO: If it was a brand-new road, yes.

MRS. WILCOX: That is the only reason?

DON FASO: The road exists now.

MRS. WILCOX: In the future, will the people --

DON FASO: Joe Carr would just like to have this cleaned up so when he takes a plow down that road, he has the means of turning around and coming back out safely.

MRS. WILCOX: Well, I think it would be a good idea for everyone in the future, including the taxpayers, to have this done to Town specifications before it is dedicated.

IRENE BRIXNER, 14 Hartom Road

MS. BRIXNER: What I don't understand is, all of the other Highway Superintendents that we had prior to Joe Carr, what did they do? How did they work things out? He seems to be the only one --

KEITH O'TOOLE: Mr. Chairman, if I may interrupt for a second. There seems to be a misunderstanding here. As I read this, this applicant can apply to build this house with or without this dedication.

DON FASO: Right.

KEITH O'TOOLE: So rather than having Town snowplows turn around on private property and risk what essentially could turn out to be a rather expensive lawsuit, which would harm the taxpayers of this community, the applicant has rather courteously offered to donate some land to the Town which happens to have an asphalt turnaround on it, so this is essentially a gift from the property owner at no cost to the Town, and it would help us avoid potential lawsuit. With or without this dedication, that house can get built as I read the code. I apologize for interrupting.

MS. BRIXNER: That is fine. Thank you for that explanation.

KEITH O'TOOLE: Thank you.

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: I wonder if somebody could point out to me where this lot is on the map in the upper right-hand corner.

MR. FITZGERALD: It is shown Lot 1 there.

MS. BORGUS: It is on what road?

DON FASO: Krenzer Road.

MS. BORGUS: And --

RAY BLEIER: Right on the end of Krenzer Road. It is the end.

MS. BORGUS: There is nothing beyond that?

DON FASO: No.

MS. BORGUS: No other place to turn around?

DON FASO: No. I couldn't even tell you how the asphalt got there.

MS. BORGUS: That was going to be my next question. So in other words, hence forth, the Town will be responsible for maintenance and paving and everything connected with this road?

DON FASO: The Town does that now up to the point where the cul-de-sac flares out. It is a dedicated Town road. It just comes to a straight dead end.

MS. BORGUS: How do they turn around now?

DON FASO: On private property, but there is no dwelling there.

MS. BORGUS: Okay. So who is going to maintain the cul-de-sac? The Town would have to do that, too?

DON FASO: Correct.

MS. BORGUS: And these people's driveway will go off this cul-de-sac?

DON FASO: Correct.

MS. BORGUS: So we're not maintaining their driveway?

DON FASO: No, no.

MS. BORGUS: Well, I tend to agree with some of the other speakers. I don't know why -- if we're going to do this right, let's get it up to the standards it is supposed to be at.

DON FASO: And have the applicant spend tens of thousands of dollars to construct a cul-de-sac to Town standards for one dwelling? It will be cost-prohibitive for the applicant. It is there now. The plow is using it now to turn around. Joe Carr would like it dedicated to the Town. It is his request. It is shown on the map.

MS. BORGUS: Well, I hope we don't run into too many more of these because this gets messy.

DON FASO: It is really not complicated.

MS. BORGUS: I see so many people want to build on a property, they want to dig a pond to solve their problem and they want somebody to take it over. Somebody else wants to build a road and make it the Town's problem. The Town frankly can't take on everybody's problem here and in the future maintain them at who knows what cost. This is where we get things out of hand cost wise. I just hope there aren't many more of these. Thank you.

RAY BLEIER: I have been on the Planning Board for over 30 years, and this is the first application that I have seen that fits this particular situation. It has not happened in 30 years. Hopefully it won't happen again for another 30 years.

GAIL LYLE, 736 Paul Road

MS. LYLE: I'm a little confused here. They're asking for preliminary subdivision approval of two lots, yet they're saying they have no plans. What are they doing with the 174 acres?

MR. KRENZER: Will be farmed. It will stay farmed.

MS. LYLE: You will farm it.

MR. KRENZER: I won't. We have a farmer that will farm it.

MS. LYLE: You don't have any plans once you get the cul-de-sac in there to subdivide it and put more houses in?

MR. KRENZER: No.

JOHN HELLABY: Why was this letter required from Mrs. Wehle if they're buying the entire parcel?

DON FASO: I just want to make sure she is aware of the fact --

JOHN HELLABY: They're buying it all.

RAY BLEIER: No.

JOHN HELLABY: They're buying it all. It makes no difference to her, and the rest is a different tax number. That is the confusion over this. What does she care about that? They're buying the entire 170 some acres and they're putting a house on that.

DON FASO: That was not the original intent then.

JOHN HELLABY: I was asking why she would even care.

DON FASO: The original was they were coming in for a one-lot subdivision.

JOHN HELLABY: You are buying the entire parcel?

MR. KRENZER: We're buying the entire parcel, yes.

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

The Board discussed the proposed conditions of approval.

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

1. Applicant shall dedicate the parcel of land containing the cul-de-sac to the Town of Chili.
2. Pending approval of the Town Engineer.

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

4. Application of Chili Paul Plaza, LLC, owner; 3240 Chili Avenue, Rochester, New York 14624 for preliminary site plan approval for a change of use in portion of building to allow professional offices (formerly Golds Gym) at property located at 3240 Chili Avenue in G.B. zone.

MR. GLUSZKO: Good evening. My name is Jerry Gluszko, Project Manager with Faber Construction and we're a tenant right now at the Chili Paul Plaza. We want to move our offices kind of across the parking lot to what used to be the Golds Gym area which is now vacant. I would also like to combine the Claridge warehouse and offices that are also located in the plaza.

DON FASO: You are taking over all of the old Golds Gym?

MR. GLUSZKO: Yes. Part will be by Faber Homes and Faber Construction, which will have the offices there, and the other part will be by Claridge. We have a showroom located at the plaza right now, and a warehouse there. We're looking to move the main operations closer to combine the two since they are sister companies.

DON FASO: Can you tell me what you're going to use for signage, where the dumpsters are going to be, how you're going to access the showroom to the offices?

APPLICANT: The -- we'll start -- the main entrance will be -- right now there are two like ramped entrances in there. We're going to take some of that concrete apart and put in a new ramp there to upgrade it, because it has been deteriorating, the ramps and handrails there.

DON FASO: Will that be the main showroom entrance?

APPLICANT: That will be the main office entrance for Faber. The showroom entrance for Claridge will be in the back of the plaza like it is now, facing the Paul Road. There is already an existing overhead door there. We'll be putting in an entrance door for the customers to come into the showroom area.

JOHN NOWICKI: For Claridge?

APPLICANT: Yes.

DON FASO: Signage?

APPLICANT: The signage, we'll probably move the existing Faber sign that is there now to the area shown to Paul Road and one of our ideas is to maybe have a canopy over the entrance saying "Faber."

DON FASO: Any dumpsters?

APPLICANT: The dumpsters, we want to relocate the dumpsters as you see on the site plan. One of the dumpsters almost behind what is now Bill Gray's area there, and the other one over into the other parking area, this will eliminate the blind-siding that the dumpsters create now for the traffic pattern.

JOHN NOWICKI: Will they be enclosed?

APPLICANT: Yes. They will be in fenced-in enclosures.

JAMES MARTIN: What type of enclosures around the dumpsters?

APPLICANT: The existing chain-link enclosures with a screen in them so you can't see into them with swing gates.

JOHN NOWICKI: Don't you presently have some there now?

APPLICANT: Yes, we do.

JOHN NOWICKI: What happens to the existing Faber space?

APPLICANT: That becomes vacant, and that will be a lot easier to lease out, because it is in more of the open area of the plaza. What we'll be doing is taking the back area, which is a little bit harder to rent. It is not as visible.

JOHN NOWICKI: You don't have tenants for that space yet?

APPLICANT: No.

JOHN NOWICKI: Can I ask a question? Has the plaza been sold?

APPLICANT: I don't know that.

DON FASO: I haven't seen it in The Daily Record.

RAY BLEIER: Will they have to go to the Zoning Board for signage?

DON FASO: Only if they exceed 100 -- what is it, one and a half foot per running linear foot?

DANIEL KRESS: You're allowed one and -- I would rather read it out of the book than -- it is one and a half square feet for each linear foot of building frontage, or no more than 100 square feet in area, whichever of the two would be less.

DON FASO: On two sides?

DANIEL KRESS: If you have a building that is on a corner, case like this, that really faces in more than one direction, a second sign of no more than one half the first is permitted on the building.

DON FASO: Do you follow that?

APPLICANT: Yes.

RAY BLEIER: Does the canopy count as part --

DANIEL KRESS: If they're putting a Faber name on there, as far as I'm concerned, that is another sign. I would guess, unless we're talking about a truly enormous canopy, that would fall within half of the other or could be designed to do so.

DON FASO: How are those dressed canopies treated? Would that whole thing be considered a sign?

DANIEL KRESS: The definition of sign area that the code book uses basically talks about drawing a rectangle around the smallest area that encompasses all of the lettering or copy or other advertising graphics, so I wouldn't necessarily count the entire canopy, but, you know, it kind of depends on how much of the name of the business covers.

DON FASO: They could run a canopy the entire length with the dip in the sidewalk, but --

DANIEL KRESS: Yes, and still have a small Faber there.

RAY BLEIER: I'm not sure I agree with that. You have a huge billboard. If you're only using a small part of it...

DANIEL KRESS: But ordinarily a billboard has graphics from one end to the other.

DON FASO: Blockbusters' is the type of thing I was thinking of.

RAY BLEIER: Yes. Kind of like that.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

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

The Board discussed the proposed conditions.

DARIO MARCHIONI: Do they need a building permit for the remodeling there?

KEITH O'TOOLE: Yes, yes.

DANIEL KRESS: Yes. The Fire Marshal and I have already been in touch with the gentlemen from Faber on that.

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

1. Applicant shall show the location of the enclosed dumpsters on the site plan.

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

5. Application of Glenn Schneider, owner; 236 Old Chili Scottsville Road, Churchville, New York 14428 for preliminary subdivision approval of two lots to be known as Schneider-Old Chili Scottsville Subdivision at property located at 236 Old Chili Scottsville Road in PRD &

FPO zone.

Rob Fitzgerald was present to represent the application.

MR. FITZGERALD: Rob Fitzgerald with Avery Engineering. I'm representing Jennifer and Jason Moore, who is the daughter-in-law -- or son-in-law and daughter of the Schneiders who are the present owners of this property. What they're seeking to do is build a single-family dwelling for themselves and their daughter on this property.

We went in front of the Zoning Board of Appeals last month because we need some area variances on this particular application, and they referred us over to the Planning Board. I do want to pass out some revised plans that show the revised footprint of this structure. Before we had a generic box; now we have the actual architectural plan, so it does change it.

He passed out copies of the plans to the Board.

MR. FITZGERALD: We have done perk tests on this parcel. The perks were good enough to have an in-ground septic system, believe it or not, in Chili. There are public utilities along the frontage that we have access to tie into. We're also proposing a separate curb cut onto the State road. We're hoping, with our plans and sending them to the County DRC, we would have some feedback from the State Department of Transportation. Apparently they did not because it is not included in the DRC comments, unfortunately.

I guess I should add, too, that the Schneiders presently reside on the northernmost home that is shown on the plan and they run a business out of the barn that they renovated.

JOHN NOWICKI: Can you go over the setbacks?

MR. FITZGERALD: The side setbacks is required 50 feet on either side. We're proposing 15 feet on the southwest and 10 feet towards the existing -- the parents' parcel. 10 feet on that side. We needed an area variance as well, required 250 feet. For a lot width -- pardon me. And we also need an area variance also for lot area.

JOHN NOWICKI: What is the required --

MR. FITZGERALD: Area is 5 acres.

JOHN NOWICKI: You will have what?

MR. FITZGERALD: Approximately 1 acre.

JOHN HELLABY: Looking for a front setback variance as well.

MR. FITZGERALD: It would require front setback, yes. Because the right-of-way in that area, because of the Y in the road, if you will -- it is kind of kicked a little bit. It will still be, I believe it is 90 feet off the edge of the pavement. But yes, we would need a front variance. I believe so. I know sometimes the Zoning Board looks at it. They take the two adjoining houses and take the average. I believe we're actually behind that. I guess it is however the Zoning Board of Appeals determines the front setback. At that meeting, it was my understanding they were concerned with the front setback as well as the proposed septic system being close to the existing field, but as far as the Monroe County Health Department is concerned, that is not an issue.

JOHN HELLABY: You are putting a standard leech field in?

MR. FITZGERALD: Yes.

JOHN HELLABY: You're only required to have a 10-foot side setback from all surrounding wetlands.

MR. FITZGERALD: 10-foot side tied to all of the property lines, yes.

JOHN HELLABY: What was the percolation rate, if I might ask? Were you close, or --

MR. FITZGERALD: I will refer to the plans. The maximum perk rate was 34 minutes. You're allowed up to 45 minutes, so we're a good 25 percent under. Also, with that, the perk rate just is -- determines how much linear feet you need of leech field. Then they look at the stratus of the soil to determine if it needs to be raised bed or not.

DON FASO: Keith (O'Toole), I need your help on this one. I think that this parcel probably got lumped into a rezoning for a PRD District. And I don't think it -- you know, obviously it doesn't meet the criteria for PRD. He only wants to break off a parcel for family so his family can build on it. It is not really a self-imposed hardship. The Town rezoned it. I don't remember what the zoning was

prior to the PRD. I mean we're talking 50 contiguous acres and 10,000-square-foot minimum lots and public sewer, water. All of the criteria for a PRD just cannot be met.

KEITH O'TOOLE: That is correct.

DON FASO: Hence our dilemma. It is not a self-imposed hardship. Would it be?

KEITH O'TOOLE: If -- well, if the Town did it to them, no.

DON FASO: But there would be a slue of variances that would be needed by the ZBA should the Planning Board grant subdivision.

JOHN HELLABY: My biggest concern on this, Don (Faso), is the amount of 5-acre subdivisions that are on the south end of Chili now -- it is a given. It has been going on -- what happens now, all of a sudden these things start popping up and we end up with all these under 1-acre lots because my two boys want to build a house next to dad. I have the frontage. I can cram them in there. You're going --

DON FASO: Are you in PRD or RA-5?

JOHN HELLABY: I'm right on the outside of PRD.

JOHN NOWICKI: You're in RA-5.

JOHN HELLABY: But, see, I don't think you can -- the PRD zone doesn't take effect because he doesn't have sewers; am I correct? Isn't that one of the problems you had over there, Dario (Marchioni)?

DARIO MARCHIONI: That is the way it applies.

JOHN HELLABY: So you can't go by the PRD standards anyhow.

DON FASO: Then what standards do we go by?

JAMES MARTIN: AC?

DARIO MARCHIONI: Present zoning.

JOHN HELLABY: What is it presently zoned?

KEITH O'TOOLE: Well, the PRD is 5-acre minimum if you don't have sewers.

JOHN HELLABY: That is why I say -- it would be hard pressed.

DARIO MARCHIONI: Some of the subdivisions that were approved in that area, they had to have 5-acre lots.

JOHN HELLABY: That's right.

MR. FITZGERALD: I do have a copy of the tax map of that area, and most of the parcels in that area are undersized, whether it is acreage or lot width. I will show that to the Board and they can look at that.

DON FASO: Yes, please.

MR. FITZGERALD: There are several parcels around, 1 to 1.3 acres.

DON FASO: There is no public sewer or water?

MR. FITZGERALD: There is water.

MR. MOORE: There is gas, as well.

JOHN HELLABY: Would you speculate the homes along that area, the majority you would say are over 30 or 40 years old? I don't think there are too many new ones down there on the substandard lots, if I recall.

MR. FITZGERALD: I'm not sure if there are too many new ones. I would be completely speculating.

JOHN HELLABY: You can't have a PRD zone because the sewers aren't there. That is why it doesn't show.

JOHN NOWICKI: Most of the properties around there, they're all large properties. 8 acres, 16 acres.

DARIO MARCHIONI: What happens to Lot 1? That is a smaller lot then, even less in conformance.

JOHN HELLABY: My biggest concern is we have just been through the overwhelming amount of zoning variance to bring this into conformance. You're looking at 5-acre minimum and they want less than an acre. 50-foot side setbacks, they want 10 on one and 15 on the other.

DON FASO: Lot width. 275.

JOHN HELLABY: Yes, the lot width. It is just...

Then just the proximity where the driveway comes out with the other road. Granted it is not a heavily-traveled road, but it is not a good situation all of the way around.

DARIO MARCHIONI: Have you considered putting the exit to Old Chili Scottsville Road?

MR. FITZGERALD: Yes, we have. That is why I brought up the fact we would have liked to have heard back from New York State D.O.T. to see what they thought. Our second option would be to tie into the existing driveway. We thought it would be nice to have a separate curb cut, though.

I do have a letter, too, that Glenn and Jane Schneider prepared. They couldn't be here tonight, but they did take the time to write the letter, so I would like to pass it on to the Board.

DARIO MARCHIONI: What is the speed limit on Chili Scottsville Road?

MR. MOORE: 55.

DARIO MARCHIONI: Coming out of that road at 55 --

MR. MOORE: There is pretty good visibility. We checked it out as far as where the driveway would be exiting on both ways, which is good, of course.

MR. FITZGERALD: For those of you who are not familiar with the property, it is heavily -- lots of pine trees on it, big 15, 20-foot pine trees on it. They will try to keep as many of those as possible, especially along the southwest property line.

DON FASO: Rob (Fitzgerald), when the application came in and I got out my code book and started going through it, I didn't see any easy solution then, and I'm reading it again, and I don't see any easy solution now. This is really asking a lot of the Town in granting this application, both from the Planning Board and the Zoning Board.

JOHN HELLABY: It is a matter of staying close with the family -- I'm not recalling any parcels that are for sale out there presently, but I know that Old Scottsville Chili Road -- they tore that old house down on the corner. I don't even know who has that property now, but you might be better off investigating buying a lot somewhere down Old Chili Scottsville Road.

MR. MOORE: From our standpoint, the lot was going to be gifted to us, so that -- you know, when you're building a house, that saves a lot of money.

JOHN HELLABY: I totally realize that, but I just can't see that house going in on that lot. It is just way too much.

MR. MOORE: As far as the house goes, is there any -- regardless of the house size, is there any way to do it at all? I don't want to waste anybody's time.

JOHN HELLABY: Do the math and look at the percentage of the variance you're looking for -- I mean what is that, like an 85 percent variance just on the lot size. It is overwhelming.

MR. MOORE: Well, there are a series of lots -- I know -- to the right of the house, depending which way you're looking at, there are a series of large acre lots, more expensive properties, lot sizes. On the other side, however, that is where you get more uniform as far as the lot sizes, smaller houses and things like that.

DON FASO: Well, yes, I'm looking at the tax map, and you're right.

MR. MOORE: If you look at the house to the right, there are houses --

DON FASO: Going to the south, you have an 8.6, a 10, a 6, 7 -- and a 23-acre parcel. There is a 13.

JOHN HELLABY: I would be willing to bet the majority of those are preexisting 30 and 40-year-old homes that are on the smaller lots.

MR. MOORE: The farm, that was split up -- I forgot the name of the farm.

DON FASO: Down across the road, a 5, a 1.4, 2.4, 2.4, 3.4, 3.4.

JOHN NOWICKI: Those are old lots. The zoning has changed since then. All of the new ones out there are supposed to be the bigger lots.

DARIO MARCHIONI: On the other hand, if the septic systems works there and everything else works, it is just a matter of complying with the zoning.

DON FASO: Which doesn't fit.

JOHN HELLABY: It doesn't fit at all.

DARIO MARCHIONI: That is the only criteria then.

DON FASO: Keith (O'Toole)?

KEITH O'TOOLE: It really comes down to this: If we think the mechanics of the site work, then you can approve it subject to ZBA approval, and they can take their chances in front of the ZBA.

DON FASO: Well, you know, I'm looking at the tax map for the area, and with the size of the parcel -- I mean this one will be a little bit smaller than most, but it is kind of in keeping with the residential character of that stretch of road.

DARIO MARCHIONI: So it is all -- and -- what do you need all that land for anyways?

DON FASO: I personally don't. Do you want to see the tax map?

JAMES MARTIN: Yes, I would like to see it.

DON FASO: If we grant preliminary, without waiving final? Grant preliminary.

JOHN NOWICKI: Let them go to the ZBA.

DON FASO: Based on it is in keeping with the residential character of the surrounding neighborhood?

JOHN NOWICKI: Yes, because the Old Scottsville Chili Road is -- across the street you have the new subdivision going in. Those are half-acre lots. So it is not that far away from this parcel, actually across the street.

DON FASO: Well --

DARIO MARCHIONI: You have Town land across there, too.

JAMES MARTIN: That was zoned --

JOHN NOWICKI: Granted. But again, it is the half-acre lots and then we have 3 to 4-acre lots.

MR. FITZGERALD: As far as the house goes, too, we definitely -- as far as the houses around and -- our mother-in-law and father-in-law's house, we're going for that look, not something super contemporary.

JOHN NOWICKI: Stick-built home?

MR. FITZGERALD: I can hang the architectural rendering up.

JOHN NOWICKI: Walk-out basement?

MR. HEDDING: No. Michael Hedding, home contractor, I will be the general contractor.

JOHN NOWICKI: Two-story.

MR. HEDDING: Two-story half of the house and first floor master behind the garage.

MR. FITZGERALD: I will point out a couple changes. There will not be a walk-out basement and the front will be a front-load garage, not the side.

DON FASO: How many square feet?

MR. HEDDING: 2250, I believe.

JOHN NOWICKI: How does the architectural style compare to the existing frame barn they use for the office space and Glenn's house itself? Is the architecture color treatments the same?

MR. HEDDING: Yes. We will be putting like scalloped shingle in like the gable area to make it look more period, to make it fit in more with the timing period of the neighborhood. We don't want it to stand out and look like a new tract style home or something like that. We want it to blend in with the scenery and everything. We'll leave like -- we'll leave as much of the pine trees as we can between the property line, between the neighbor to the one side and also on the frontage of the -- to give it a little bit of shielding from the street, just in case, because, you know, there is a concern about it being a little too close, a couple 20 or 30 feet or something.

DARIO MARCHIONI: I'm more concern about the exit into -- I think if it is possible to do Old Chili Scottsville Road, it would be a better layout.

MR. HEDDING: We were planning on putting a turn-around of some sort so they would never back out on the road. It would always be frontage out.

DARIO MARCHIONI: People there go over 60.

MR. HEDDING: The neighbor to the one side, their driveway is right there, too. They did line of sight study and figured out there was plenty line of sights. It would be the same risk as anybody else that lives on the road.

DARIO MARCHIONI: But this is something new that we're concerned about.

MR. HEDDING: They would face the same risk as any of the other neighbors.

DON FASO: You have, Rob (Fitzgerald), on here sight distance greater than 500 feet in both directions. Have you actually measured it out?

MR. FITZGERALD: It is well beyond that. It is actually greater than 700 feet. I don't have it without thumbing through my folder, the exact measurements. I would like to hear what the State says. I am disappointed they did not respond to the County DRC letter. We did have the option to tie into the existing driveway, but we wanted to go for the separate access.

JAMES MARTIN: You don't have the FPO overlay on the plans. Do you know where that actually falls as far as this site plan goes?

MR. FITZGERALD: The flood plain falls on the back corner. There might be at the max 25 feet that crosses over it.

DARIO MARCHIONI: 527?

JAMES MARTIN: It is well away from the leech fields?

MR. FITZGERALD: Well away from improvements, yes. 528 is the flood plain elevation. If you plot it per the flood plain overlay map, it shows it right on the corner.

DON FASO: If it wasn't for the existing zoning, the house were built, it wouldn't be out of character with the neighborhood. I don't have a problem with that. It is just getting around the zoning.

DARIO MARCHIONI: That is a chance he has to take with the Zoning Board.

RAY BLEIER: Larry (Nissen), I have a question about the close proximity of the two septic systems, the proposed and the existing.

LARRY NISSEN: It is a Health Department call, but I'm not sure if there is a minimum setback required between septic systems. I'm not sure if that is the case or not. But if there is, the Health Department will flag this design and there will be an objection to what is shown here. But I doubt that they will.

DON FASO: Let me ask you this: Would we put the Health Department in a bind if we grant this lot? If we grant this subdivision and it becomes a legal lot, what kind of bind does that put on the Health Department? Would they be obligated?

LARRY NISSEN: No, I don't believe so. How big is this lot to the -- this -- that doesn't look as big as this lot.

DON FASO: The one to the south would be --

JOHN NOWICKI: If that is the correct property line, I get what you're saying.

LARRY NISSEN: It looks to be comparable in size to what is proposed here.

MR. FITZGERALD: There is not a required separation between two septic systems, that I'm aware. It is only 10 feet to the property line. In several cases in the past I have designed systems to be right at the minimum of 10 feet, right next to each other.

LARRY NISSEN: I agree with Rob (Fitzgerald). The Health Department calls for a minimum 10-foot setback from a property line, so theoretically the setbacks could be within 20 feet of each other and be acceptable.

DON FASO: Well, I will guess the adjoining property, the Baker property is probably not more than an acre, acre and a half.

LARRY NISSEN: Also with regard to the driveway, it seems to me, at least off the top of my head -- I'm not sure what the D.O.T. will say. I kind of like it where it is instead of trying to run up Old Scottsville Chili Road.

DON FASO: That would be really close to the intersection.

LARRY NISSEN: You know a person coming up Scottsville Road to the north and making a turn on Old Chili Scottsville, particularly if he forgets to signal, they could put the occupant here in a very dangerous situation. There is always a chance for a mistake there.

Also, if the driveway was going towards Old Scottsville Chili Road and the occupant wanted to run up to the north on Scottsville Chili Road, they would have to cross both lanes of Scottsville Chili Road to access the northbound lane of 386, which is not a safe move.

DON FASO: It is probably safer where it is.

LARRY NISSEN: I think it is better where it is.

RAY BLEIER: It is a matter of opinion.

DON FASO: I would be willing --

LARRY NISSEN: The sight distance needs to be quantified more accurately. I will expect that New York State will.

DON FASO: I would be willing to go preliminary on this, not waive final.

LARRY NISSEN: I have no problem with that.

DON FASO: But coming back from final, State, Health Department, ZBA. What else, guys?

JOHN NOWICKI: Why don't we just table it?

DON FASO: Well, that hangs him up at the ZBA. They tabled it to see what we would do.

I mean I don't have a problem with the concept that we're looking at here, because I personally feel it would be in keeping with the neighborhood.

5-acre lots just aren't there. There is nothing close.

JOHN NOWICKI: I hope the architectural style house would fit in the neighborhood.

MR. HEDDING: I would say it would, yes. It will be very in keeping with the style of the neighborhood.

JOHN NOWICKI: The other issue is the safety thing.

DON FASO: Well, Larry (Nissen) said that, you know, they should define the sight distance.

MR. FITZGERALD: For final we could bring in pictures of the houses in the surrounding area, and color scheme of our house as well as materials, if that would help.

DARIO MARCHIONI: On the other hand, Glenn (Schneider) has been in business for years and he never had an accident coming out there.

RAY BLEIER: No. But he is not on Chili Scottsville Road.

DARIO MARCHIONI: I'm talking Old Chili Scottsville Road.

JOHN NOWICKI: That is a pretty quiet road.

DON FASO: How often does he use the driveway to the barn?

MR. MOORE: His employees go in there every day, and leave at 5, 6-ish.

DARIO MARCHIONI: Combining that exit I think would be an improvement.

RAY BLEIER: If he moved the business from the site, there would be no problem splitting up the property having two decent lots for housing.

DON FASO: Does he have any plans on moving the business?

MR. MOORE: No.

The letter -- I mean in the long run -- we're a pretty tight group. He's done -- he is in the military now. He flies F-15s. He is in the war right now. Eventually down the road, that house, it is pretty much understood they will get their house. It is just one of those weird family things. It is a really nice gift on their end. If we can make it work, we would like to.

DON FASO: I wouldn't call that weird.

MR. MOORE: It is good.

DON FASO: Any parent would want to do that for their children.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

BEVERLY GRIEBEL, Chairperson of the Zoning Board of Appeals

MS. GRIEBEL: We had some of the concerns that had been expressed up there.

DON FASO: I read your letter.

MS. GRIEBEL: When it came to us, we had a box with a 50-foot front lot setback, 25-foot from the north side lot line and the other side was 50 foot on the plan. Now we have shrunk it even more. I don't know how the rest of the Board will feel. We have a 10 and a 15.

DON FASO: Bev (Griebel), did your Board have the opportunity to see the tax maps of the surrounding area?

MS. GRIEBEL: No. But we had concerns of the front setback, the side setback -- this is going to be a problem if they want to do anything. They can't do it on the side. We have had people in the Ballantyne area recently that can't even put a side stoop there, a side porch, an access way to a raised door because they're over the lot line just about. There is no easement there.

Another concern we had was the front setback, and we asked that, you know -- it was Don Avery who was in at our meeting.

And the front setback is probably fine, but someone on our Board suggested the house be pushed further back, put the septic in front. That would give them a backyard to do something with, because with the setback in the backyard, they can't have a pool or any of those other things in the backyard.

I don't know. I did not get a copy of the new plan. I don't know what that looks like, other than the dimensions that were given. We had a great concern with the driveway.

Now, we mentioned possibility of sharing that with the barn, the business, but that only works if the house stays in the family and there is no guarantee of that. Then when the house is not part of the family, what happens to the shared driveway? You have a mess.

DON FASO: That can be taken care of with a cross-access easement.

MS. GRIEBEL: Well, you know -- but those are some of the problems that we had, and some of the concerns.

MR. MOORE: We don't have any plans to build like a pool or anything like that, though.

MS. GRIEBEL: Well, never say never, because people then come in and say we have this house, we have this land, it goes all of the way back but we can't do anything with it. Well, that is part of the problem.

MR. MOORE: We like it just the way it is. I understand -- I realize what you're saying.

MS. GRIEBEL: It limits the expanse. They don't have an option. Where can they go? They can't go into the front setback any more.

But one major, major concern was the driveway and the traffic and all of that. I don't know what the new driveway looks like. If it looks like the original -- the one that we had, I don't know. But the driveway came out on the right side of the house, right into the traffic area. It is in the same place as we had it. Thanks, Dario (Marchioni).

That is why we didn't want to approve it, because of all of the iffy things with the design plan, but the design plan has gotten worse with the setbacks. I don't know what the rest of the Board members are going to think, but we had a problem.

DON FASO: I could see the dilemma the ZBA would have, and the Planning Board has basically the same dilemma. But I think if your Board had the opportunity to take a look at the tax map for the surrounding area -- especially to the south, there may be one or two parcels that meet minimum area size.

MS. GRIEBEL: There has been no thought apparently to putting the septic in front.

JOHN NOWICKI: Not a bad idea.

MR. FITZGERALD: If I could respond to that. The parcel does slope from the road away and putting it in the front, it is tough for the grading. It is tough for the grading. Then you have the effluent going towards the house, if you will. There are good soils towards the rear that we knew from putting the septic system in for the barn parcel.

MS. GRIEBEL: We had a concern about the proximity to the adjacent septic, which you have.

DON FASO: All the same concerns the Planning Board had.

MR. MOORE: If I might, the house, if I am correct, I think it will be at the same or farther back from the existing house is as far as the distance from the road. So we're definitely not -- we're looking to stay in line with the existing properties there.

DON FASO: There is a provision in the code where you could average out the setback.

MR. MOORE: Okay.

JOHN NOWICKI: What is the possibility of changing the lot lines and using the driveway over on Old Scottsville Chili Road and flip-flopping the house and putting the garage on the other side?

MR. MOORE: That is a good question. We have not thought of that.

DON FASO: Well, Larry (Nissen) had some concerns about that.

MR. HEDDING: As I understand it, when I am speaking with Glenn (Schneider), they proposed to put the original mouth of the driveway that was next to the barn there. The State D.O.T. already said that is as close to the corner as they wanted to get it, so there was no way to do anything closer to the corner from that driveway point, and I know that Glenn (Schneider), the homeowner, didn't necessarily want to have to have a shared driveway to the property that was -- he was trying to keep the business separate from the residential part of it.

JOHN NOWICKI: All I am saying is if he changed the configuration of the boundary line and flip-flopped the house and put the garage on the other side and take it down -- just bring it into where the apron is -- don't --

MR. HEDDING: So actually change the parcel so it is more than an acre, so --

JOHN NOWICKI: So you would have a wider apron for the two parcels. You could make the apron wider and bring the driveway in that direction and change the configuration of the boundary lines.

MR. HEDDING: It would be easy to change that. That would be up to Glenn (Schneider), whether he wants to gift any more of that land to --

JOHN NOWICKI: You know, as far as the side setbacks then, you could kick that house around a little bit or change something here or there. You would have room to play with it. I think I would take it back and play with it.

MR. HEDDING: This is just preliminary sketch. The architect did not have the site map and the original site plan with the proposed box, they didn't have the proposed prints. So it was kind of a meeting together. We had to get everybody on the same page, and I'm sure the design could be altered

somewhat to add 10 feet maybe here or there.

JOHN NOWICKI: Move it forward or backward, kick it around. Put the driveway on the other side.

MR. FITZGERALD: The property line, as well?

JOHN NOWICKI: Yes. Play around with it. I think you can make it work. I think you just got yourself boxed in here and you're boxing in the Zoning Board and the Planning Board and I think you have to get us out of it.

DON FASO: The only problem with this is the zoning. The concept, I don't have a problem with the concept. The lot fits in with the character. If it wasn't for the PRD zoning with the underlying 5-acre minimum lot, you would have been out of here 20 minutes ago.

MR. HEDDING: The zoning it is in now is requiring 5 acres new construction, but that would -- I would think that -- if I may, I think that would offset it and make it less in keeping with the neighborhood. Like you're saying most of the parcels are already less than 5 acres, so in keeping it -- in -- it looking like the rest of it, if they had this house stuck way back from the house, that would look like it is in somebody's backyard.

DON FASO: That is the only reason why we are where we are now, looking at the tax map and the surrounding neighborhood.

MR. HEDDING: Our intention was to make it look like it has been there all along.

JOHN NOWICKI: Do you agree with kicking the house around a little bit?

MS. GRIEBEL: That is what we asked them to do.

JOHN NOWICKI: Change the boundary lines and get the driveway over there.

MS. GRIEBEL: Yes. But it comes in, instead of 25 and 50 foot -- we just had a square box. Now it is 10 and 15.

JOHN NOWICKI: They could play with those dimensions and change things.

MS. GRIEBEL: It is kind of skewed on the lot. If it were square on the lot, you would have a little more on the side setbacks.

DON FASO: I think you can massage it.

JOHN HELLABY: You keep referring to those other lots. I would be curious to know how many of those lots were pre-existing, non-conforming.

DON FASO: Oh, I would say --

JOHN HELLABY: I mean the whole unfortunate part of it is two wrongs don't make a right. It is not in keeping with the zoning ordinance of this Town, and --

MS. GRIEBEL: If they're adequate -- I think one concern I had when I first looked at it was the perk, does it perk. They have city water. There are hydrants.

Now, if you had to worry about a well, of course you could not go to .9. You could not do it. If they have got a perk and if it is not too close to the adjacent septic, and maybe they can do something with the design of the house and make it fit a little better. But with 10 and 15, there is no leeway in there.

DON FASO: If we grant you preliminary, you would have to have all of the questions answered before you go to the ZBA and definitely before you come back here.

RAY BLEIER: I think I would be reluctant to go with preliminary. I think -- I don't care -- I don't care if it means another month on their schedule.

DON FASO: Well, then we're kicking it back to the ZBA.

RAY BLEIER: No, we're not.

JOHN NOWICKI: We just table it here, let them go back to work and come back to the Planning Board before they go to the ZBA. That way we could do the preliminary again and waive final and kick it to the ZBA. You will know what the setbacks are by the time we get through it.

RAY BLEIER: We can't go preliminary and waive final without going to the ZBA in between.

JOHN NOWICKI: That is right. A couple months, and -- December, January --

MR. HEDDING: We will not get in the ground this year.

MR. MOORE: If we have to go back to them first, do we have everything from you?

DON FASO: I think what we're leaning for is tabling the application to get those questions answered. Then you would come back here. You would come back here with all those questions answered and walk out of here with preliminary and go to the ZBA for all your variances. If the ZBA grants it, you would come back here for final.

MS. GRIEBEL: You will work out the site plan details. That is what we wanted.

CHARLES RETTIG, 1032 Coldwater Road

MR. RETTIG: Just a question. Does the Schneider letter have any bearing on this discussion? For what you were presented?

DON FASO: No. It just --

JAMES MARTIN: Not in my mind.

MR. RETTIG: Just for information. I didn't know.

DON FASO: Hang on. I will read it, if you want. I will enter it into the record. A letter dated October 26th, 2003, addressed to the Board. "Dear Board members, we apologize for not being able to attend your meeting tonight to discuss the subdivision of our property so that our daughter and her family can build a home next to us. We are on a business trip to attend a trade show in New Orleans. In fact, we apologize that we have not even signed this letter as we had to e-mail it to our daughter so she could present it to you tonight. In the past we have been very active in the Town. Glenn served on the Drainage Committee and served as Chair on the Conservation Board and both of us were involved in organizing the parade for the 175th Town celebration. We have lived in Chili for 30 years and we love it here. We were recently recognized by the Historical Society for our efforts in preserving the barn, which is over 150 years old. Our daughter Jennifer and her family plan to build a house that will be in keeping with the neighborhood and we feel they will be a nice addition to the neighborhood. Our son, who is serving in the Air Force F-15E Strike Eagle pilot in the Gulf right now, has always wanted to own our home. As we approach our retirement years, our dream is to have both of our children and their families living on the property with us staying with one of them. With your approval, we will be one step closer to our dream. Thank you for your consideration of our request. Sincerely Glenn and Jane Schneider."

MR. RETTIG: Thank you. And just a comment. I think the Planning Board did a nice job reviewing this, and it is completely to properly table it at this time and go for a preliminary as the follow-up. I think that is very -- very good job.

GEORGE BARTNETT, 30 Cross Bow Drive

MR. BARTNETT: There seems to be a very serious traffic and safety problem with this, and I would request that you alert the Traffic & Safety Committee and let them review this problem, too, before the next hearing on this matter.

DON FASO: Rob (Fitzgerald), would you get on the Traffic & Safety Committee's agenda?

MR. FITZGERALD: Yes. Like I said several times, I'm very interested to hear back from the State myself. If they don't allow it, then that is that.

DON FASO: It is moot.

JOHN NOWICKI: Just a couple other thoughts. You're not in a Drainage District. The property is not in a Drainage District.

DANIEL KRESS: An application has been made.

DON FASO: It has been made?

DANIEL KRESS: Yes.

DARIO MARCHIONI: Both parcels or just for this one?

DANIEL KRESS: I believe for both.

JOHN NOWICKI: Let's check it out. We'll ask you for both.

JOHN NOWICKI: It is not in an Ag District.

MS. GRIEBEL: We had a similar letter when we heard this at the Zoning Board.

MR. MOORE: Same letter.

MS. GRIEBEL: May have been the same letter, and I was a little distressed because if the applicant isn't there, normally they have to have a notarized signature that somebody else is handling that, but Keith (O'Toole) said under the circumstances, okay, but I don't know -- you know, we had some questions for Mr. Schneider and he didn't come. I don't know if he is going to be at the meeting when he comes back to us.

MR. MOORE: I will definitely try to make that happen.

DON FASO: Where would you rather be, New Orleans or before the ZBA?
(Laughter.)

MS. GRIEBEL: We could meet down there, if the Town would fly us down.
(Laughter.)

DOROTHY BORGUS, Stuart Road

MS. BORGUS: I had one other suggestion about when the applicant reapplies. It might be helpful if you could find out when the various homes on these adjacent lots were built, and if they are -- if they do predate the zoning ordinance. Because I think that is of importance. It isn't just that they're on a different -- a smaller lot. They're on a smaller lot maybe because it didn't matter back then and then it is really not a relevant issue.

DON FASO: I will give you, Rob (Fitzgerald), back your tax map, and take into account Dorothy (Borgus)'s suggestion and we'll let you do that homework.

MR. FITZGERALD: Thank you, Mr. Chairperson.

Ray Bleier made a motion to table this application until January, and Don Faso seconded the motion.

All Board members were in favor of the motion.

The Board discussed the proposed reasons for tabling and items to be provided at the next meeting.

DON FASO: If this was in the middle of lots 5 acres or bigger with nothing else closer around there, I would have a problem with it.

RAY BLEIER: Exactly.

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

1. The Planning Board would like to see the NYSDOT comments regarding the curb cut.
2. The Planning Board would like to see the Monroe County Health Department comments regarding this subdivision.
3. Applicant shall try to re-configure the lot to see if it is feasible to connect the driveway to the existing curb cut for the business use.
4. Applicant shall present a tax map plat showing the surrounding area and highlighting all the pre-existing, non-conforming lots.
5. Applicant shall submit plans to the traffic and safety committee for review.
6. Applicant shall show the FPO limit line on the plans.

There was a recess in the proceedings.

6. Application of Ballantyne Development, LLC, owner; 3313 Chili Avenue, Rochester, New York 14624 for approval to amend conditional use permit for 27-hole golf course approved on 9/10/02 and expiring 9/10/05 to also include existing driving range at properties located at 420 Ballantyne Road, 210, 230, 252, 280 Archer Road, 573, 555, 553, 549, 413 and 411 Paul Road in PRD, FPO, FW zone.
7. Application of Ballantyne Development, LLC, owner; 3313 Chili Avenue, Rochester, New York 14624 for final subdivision approval of 84 lots to be known as Vistas at the Links Phase I at properties located at 420 Ballantyne Road, 210, 230, 252, 280 Archer Road, 573, 555, 553, 549, 413 and 411 Paul Road in PRD, FPO, FW zone.

8. Application of Ballantyne Development, LLC, owner; 3313 Chili Avenue, Rochester, New York 14624 for final site plan approval to erect 40 patio homes, 44 townhouse units, and 3 golf holes to be known as Vistas at the Links Phase I at properties located at 420 Ballantyne Road, 210, 230, 252, 280 Archer Road, 573, 555, 553, 549, 413 and 411 Paul Road in PRD, FPO, FW zone.

John Caruso, Bill Kreienberg, Bill Howard and Brian Donald were present to represent the application.

MR. CARUSO: That's a mouthful. Hopefully, after we receive subdivision approval we'll be able to put all of the lots into one, and simplify that process.

Good evening, my name is John Caruso. I'm the engineer with Passero Associates. With me tonight are the members of Ballantyne Development, Bill Kreienberg and Bill Howard. Also with us tonight is our Project Engineer, Brian Donald from our office.

What we have here (indicating) is the overall project that was shown and submitted for preliminary approval. It has the nine-hole golf course on south side of Black Creek, the 18-hole championship golf course on the north side. This is the residential PRD area (indicating). Phase 1 is right in here (indicating).

Again, this is the overall layout that you are seeing, and this is the north entrance which comes in here (indicating) and the south entrance to the subdivision comes in here (indicating). And these are (indicating) the three holes, five (indicating), six (indicating) and seven (indicating), which we would like to construct with Phase 1, and I will talk a little bit about that in a minute.

Our team is Ballantyne Development, Passero Associates, Jordan Associates golf course architects and then our sub consultants: Foundations Design, Cultural Resources and The Leader Group doing all sorts of things we talked about during the environmental review at preliminary design.

Our request, as Don (Faso) had read through, is to amend the conditional use permit, reaffirm negative declaration on SEQR and final site and subdivision on Phase 1 only, not on the golf course. I want to bring this up. This is not an approval. We're not requesting approval of the golf course tonight. This is only Phase 1 of the residential community.

RAY BLEIER: What about the three golf holes?

MR. CARUSO: We'll not put them into use. Just because we're building in and around that area, it only makes sense to put the dirt in the right spot and the structure in. If you have ever been on vacations, Ray (Bleier), on a resort golf course, and you're playing golf and you notice they're building the homes around you, the reason they do it that way is because if you were to build the homes and then try to build the golf course, it makes a mess, there is dust flying everywhere. It sort of ties into the constructability of these areas, which is why we want the other work and all that into place, get the drainage working. It also creates our buffers immediately up front with our neighbors on Archer Road.

Our recent efforts, what we have been doing over the last year, we were here back in September. We have been working on the development of these plans. We obtained preliminary approval. Several things we have done -- just to rehash, we had several informal meetings with the Planning Board. We were rezoned at the Town Board level. We had technical meetings and planning meetings with Town staff. We made plan changes as a result. We had neighborhood meetings. We had technical design meetings with other governing agencies such as water, Pure Waters, D.O.T., DEC and so on. We attended several Conservation Board meetings. And finally, we came before you asking for preliminary approval overall, and we obtained preliminary approval. Since we obtained preliminary approval, some very good things have happened to us. We have been able then to go to our investors and have them commit to the project. The project is now funded. That is why we're moving forward with it. It allows the owners to then close on the parcels we all talked about there in the introduction. Now they own the land. As landowners they can apply for permits such as our DEC permit we have applied for and districts. We have applied for the districts as owners. We can grant easements such as the one the Conservation Board asked us, to grant a 100-foot easement across Black Creek, all of the way down, encompassing 34 acres. We have the ability to do that now. Easements to Pure Waters, easements to RG&E with the utility lines overhead and things of that nature. So we have been able to take the work that we have done with you, and take it to the next level as a result of having preliminary approval. We have something to work with now.

The plan still includes design elements that we talked about up front, protecting the Black Creek

corridor, respecting the flood plain, providing buffer and distance to our neighbors, adequate access, two means of access to the project, be pedestrian friendly environment with sidewalks in the subdivision. We have cart path and walking paths. Drainage, storm water management is coming out in the first phase. If you can see over here (indicating), we have three detention ponds that are coming out in the first phase of the project. We redesigned some of the roadways at the request of the Department of Public Works, or Commissioner of Public Works. He didn't like some of the long roads we had connected and asked to shorten them up and put cul-de-sacs on them to stop people from speeding. That is how we controlled speeding, by doing that. We have a moderate density in this development. At 56 acres of land, the residential area, on 430 acres of land, the overall density is 3.5 units per acre where usually 8 to 12 is what you would see in a Planned Residential District.

Finally, we have been able to provide as a design element alternative housing types which fit in the character of the PRD, which is what we had requested.

Here again is the overall residential area (indicating), and in between these lots, in here (indicating), is the cart paths, the walking paths. They all tie into the sidewalks that are in and along the dedicated roadway. This is Hole Number 7 between the existing homes as a buffer. We left the buffers along the north line to the railroad tracks. These (indicating) are detention ponds that are being constructed in Phase 1. They will actually drain down the hill into this pond (indicating), this pond (indicating), then to this pond (indicating). And this pond (indicating) will be constructed in Phase 1 also.

The makeup of the Vistas, specifically now we're talking about Phase 1. Phase 1 will be 40 patio homes and 44 courtyard villas on 24 acres of land. It will have a looped road. I think this will be a two-year phase, which means that we think it is going to take two years to sell out, but typically from the other development you see come before you, they get overall preliminary approved and they come in and bite off 10 or 15. We didn't do that here. We have 84 lots. We think it is going to be very successful, and as a result, we think it is going to be a two-year build out on Phase 1.

This is Phase 1 here (indicating). We can show the demarcation line (indicating). It includes Hole Number 5, but cuts off right here (indicating). It includes 7 here (indicating). And here is the roadway system that comes in (indicating), and this is the loop road (indicating). We don't have dead end, temporary cul-de-sacs, all of the things you normally deal with in a 10 or 15-lot subdivision.

The makeup of the vistas are 10,000-square-foot minimum lots, two stories, 35-foot front setback, with a right-of-way of about 17 feet. We're looking at about 50-foot driveways, with two-car garages in each, 5-foot minimum to side line, 15 between patios and on townhomes, 10 foot between townhomes. Rears are 10 feet, but it is sort of insignificant because we have very deep lots.

You can see these deep lots in here (indicating), that's where the walking and cart path is.

The Planned Residential Development. Some of the characteristics I would like to go over. We sort of have a unique approach, and I give Bill (Kreienberg) and Bill (Howard) a lot of credit, because the uniqueness to doing Phase 1 -- I sort of characterize it as developer-driven. They're not going to bring a builder in who is going to go through his portfolio of six homes and say this is what we're going to build here.

These developers have gone across the country to several different major cities and throughout these cities they have come up with a collection of different types of housing units, and as a result they have got their architect to come up with these floor plans, and these are both the same (indicating). I just wanted to break it up so you could see it.

But you can see here, these housing types are different. On the Town -- this is the patio -- this is the courtyard villa (indicating). This is the townhome (indicating), but I -- we call it the courtyard villa. It has two two-car garages in the front, but the ends are side-loaded. You can see that here (indicating), on the floor plan, where the garages are on the side.

This is something that Bill (Howard) has brought back to Rochester and developed, and I will just let you see that. But what we're seeing here tonight is -- this is -- this is his designs that the -- that a builder will build. So what you're seeing here is what you're approving. This is what they will be building.

This is his product that he has developed, and this is the patio home.

DON FASO: I just want to make sure everybody has a chance to see them.

MR. CARUSO: You will notice that there is a lot of cultured stone and brick work on the fronts

of these buildings. Moving on, these (indicating) are the residential types that I'm talking about, the courtyard villas. Again, instead of just calling them patios homes and townhomes, they really aren't. They're different because they developed these designs to fit on this hill. This is something very special, they wanted to go with the golf course, and the themes, the names of them are all -- are mixed in with the golf course community.

JOHN NOWICKI: Can I ask you a question? What determines a courtyard villa -- what is the difference between that and a patio home?

MR. CARUSO: Patio is a single-family home and the courtyard villa is townhome, four or two units a row.

JOHN NOWICKI: They're distinguished on our maps.

DON FASO: You so will see two-plexes and four-plexes.

MR. CARUSO: It is mostly four-plexes, single-family homes as the patios and a couple duplexes.

JOHN NOWICKI: Two styles?

MR. CARUSO: Yes. You will have more than two style patio homes?

MR. HOWARD: Yes. First floor master suites, capes and ranches.

JOHN NOWICKI: We'll get into that later.

MR. CARUSO: Those are the residential types we talked about. There will be a Homeowners' Association on the courtyard villas, which is the townhomes.

Services will be provided to them, and they will be offered to the patio homeowners. So if you do own a patio home and you want to be part of the Homeowners' Association, you can be to share in the insurance, the maintenance on the lawn, the snowplowing, the exterior. It is not something we're forcing the single-family homes into. However, they will be offered to enter into that. That is good for the whole community, because as HOA goes, the more, the merrier. It keeps the cost down and so on.

There was a question that was brought up at preliminary. What are you doing for people -- we heard that if you join, you get a free membership to the golf course. Well, that is not necessarily true, but there will be some sort of discount offered to the Links at Black Creek for local residents.

And then project signage. Signage is an interesting -- should be handled in a certain way on a project of this size, so we took the time to put together -- just some mapping showing you where we would like to place some temporary signs. And we'll show you where the permanent signs would be located.

This sign here (indicating), that is the actual one they will put up. These signs here (indicating) are the actual signs that would be shown on those locations. These signs here (indicating), those are the ones that we would post out at the road, and that would be posted -- one would be here (indicating), one would be here (indicating) the other ones would be here (indicating) and here (indicating).

DON FASO: Where is that going?

MR. CARUSO: That is the maintain entrance sign. That is what this is. This is the main entrance sign. You have it in front of you. This will be at each entrance on Archer Road.

DON FASO: Thank you, John (Caruso).

JAMES MARTIN: Will you be building that as part of Phase 1, John (Caruso)?

MR. CARUSO: Yes. The sign would go in at Phase 1.

What else have we done? We have created districts, drainage, lighting. The Sewer District is pending before the County Legislature and sidewalks have been submitted. I don't know if the Town Board has acted on them.

DANIEL KRESS: I believe that is on the agenda for tomorrow night.

MR. CARUSO: So all of the districts that needed to be created are in the works.

The phasing. Phase 1 residential we believe we would start in the spring of 2004. The golf course would start construction also in 2004. We don't think it will be spring, but probably -- we would like to get started soon thereafter. It will take some time to build that golf course. After you build it, you seed it and you have to wait for it to grow. This is why we wanted to have those first three holes built. All of this, by the way, everything in Phase 1 that we show you is outside of any DEC jurisdiction. It is all up on the hill, and outside of any flood plain, of course.

Then the golf clubhouse would be scheduled for 2005.

So just going through our request again, amending our conditional use permit, reaffirming negative

declaration on SEQR, final site and subdivision approval and approving the project signs.

Before I open it up to questions, I would like to address a couple issues about respect -- with respect to --

DON FASO: You through with Power Point?

MR. CARUSO: Yes. Two additional things I wanted to cover in our presentation tonight. It was such a big issue at preliminary approval. I guess I thought I would handle it again. One of the conditions of preliminary approval was the Board asked us to get comments from the DEC. We did receive comments from the DEC, and it was -- the comments we received were as -- responding to two items. One, we have submitted our application to DEC for a permit. That permit application includes all of the things that came out of the several meetings that we have had with the DEC over the last year.

It is pretty good when you have a situation where you can get direct feedback, put it in your work and return it back to the DEC. We did have that luxury. However, this was the first opportunity they have had to put anything in writing back on the project at all. They were very thorough. They have their own opinion as to how SEQR should be held, but what it does is it comes down to the same five things that we told you at preliminary, which we are already dealing with. Flood plain, cultural resource investigation is being done. As a matter of fact, tomorrow we find out the status of that. I have them written down. The flood plain issues. We know that a fill permit has already been issued on the south side. There were other projects in the area that we knew such as the VFW and the parcel across the street, and even the driving range have received approvals to construct themselves, so we didn't consider the flood plain to be a show-stopping issue. We knew there were things we had to do and they have been doing. They're included in a cut and fill volume in our application. We knew to do storm water management. We showed you tonight several different places to do it.

Irrigation. We're drawing water from the creek and serving the golf course with it. That came up. All these things were things that we identified in advance and we're seeing it come out in his letter. That was a condition of approval at preliminary, to get comments from DEC. We're actually farther ahead than most applicants would be at this point, having addressed them and having submitted our application for the golf course.

Now, the relevancy here is that -- with respect to SEQR determination, the things that you voted on that you were comfortable enough at that time, were as a result of the work that we had done.

The same comments have come back on the work we have already done and I showed that to you. So hopefully you will see that issues with respect to SEQR are already underway.

Now, DEC requested that the Board consider positive dec'ing this, but if you do, you will then be in charge of responding to the DEC comments because all of the things on the sheet is why he wants you to positive dec it. You have already looked at sewer, water, traffic, all those things we have already gone through with Zoning, and that is why you did give it a negative declaration. I don't think you want to take over all his comments. His comments we'll be addressing with our DEC application already.

And any time you look at something like this, there is risk, and I think there is no risk to the Planning Board because if, in fact, you do reaffirm a negative declaration and we can't meet the DEC's requirements, then we won't get a permit and we won't be able to build a golf course and all of the impact won't be there. So it is either we'll be able to meet the DEC requirements and get their permit or we won't be able to build the golf course and all the so-called impact with the development. So there is really no down-side to move forward. So I'm asking you to reaffirm the negative declaration on the SEQR.

With respect to the conditional use permit, the reason we're asking you to amend the use permit that you granted in preliminary is that the driving range already has a use permit and it expires. The golf course driving range was also to go with the golf course, so it just makes sense to wrap them all up and have them all under one use permit, and that was a three-year use permit.

Site and subdivision approval again is only for Phase 1. We're not asking for site approval of the golf course. When we get our DEC permit is when we'll come back and ask for final approval on the golf course under site plan approval. We know that it would be fruitless to come back without having the DEC permit because then all the issues that we promised getting taken care of at SEQR would not have been handled. The other thing about subdivision at this point is it allows us to

clean up all of the little parcels that you read, the addresses, and wrap them all into one big piece of land now, and then be able to subdivide Phase 1 out.

So I think -- I know the DEC letter came. It is very thorough. It is Peter Lent's first opportunity to comment on it. It is somewhat intimidating at some points. However, it did need to have some discussion on it. So at that point, Mr. Faso, I will open it up to questions.

DON FASO: Yes, the letter was dated only yesterday, and the Board members found it in their mailboxes tonight, and I have gone through it rather briefly.

I assume you have a -- you got a copy yesterday also?

MR. CARUSO: Yes.

DON FASO: Is there anything in here that you want to address, John (Caruso)?

MR. CARUSO: No.

DON FASO: Well, before I get to that, I do want to read into the record -- I do have correspondence. This is from New York State Department of Transportation dated November 12th, "Dear Mr. Faso, the New York State Department of Transportation concurs with the designation of the Town of Chili Planning Board as lead agency for the referenced action. Any work including access or utility work within the right-of-way of any State highway will require a work permit from the Department's Traffic & Safety office," et cetera, et cetera, et cetera.

The next one is letter from the Monroe County Department of Environmental Services, "Mr. Faso, Monroe County Pure Waters has no objection to the Chili Town Board assuming lead agency status." I think it is just a misquote here. It should probably read the Planning Board. Because it is addressed to me. "Monroe County Pure Waters has no comment as to the environmental significance of the project at this time. Monroe County DPW has received plans from Passero Associates for Phase 1 of the project and we've provided plan review comments directly to the Design Engineer with regard to the proposed sanitary sewer extension."

The next one is a letter dated November 18th from Greg and Ann Schneider and family. "We are unable to attend the Planning Board meeting tonight, but wish to give my unconditional support to the Black Creek golf project. I have lived in the area for the past five years. Recently I have had to choose to build a house and raise a family and remain in the area because -- because of and realize the -- unrealized asset to the area. It is my firm affirmation not only of myself, but to many of my neighbors that this golf course project would be a definite asset to the Town area. I would like to point -- I would like it to point to spend -- I make it a point to spend my money at a local" -- this is a bad copy. "I make it a point to spend my money as locally as I can. Chi-Paul Plaza," et cetera, et cetera. "This means that the Black Creek project will be first choice for myself and many of my friends. Sincerely, Greg Schneider." That is it for correspondence.

Just for the audience's information, there were a number of things regarding this project that we're trying to clean up tonight, and obviously the main concern is the DEC comments. DEC I guess will not confirm or deny that they have records or not of the submissions. They admittedly aren't sure what they have and what they have reviewed. So basically what we're doing, what we have asked them to do is to take a step back, take a look at it and look at it as if they're seeing it for the first time. Is that a fair statement?

MR. CARUSO: Yes. Because some of the questions are answered in our application and yet they just don't engage it. They say storm water management is an issue and Matt Gillette from the Water Division will send comments to the applicant. We have already designed through them. We deal with Matt (Gillette) on every project. It is not different than any subdivision.

DON FASO: You have submitted and he has commented and you take those into consideration.

MR. CARUSO: Matt (Gillette) hasn't reviewed it yet, but it is standard procedure and we will.

DON FASO: John (Caruso), can you comment -- like he is saying that we should positive dec it for full environmental assessment review. We have already neg dec'd it. By reaffirming our neg dec, that puts the burden on you rather than the Planning Board to answer all of their questions.

MR. CARUSO: That's correct. That is what I was trying to say. If you positive dec it, you become the lead agent to get all these questions answered. If you neg dec it, I have to get a permit from him, and there is no risk to you. We don't get a golf course project unless we can answer all these questions. If you positive dec it, you become the owner of this (indicating).

DON FASO: Then we have to prepare the draft Environmental Impact Statement.

MR. CARUSO: The Environmental Impact Statement is only going to address these issues because all of the other ones we have addressed for you at preliminary.

DON FASO: Correct. I just want the audience to be aware of where we're going with that.

MR. CARUSO: These relate specifically to the golf course. It really doesn't have anything to do with Phase 1.

DON FASO: Which we are not approving tonight?

MR. CARUSO: Right. We're on record saying that we understand that we have to come back for final approval on the golf course.

DON FASO: So by reaffirming the negative declaration on this application, we can proceed with final on the housing unit and on the conditional use permit.

MR. CARUSO: That's correct.

DON FASO: Do you want to touch on why you went from 36 to 27 on the golf course? You have cut out a few holes.

MR. CARUSO: We lost a significant amount of land on the south side -- we lost 22 acres of land on the south side because we did a wetland delineation and found that wetlands had grown, so we moved the golf course -- we eliminated nine holes and we moved the golf course in this way (indicating) and we redesigned this area (indicating) to be nine holes.

Most of the DEC disturbance that is in our application has to do with adjacent area. It is really not wetlands itself -- there are wetlands, but the most of it is adjacent area. But we lost 22 acres of developable lands to the expansion of wetlands in this area.

However, if you look at the wetland maps, the wetland maps show that the DEC wetland lines go like this (indicating). They're way tucked in here (indicating). So it was really under the work that we did that we found that the wetlands had grown, showed it to them, they confirmed it. They moved it out a little bit more for a safety -- you know, their safety factor and that is why we lost nine holes.

DON FASO: Because of your delineation?

MR. CARUSO: It was work we identified. Just like we identified that a storm sewer pipe had to be this much bigger than we originally thought, so we made them bigger. We have more ponds than we started with. I will tell you that I didn't think we would need to build this many ponds as we need to build, but we're able to work them into the golf course design.

JOHN NOWICKI: John (Caruso), could you, for the record, state at this point in time what you might be looking at in a phasing standpoint for the golf course, whether it is the nine -- is the nine hole par 3 or is --

MR. CARUSO: It is not an executive course. It's just a short nine hole course.

JOHN NOWICKI: The 18 on the other side, what is your phasing on the golf side?

MR. CARUSO: It would be built all at once. We wouldn't build this area or this area (indicating); it would be built all at once.

JOHN NOWICKI: Then the first phase we're talking about, 84 living units?

MR. CARUSO: Yes.

JOHN NOWICKI: That is out of 183?

MR. CARUSO: Yes.

JOHN NOWICKI: What is phasing on the balance of the housing units?

MR. CARUSO: Very good question. John (Nowicki), this looped road (indicating) is in Phase 1.

JOHN NOWICKI: That is going out the -- the exit to that --

MR. CARUSO: North exit here (indicating).

JOHN NOWICKI: By the railroad tracks?

MR. CARUSO: Yes. This is Phase 1 (indicating). Phase 2 would be this loop here (indicating). We may extend -- we may extend down in here (indicating). Then Phase 3, I think, would just be this last strip here (indicating).

JOHN NOWICKI: Tying it into the other exit?

MR. CARUSO: They're. But fortunately in the first two phases we're dealing with loop roads, no temporary cul-de-sacs or turn-around. I had a meeting with Joe Carr on Friday -- Thursday. Thursday. And he was very pleased that we were able to do this without -- I mean it has one cul-de-sac here (indicating), but that was at his request. That is because we had had this road here tied

through (indicating), and he just thought that that would turn into a raceway because it does go downhill.

JOHN NOWICKI: The housing looks like it will go in the first two or three phases. The golf course is after that with the clubhouse?

MR. CARUSO: Yes. We obviously want the golf course going as soon as possible because of the growing time. We would really like to see the golf course go while we're still in Phase 1. And that is why in the phasing, the timeline, we said that we would like to see the golf course start in 2004.

JOHN NOWICKI: Will you be back before the Planning Board for those phases?

MR. CARUSO: Yes.

JOHN NOWICKI: As we move into those sections?

MR. CARUSO: Yes, we will. We will have to come back for final site and subdivision for Phase 2, Phase 3, and the overall golf course, site plan.

RAY BLEIER: I would like to read an excerpt from the DEC comments here. That is --

DON FASO: What page are you on?

RAY BLEIER: It is a page, 002.

DON FASO: Okay. It has to do with the establishment of lead agency. It has "DEC has no objections to the Town of Chili Planning Board being established as lead agency for the SEQR review process for this project. Even though there are aspects of the project that involve approvals of issues of concern, the County and State agencies, the project also involves local zoning, flood plain development and other land use decisions that would best be represented by boards of the local municipality." I just wanted to bring that out.

But I have some other --

DON FASO: That is a good point. Can I interrupt you for a second? We sent out a letter dated October 21st, 2003, and it reads, "The Chili Planning Board at the February 12th, 2002 meeting declared themselves lead agency for the SEQR review process for the above-described project. We find this project to be a Type I action under SEQR regulations and subject to coordinated review of all involved and interested agencies. Please note all agencies were notified of this action and many responded with comments. However, we are rerouting the proposed plans to all involved interested agencies to reaffirm findings already made. If you have any further input, please direct your comments to my attention, Chili Town Hall or fax them to Town Hall. Comments are due by November 17th, 2:35 p.m. If the Town does not hear from you at the time and date, we will assume that you have no objection to the Chili Planning Board being designated as lead agency and that you have no further comments to make on this application." This went to Chili Town Board, Conservation Board, Drainage Committee, Engineer's Office, Monroe County D.O.T., Pure Waters, County Health, the Department of Planning and Development, Monroe County Soil and Water Conservation, the New York State Department of Transportation, New York State Department of Environmental Conservation, New York State Office of Parks, Recreation and Historic Preservation and the U.S. Army Corps of Engineers.

And I did have one piece of correspondence I forgot to enter in that was stuck in my map. This was faxed to me from Traffic & Safety on November 9th addressed to the Board. "The Traffic & Safety Committee reviewed the plans for the Links at Black Creek. Our committee is concerned about the impact of the development of this size to Archer Road and Beaver Road intersection. The intersection already sees a large volume of traffic during peak times. Consideration should be given to the right and left-turn lanes on Archer Road at the developer's entrance. Our committee is also concerned that access to the clubhouse is through the development. The peak time that the clubhouse would see the most traffic is in the evening and on weekends. This would be the times pedestrians would be most prevalent. Consideration should be given to a separate roadway for the clubhouse. If you have any questions, feel free to call me," and that is from Fred Trott, Chairman.

RAY BLEIER: John (Caruso), when this application -- John Caruso, when this application came to the Board here, there were several things that were brought out during that application. One was that the golf courses would be developed first before the housing went in, and I thought that was very commendable that you would take that approach. And now I see that we are, in fact, starting with the housing.

One of the things that you mentioned tonight was that some of these issues that you have to resolve with DEC could severely impact the development of the golf courses, and you said, well, you

know, we can still go ahead with the housing because Phase 1 doesn't really rely on a lot of these issues with DEC and that is very -- that very well may be.

But then I have to ask myself the question, if there are some very serious impacts that you cannot resolve with DEC and the remaining 15, 24 houses that don't get developed, are we going to really want this type of a housing plan that we are being asked now to give final approval on?

MR. CARUSO: It is an excellent question, Ray (Bleier). It is an excellent question. We throw questions like that at each other in internal meetings and we talk about these issues all of the time. So fortunately, I think I have an answer for you.

Unfortunately, we did have to change our game plan. We did say that we wanted the golf course to go first. The reason why is because it takes a year to build it, and it takes another year to grow it. We wanted it to go first, and we did not expect that the DEC was going to give us as hard a time as they are, and I think it -- I think they have a little bit of a chip on their shoulder. They have permitted projects much bigger than this, much more difficult. We are providing so much more mitigation on three or four one -- we are giving them so much, it is almost a no-brainer, but we think there is a little bit of personality that we haven't had a chance to get into yet. What we did is we wanted to get our application into them, and when we did, they're just starting to review it. Now, we have been fortunate, before we had submitted our application, to meet with them on several occasions and to hear what they were looking for us to submit in our applications, and during that time period they said to us, "Well, we lost a lot of people to retirement. We do not have a lot of staff. New York State has a hiring freeze and we don't know when we're going to be able to review this. We think that it's probably going to take six months to a year to go through the permit process."

At that point we immediately sat back and recollected our thoughts, because six months to a year, these gentlemen have closed on their financing. They are paying a significant amount of interest on the money that they borrowed, and they have the money. That means they're paying the interest on it. They have no way to recoup it. It is either we were to take this move, as a financial move and move forward with the housing to try to generate some sort of revenue for this project or it has a very serious possibility of going into the toilet. And we just literally made some defensive moves. Not we. I was consulted -- "John (Caruso), what do you think about it?" I said it is going to take me X amount of time to get this approved, and then you have to build it, the streets and then you can start building the houses, and then at that point they would be able to see dollar one. That is why we did change our game plan. I didn't want to get into that, but it is a very good question. I think we needed to answer that.

The second thing about -- well, what happens if we do approve Phase 1 and you guys can't meet the DEC requirements and you never build the golf course? Well, I don't think that will happen, and I will tell you why.

Because somewhere, somewhere along the line somehow we will change our design if we have to in order to build the golf course. They're committed to the funding. If we had to give them more, impact less, somehow, some way, we will do that. So there will be a golf course with this project.

Right now, it started out being 18 on the north side and 18 on the south side. We have already moved. And we make that point very clear to them when we meet with them. We already lost nine holes to something that we found out and pointed out to you, 22 acres of land. When Bill (Howard) bought that land, he didn't get a discount on those 22 acres. He paid full shot for it and yet we went out and realized it is wetland and it is no good.

So the point is if we have to cut off one of our fingers to save the rest of our hand on this project, we will.

RAY BLEIER: Might be a little hard to swallow.

DON FASO: It makes sense.

MR. CARUSO: It is a great question. We go through that --

DON FASO: I thank you for your honesty.

MR. CARUSO: We do risk management. This is a big project, guys. This is millions of dollars. Millions of dollars.

JOHN HELLABY: As Don (Faso) stated, and we just got this -- I took a few minutes to breeze through it. Do you foresee any real show stoppers? I mean just going through it briefly -- I guess as far as the delays from trying to get started on the golf course portion in 2004?

MR. CARUSO: The one comment in there that I didn't care for that bothered me the most was sort of the non-engineering -- or the non-technical comment that came from the wildlife biologist who

said that he thought that the economic viability was in question, and I questioned whether a wildlife biologist should be commenting on the economic viability of a project like this, however, he did. And I think that is where you start to see maybe the personality and I may just need to meet with Mr. Lent and let's just keep this on a professional level. If you need to have this kind of study, we'll study it and here is the results and hopefully it is in tune with our golf course design.

DON FASO: I was taking a look at it and re-reading it. A lot of it is just cut sheet stuff that just jumps out at you.

MR. CARUSO: This is Mr. Lent's first crack at putting all his thoughts down on paper. He hasn't been able to do that because there hasn't been an application before. He is biting his fingers. He can't wait to comment on it, but he hasn't had an opportunity to comment on it.

DON FASO: As you said, he can't attest to what he has and has not received.

MR. CARUSO: Bill Kreienberg was just advising me that, you know, most of the disturbance and the impact that is coming in this letter and was addressed on our application is on the south side. Okay, that is where it is.

And if we had to, we would amend most of the south side, but the 18-hole on the north side is good. We have been told straight out by the DEC, if you didn't have to fool with the south side, boy, you guys would be under construction right now.

DON FASO: DEC said that?

MR. CARUSO: Yes. It is six months to get a DEC permit. And you know, I showed you our team. These guys -- I selected this team because we have done it before. So they know what to do.

You see, that is the thing that we bring to the table when we deal with Peter Lent. Well, when we were in Saratoga we did this. And when we were in Chenango we did this, so what do you mean? We know how to do this. This is the type of wetland it is. This is the type of wetland you give back to replace that. It is right in your books. So they sort of met their match with these professionals that we have. But they do it very tactfully. They're very good at what they do. They know not to try to cheat. They try to be overconfident with how much mitigation they offer back. That is what we have done in this development. This whole area right here (indicating), this whole area right here (indicating), well, it sort of goes off -- that is all mitigation. This whole farm field you see from Archer Road down there will all be new recreated wetland, some 13-acre wetlands. We have to build it -- the one that floods automatically -- but we have to go in and carve it up. We're not taking flood storage. We're not taking that a --

DON FASO: You're enhancing a wetland.

MR. CARUSO: Yes. When you do a wetland -- these are things I have learned. I'm a civil engineer, but I have learned from working with these guys, where do you put wetland, new wetland when you disturb -- let's say this piece of woods, that they had to cut out five trees to put that trap in here (indicating), when you give it back, you don't give it back here (indicating). You put it right along the corridor where it was taken from. These guys had a 34-acre stream corridor to work with. It was sort of a no-brainer for them to build more on the existing wetland corridor. Where else would you replace habitat. So they really had a lot to work with on this project.

JAMES MARTIN: The one comment in here that I think is appropriate to tonight's discussion is the one on the archeological activities on the knoll they call it, assuming that is the highland. By my historic memory, the Indians always lived on high ground over the creek. I know you have addressed that already, but what is the feeling on this -- on your part at this time, around complete assessment of that archeological area?

MR. CARUSO: I can tell you this: We know that there is -- well, let me back up. There are several different phases of archeological study. Phase 1 is cursory. Phase 1B. Phase 2 investigations and then so on.

We have taken this site down to -- down -- right down to Phase 2 investigations where the cultural resource professionals have found certain areas. They have gone in and removed the artifacts that they found, and then they test them to see if there is any certain value of them, and then they would be categorized and brought to a place that they could be shown.

None of that occurs in Phase 1. And the areas they did see, it was at the edge of -- in and around this edge here (indicating). What they found is the next thing you should be asking me. What is so significant. The majority of the artifacts they found were -- I'm trying to think -- cherts or debris

from when they chip something. The chips that they found are cherts.

JAMES MARTIN: I'm familiar with that.

MR. CARUSO: Those are what they found. They found a lot of them. Mostly they designate this site as it used to be used for hunting. At a camp they would sharpen their stones, make up arrowheads, but they found them in this area here (indicating).

So we're not talking about long houses and, you know -- burial grounds or development where they lived on top of the hill. That is not what they found on this property. And part of our DEC permit is to get a clearance from SHPO on the cultural resource aspect, and we do have a consultant out of Buffalo who is taking care of that, dealing with SHPO and Albany directly.

Our golf course architect is out of Syracuse, so we're sort of spanning the State here.

DON FASO: I can only remember one other time where we actually had to do something like that, and that was Union Station with Jim Howarth.

MR. CARUSO: If you remember, my sort of -- the problem I have with that is, it really is laborious to manage and coordinate all this work, and once they do find something and they take it out of the ground and say we have seen this hundred times before, and -- it costs a lot of money to get to that point. They categorize it and put in a plastic bag and there is nobody who will take it because they already have one in the museum downtown. So you go through all this, and there is nothing you can do with it.

DON FASO: I remember it cost Jim Howarth an awful lot of money to do that archeological investigation. No determination was ever made.

MR. CARUSO: We're approaching the \$100,000 mark just to check that one list off on our DEC application. That's a huge amount of money. We could build a whole lot of roads and sidewalk in this project with that.

JOHN NOWICKI: I want to start out with a very unusual question. How in the world did you guys get a goose crossing down by the driving range?

MR. CARUSO: Well, you know Bill, he can -- he --

JOHN NOWICKI: Where did this goose crossing come from --

MR. CARUSO: He went into Dan Kress' office and he had an application here, and he filled it out --

DANIEL KRESS: We don't issue geese permits.

JOHN NOWICKI: Who actually put that -- I mean, how did that come about? I'm curious as all heck.

DON FASO: There is a yellow State goose crossing sign for those who haven't seen it --

JOHN NOWICKI: Right by the driving range. It was just put up in the last 35, 40 days.

DON FASO: That is an unusual question.

JOHN NOWICKI: Where did that come from?

MR. HOWARD: I think it is Jimmy from the junkyard across the street.

MR. CARUSO: Is it really a sign erected or --

JOHN NOWICKI: I saw the sign. I said -- it says "goose crossing."

JOHN HELLABY: There was article in the Gates-Chili News.

MR. CARUSO: That is a County road there.

JOHN NOWICKI: County or State, I don't know. I thought you had something to do with it.

MR. CARUSO: I'm sorry, I don't have an answer to your question on that one.

JOHN NOWICKI: I just wanted to start off with the tough one.

DON FASO: Now for the easy one?

JOHN NOWICKI: Easy one. Bottom line on this report -- you had a chance to read this, or no?

MR. CARUSO: Yes.

JOHN NOWICKI: You and your -- well, the investors -- you obviously told them what is in this report. What's your feeling as far as complying with it and your best guess as to satisfying everything and getting this thing moving as far as the golf course goes?

MR. CARUSO: Our best guess is that we are going to comply with it. I think it is really not -- it is not the proper terminology complying with it. Our approach to resolving all of the questions in here is one, to assemble our team, to go through and see who is going to be responsible to handle what.

Secondly, then I want to set up a meeting and go meet with them, with our team with everybody knowing what their responsibilities are, and then they can start asking individual questions. At what level of detail do they want us to respond to. Then we'll go back, answer it and reassemble a response and submit it. Now, you understand that every DEC application that is submitted, when they write back to you and they say -- with their comments -- you know, Larry (Nissen) and I will do that -- they don't do it -- they don't call it their review comments. They call it a notice of incomplete application.

JOHN NOWICKI: Dan Kress?

MR. CARUSO: No, Larry Nissen. When the DEC does it, they call it a notice of incomplete application. That is how they notify you of the things they want you to do. It is another engineering checklist for us to have to go through. Some of the stuff is not easy to do. Some of the stuff is already in the report. We have to sort of nicely tell them, this is on page 7, if you notice we have identified all of the -- I'm sure a lot of information is available for them.

JOHN NOWICKI: Again, this is the southern portion of the project --

MR. CARUSO: That's correct.

JOHN NOWICKI: The other area I wanted to talk to you about is, again, my -- it is not a concern, but it is a concern. I want to know how we're going to deal with who is going to build these homes, these townhomes and patios homes and I need something on the record. I need resumes who is going to be involved in building these things. Who is the architect who is designing these things?

MR. CARUSO: Al Arilotta.

JOHN NOWICKI: Local?

MR. CARUSO: Yes.

JOHN NOWICKI: When will we know or how can we know -- we'll probably design a condition of approval here, we get resumes before any building permits are issued on who is going to build these places.

DON FASO: Where we're coming from on this -- I think I can speak for John (Nowicki) on this. What we don't want to run into, because we have in the past and it is very cumbersome when you have a developer and you have a separate builder, you get people doing this (indicating). It is not my fault, it is the builder's fault. The builder says it is the developer's fault. I want to make it clear to Bill (Howard), you are ultimately responsible. You are the developer. You are responsible for the builders. They answer to you. So if there is a problem with the builder, Dan (Kress) is going to call you and --

MR. HOWARD: Boy, I would love that. That would be the first time.

MR. CARUSO: This is sort of unique. Bill (Howard) is offering up what the plans are. Bill (Howard)'s vision on what is to go in here is the uniqueness because he is not being led by what the builder wants to put, what he knows he can sell. That is not what we're portraying to the Planning Board. This is a planned residential development. It is one of the newer ones out of the book that we're using. We came up with these plans because this is what he wants up on the hill.

DON FASO: Do you envision one builder exclusively?

MR. HOWARD: Not them.

DON FASO: This is where we're going with it. You could have one builder building townhomes and patios and other single-family residential --

MR. HOWARD: We would rather have one.

DON FASO: It could be a difference in grade, because if they spread the soil and it doesn't match the grading plan, you have to get it fixed.

MR. HOWARD: We are doing the developing, so we would be getting it fixed. We're paying for the development.

JOHN NOWICKI: There are qualification differences. That is why we're asking for resumes. We ran into situations in the Town.

DON FASO: John and myself and Ray (Bleier) go back to when we had major problems. We were all on the Board at the time and there was a lot of finger pointing and it took forever to get things resolved.

MR. HOWARD: Right.

JOHN NOWICKI: We have had companies on other projects that before -- if they're selling off lots, we want to know who is buying what and what is happening here, because we want to protect this Town. We want to protect the people that are buying those homes initially and if you change in midstream to another builder or developer of quality that has been down graded, that impacts their

values and this is a very serious problem. We don't want that to happen. We need some kind of a condition or situation here that is going to protect this Town from that happening ever again.

MR. CARUSO: The condition would be we have to notify you of --

JOHN NOWICKI: Resumes of the builders that are involved and come back before the Planning Board with those resumes.

DON FASO: On for discussion, John (Caruso), informally so we know who they are and what they're doing. Just to keep the Board informed.

JOHN NOWICKI: Before the building permits are issued.

That is one of my biggest concerns.

DANIEL KRESS: If I could suggest another possible alternative the Board might want to think about. We have some specific architectural information that has been submitted, and possibly the comparable example that comes to mind, and I will leave it to you as to whether it is comparable enough, was the condition that the Planning Board put on the approval of a resubdivision over at the Mayflower development, where I believe there were 12 or 13 lots approved or reapproved roughly a year ago, and I don't believe there was necessarily a condition about the particular builder, but I know there was a very specific condition about what the buildings were going to be looking like by the time they were built.

JOHN NOWICKI: We knew the builder because we knew who the former guy sold it off to. What we required there were absolute detailed architectural drawings prior to issuing a building permit.

DANIEL KRESS: I guess I'm suggesting if you have sufficient information and assurances on those, perhaps no matter who the builder is, we have what we need in the way of assurances.

JOHN NOWICKI: We're stating on the record here and on these items of advertisements here dollar values of starting at this, and we have been stung on that, too, and I don't want that to happen in this Town. I want to be very honest. This project here could be the most beautiful thing that ever happened to Chili. Done right, and done well, you have an asset here.

MR. CARUSO: I agree. I'm just reluctant to agree without thinking through our -- are we putting the Town in the middle of a business deal?

DON FASO: No.

MR. CARUSO: Then we're asking you -- if we have -- if we have Smith Builders, are we asking the Town -- and we have a deal with him, but the Town doesn't like Smith Builders, we can't use Smith Builders, or does Smith Builders have to build what you approve here and he has to build it well?

DON FASO: I think we're saying if you are using Smith Builders and you want to go in another phase with Jones Builders, you come to the Planning Board and say, "We would like to go with Jones Builders." Here is what they have done in the past. You know, they have done this in Webster and this in Greece and this in Penfield.

JOHN NOWICKI: We want resumes and qualifications, drawings that -- you're going to submit these drawings to us, we want them in full detail. Architectural drawings complete to look at.

DON FASO: We don't want control over who you're selecting.

JOHN NOWICKI: We want to know who it is going to be.

MR. HOWARD: This is a different concept, so I want to speak to it.

It is a different concept than what we're accustomed to. I represent different builders here locally. I'm told constantly how they will build it, where they're going to cut, what they will do, where they're saving money. We -- I went to Vegas; California; Scottsdale, Arizona and Florida. We found these unique plans, brought them back. We put that flavor in this community and what we're trying to do is, again, architecturally we would have the say, specs, the designs and then interview those builders to build to our specs. This is how our vision is. This is what we want. You're not cutting corners. These are our specs and details what we want to do. So that is where we're coming from. It is different, unique. We're not being told by the builders what they want to do. We're telling the builders what we want them to do.

JOHN NOWICKI: So it shouldn't be a problem then because you will submit to the Planning Board as a condition the architectural drawings for the townhomes or the patio homes, and the other thing that the Board --

MR. HOWARD: Which are already done.

JOHN NOWICKI: Which we have not seen.

MR. HOWARD: You will see the illustration, you will see the specs, standard features,

everything.

JOHN NOWICKI: Types of materials, 10, 15-year roof, the whole thing?

MR. HOWARD: Right.

JOHN NOWICKI: The other thing we should see is a resume of the builder to identify his qualifications as a builder. Because we all know there are certain builders in the community who are extremely good builders, and there are some builders who are not good builders, and I think that is the thing -- if you're putting in your advertisement \$175,000 and up, I think we better be assured that we're going to get \$175,000.

MR. HOWARD: Oh, you will.

MR. CARUSO: It sounds to me like we're in agreement.

MR. HOWARD: Yes.

JOHN NOWICKI: As long as we can get those conditions in there.

MR. CARUSO: Again, I just don't want us to inadvertently put ourselves in the middle of a business deal. That is not what we're doing. They're in agreement on doing that. I think Bill Kreienberg made a very good point. They're the developer. It is in their best interest to have the right builder in there building the project. Because every beautiful building he builds sells the next one for them. That is a very good point. They have interest.

JOHN NOWICKI: Just remember there -- some of us have been around this Town long enough, all around the County we have seen some things happen we don't want to happen again. This Town has come a long way in the right direction and we want to keep it that way.

MR. CARUSO: So it looks like we're in agreement.

JOHN NOWICKI: The other area that I had here -- do you have an idea what this is all about?

DON FASO: No, I don't. We have comments from the Conservation Board. Have you seen them?

MR. CARUSO: No. I know that we recently met with the Conservation Board, and they --

DON FASO: You have met with them?

MR. CARUSO: Yes.

JOHN NOWICKI: I don't know all that stuff.

MR. CARUSO: Fortunately for me it was Brian (Donald) who had the good fortune of meeting with them. I understand that they were -- they were going to vote not to approve the conditional use permit?

DON FASO: The terms of the original use permit for the driving range are not currently being met and they didn't specify what those conditions were, so I'm at a loss as to explaining that comment. It doesn't make sense to me.

And the other thing is for the Vistas at Phase 1, their comment is the Conservation Board -- as pending for approval, the Conservation Board received a copy of the original fill permit and SEQR permit for this project. That shouldn't be a problem. The drawings, maps we revised to designate the Town codes will be followed regarding street tree plantings. I mean that is code. You have to comply with the code.

MR. CARUSO: For sure.

DON FASO: So I'm not sure why they made that comment. I think you have got more than enough trees on the property.

DANIEL KRESS: Mr. Chairman, if I may. I was also at that meeting, and I told the Conservation Board at the time that I would certainly see to it that they were provided with copies of the fill permit and the SEQR information that they requested. They haven't met since.

DON FASO: By SEQR, do they want the SEQR application information that the applicant submitted? What is --

DANIEL KRESS: I will send them a copy of the EAF. I am assuming that is what they were looking for. They were not more specific than that.

MR. CARUSO: It is our understanding being there, most of their problem was they didn't understand the fill permit. They just didn't understand the fill permit, whether one was -- that is why they wanted a copy. They didn't know the extent of the fill. And it is -- the Environment Review Board, if you will, they had concerns about it, which is probably right. But they were much more diligent worded at the meeting about not supporting the conditional use amendment

and --

DON FASO: Do you know what that refers to?

MR. CARUSO: I think it was just because they didn't understand the fill permit process, so they said -- they didn't understand if one had been issued and one was ongoing and they thought construction had started on the golf course, and they just weren't informed, so that is why I think their request is can we have a copy of the fill permit.

DON FASO: Okay. You will see to that?

DANIEL KRESS: Yes, sir, I am.

MR. CARUSO: Brian (Donald), is that correct?

MR. DONALD: It was the fill permit process and also they had concerns that the layout of the driving range had changed since what was previously approved at your original Planning Board approval for that. And because of that, they didn't feel comfortable lumping it all in with the Links at Black Creek. That was their concern.

MR. CARUSO: But our request is really dealing with the use of that amendment, not anything else. We just want to get the use wrapped up, so it is every three years, everything is approved.

JOHN NOWICKI: You're squared away on that. Thank you for submitting the disclosure on the partnership here. The only question I have, does this include the entire parcel? It doesn't specify the acreage.

MR. HOWARD: It is for the whole use.

JOHN NOWICKI: Entire parcel. Okay. That is all set.

We're in the Drainage District. Thank you for that.

Landscaping plans, we have done that. That is taken care of.

Keith O'Toole, as far as the Homeowners' Association, thank you for doing that. I think that will be a valuable tool for you guys and the people that will live there. He may want a copy of that. I'm not sure.

In my closing remark I just want to say to you gentlemen, and I have said this to you before in your company, you have done an outstanding job on this because it is very complicated.

MR. CARUSO: Thank you.

JOHN NOWICKI: There is a lot of detail and patience required. We still have a little ways to go, but I think we have the right team put together here, and to get what we need to do the right job, we're going to have one heck of a good asset.

MR. CARUSO: I think so, too.

JOHN NOWICKI: I think the Town should be proud of what we see here. That is all I have to say at this point.

MR. CARUSO: Thanks for the kind words.

DARIO MARCHIONI: I just like to echo John (Nowicki)'s comments. You did a good fantastic job here and I appreciate your explaining the detail of the whole project.

DON FASO: There is something I just want to make clear to the audience. One of the reasons we're here now today is there are a lot of loose ends that needed to be closed. There were things that were not done wrong, but they were done necessarily out of sequence. This project has seen two Planning Board Chairmen and two Code Enforcement Building Inspectors, and I just wanted to make sure Dan (Kress) and I were on the same page. There were a lot of things I was looking at that Dan (Kress) brought to my attention that we're clearing up tonight in one fell swoop. Mainly, basically starting from scratch with SEQR. That is step one.

MR. CARUSO: We went right back to the use permit. We fixed that.

DON FASO: Right. It was submitted, but the comments that were coming back, you know, they even admitted they were short-staffed and couldn't verify that they had or had not received it. So Dan Kress personally delivered the set of plans to Avon, personally handed them to them, so we basically started at step one just to clean up all of the loose ends, everything is done once and for all and final.

KEITH O'TOOLE: I would like to ask John (Caruso) to submit a written -- a neg dec and if you could submit it on disk.

DON FASO: The reaffirmation?

KEITH O'TOOLE: Yes.

DANIEL KRESS: You have already mentioned, there was a fill permit issued back in January of

2002 for some filling. This is all on the other side of Black Creek we're talking about. In addition to what had already been the site plan and approval grading plan. I promised at the last Conservation Board meeting they would get a copy of all that information and I -- that was October. I will see by the November meeting, they will have it.

Other than that, I was going to ask what Keith (O'Toole) just did, so I don't think I have anything else to say at this point.

DON FASO: When is the next Conservation Board? I will see if I can attend.

DANIEL KRESS: They meet the last month day of the month, so they have a meeting coming up very shortly.

DON FASO: The 24th.

LARRY NISSEN: I have a question for John (Caruso). I'm wondering -- John (Caruso), we have got subdivision plat map here. Can you explain the significance of this, the large one with the --

MR. CARUSO: Just a separate plan so we can file the map --

LARRY NISSEN: That will be in -- that will be in addition.

MR. CARUSO: Yes. That is the one combining them all into one and then we'll divide that.

LARRY NISSEN: I would request if there are any final Planning Board approvals granted for subdivision and site plan, it be contingent upon engineer's approval.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

BEVERLY NEDER, 82 Attridge Road

MS. NEDER: I would like to echo Mr. Nowicki and Mr. Marchioni's comments about Mr. Caruso. He is a very good planner. He has a way with words. And he can almost convince me that this is -- you're taking what I would refer to as a sow's ear and with a little manipulating, we're going to turn it into the silk purse and we glossed everything over and we pretend that everything is going to be fine. Well, if I were sitting up there, I would have more questions about this DEC letter. And I wouldn't be in such a rush to go against their recommendation that you declare this a positive dec. And the same with our own Conservation Board.

There are still a lot of unanswered questions here. Yes, there have been a lot of questions over there about their fill permits. I want to know were they ever in violation of their fill permits. As the audience here, we don't know what comments the DEC had, and since you only received that letter yesterday, how can you possibly -- you received it in your mailboxes today -- how can you possibly have had time to study that and know what is in there and that they will comply with them?

And I have been coming to these meetings long enough, I have heard enough promises from builders that, "Don't worry, this is going to work out," and then when it doesn't work out, well, just like Mr. Caruso said, "Well, we thought we were going to be able to put this golf course first, but now we have to do this first. We thought we were going to be able to build a golf course, but now the DEC won't let us do it."

I wouldn't go forward with this until you're sure that there is going to be a golf course there. How can you sell homes which part of the value of that home is golf course, without any assurance that there is ever going to be a golf course here? You're putting the cart before the horse.

KEITH O'TOOLE: Actually, if I may, I have a question for Bill Kreienberg. In the offering plan, is there going to be a guarantee that one or more golf courses are built for the home buyers?

MR. KREIENBERG: The offering plan will represent the current status of the permit process and the development. It is the developer's intent to build it, but we have to go through these conditions.

KEITH O'TOOLE: Thank you.

MS. NEDER: So we all have our intents. There were a lot of intents on Union Square that have never come to fruition because everything turned out to be too expensive. Today we're hearing that they bought this land, they paid top price for 22 acres that turned out to be wetlands. Didn't somebody investigate this before they bought it? Didn't they know this? And now we're supposed to feel sorry for them and rush this through because they have invested all this money in it and they're not getting any return? I think we have to go cautiously with this, and get this DEC problem straightened out before you issue any permits.

CHARLES RETTIG, 1032 Coldwater Road

MR. RETTIG: I would like to request that the Board please read the New York State DEC letter into the record. We don't know what that says, and it would be good to hear.

DON FASO: It is rather lengthy.

MR. RETTIG: I understand that, but --

DON FASO: It is --

MR. RETTIG: It has much meaning.

DON FASO: I will tell the stenographer to enter it into the record, and this letter will be available tomorrow for public review.

The audience indicated the hearing is now.

DON FASO: I'm skimming to make sure we haven't overlooked anything.

A lot of these comments are boilerplate comments. I will not read them into the comment. They will be entered into the record. I will not read them.

GEORGE BARTNETT, 30 Cross Bow Drive

MR. BARTNETT: Mr. Chairman, did you ever receive a letter from the Traffic & Safety Committee concerning the dedication of those roads up there?

DON FASO: The dedication, no. Their comment was on the traffic and intersection.

MR. BARTNETT: There was a previous letter that was tendered to this Planning Board where a vote was taken at the Traffic & Safety Committee, and they recommended that the roads in this development not be dedicated. I'm on the Traffic & Safety Committee, and I voted that the roads not be dedicated primarily because of the comments of Mr. Carr, and Mr. Carr was the one that talked me into the inadequacies of having the Town take over these roads. So I will refer back to your previous comment that you take great stock in Mr. Carr's suggestion. This was a suggestion he made to the Traffic & Safety Committee, and we voted unanimously to suggest to you that these roads not be dedicated. Thank you.

Incidentally --

DON FASO: Keith (O'Toole), New York State law, if a subdivision comes in, if the developer wants to keep them private, we can't make them dedicate it? Correct?

KEITH O'TOOLE: That is my understanding.

DON FASO: Conversely, if he wants to dedicate them to the Town, we would be hard-pressed not to accept, as long as they meet -- they are built to Town specifications, correct?

KEITH O'TOOLE: That is right.

DON FASO: So I don't know where Joe Carr was coming from. I don't have that letter, George (Bartnett).

MR. BARTNETT: Well, it was -- I was at the meeting.

DON FASO: And Mr. Caruso has stated on the record he has met with Joe Carr. He has taken into account Mr. Carr's comments and adjusted the road pattern at Mr. Carr's suggestion.

MR. BARTNETT: Obviously then Mr. Carr had some concerns, and one of the concerns was that the cul-de-sacs are difficult to turn around. I heard one comment earlier that we're going to revise it because of Mr. Carr's suggestion, and there is going to be some cul-de-sacs there. Then a few minutes later I heard that there is not going to be any temporary cul-de-sacs. That had me somewhat confused. But if these cul-de-sacs are similar to the cul-de-sac that I live on, it is extremely difficult for a large plow to do the plowing on those. That is neither here nor there. I just want to make mention that letter should have been read the first time and should have been read this time.

DON FASO: I can tell you these plans were spread out at a table. At the table were Mr. Carr, Mr. Kress, Mr. Nissen and myself, and not once did Joe (Carr) say he wanted them private.

MR. BARTNETT: I'm not speaking for Mr. Carr or the Traffic & Safety Committee. I'm not privileged to do that. I'm not the Chairperson. I'm a member of that, and I am a resident of the Town of Chili, and I know that everything should be read in the record, and that committee -- if that committee -- if we're just submitting things that are just going to be discarded, I would suggest tomorrow night at the Town Board meeting they eliminate that committee. That is neither here -- that is over with.

The second comment I would like to make to the developer, I don't think that the DEC is picking on them alone and they shouldn't feel sorry for themselves. The DEC is tough. They're tough on

everybody. And thank God that they are.

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: I would just like to echo some of the other comments that have been made within the last few minutes. If the Traffic & Safety Committee's comments are going to be disregarded at a later date because you have a meeting and you don't understand or don't have the comments from the Conservation Board -- and I was at that meeting. They were quite forceful in their opinions -- then I don't know why we have all these Town committees. Why do we have these? You better get all these facts. And you don't have them.

DON FASO: I do have all of the facts. I also know what the law says. I also know what the code says. I know what the Conservation Board can and cannot do. And I can point it out to you in the code.

MS. BORGUS: So you aren't going to pay any attention --

DON FASO: It is not that I'm not paying attention. I am paying attention. But legally they have overstepped their bounds.

MS. BORGUS: You're an attorney, and you know that?

DON FASO: I can read.

KEITH O'TOOLE: Actually I am an attorney and what he said is correct.

MS. BORGUS: All I can say is that the DEC has not put their blessing on this. The Conservation Board had questions, and I really think it is up to the Planning Board to go out and find out what they were and not guess from whatever you have in your hand. You should find the letter from Traffic & Safety and see what their concerns are. I just think there are too many questions here tonight to pass this. There is no rush. This is a big project. This is important. And I think that the DEC should definitely put -- give you some kind of an indication. Give the Planning Board some kind of an indication that this has got a go-ahead with them. Again, I do not agree with the implication that the DEC has been hard on these people. They have, as I understand it, had numerous problems with the DEC because they have done things they shouldn't have done down there. They have been fined, although they didn't want to admit that. They have had to remove soil. They have had to do a lot of things down there to get back in the DEC's good graces, if they're there, and the DEC has reason to be leery of these people. This is an extremely difficult site to work with. Look at the water here. Look at what we're dealing with. This is the DEC's big issue. This is what they do. And if they want to be super careful, you should take heed of that. There is no rush to do anything here tonight. Let's get our act together and be sure of what we're doing before we just go blindly away and give these people what they want.

They're in the business to make money. We're in the business -- you should be in the business of making sure that our Town turns out the way it is supposed to. And you should also give all of the government agencies that help us do that a chance to comment and find out all of the facts. So I would ask you to table this and wait at least another month. It won't be a big hardship on anybody. Think about it another month, and maybe you will have a lot more facts by then.

PAUL DOBELSTEIN, 32 Parkway Drive

MR. DOBELSTEIN: I have to confer what I heard about the Planning Board saying this is seemingly a very worthwhile project. It is the kind of thing, as I look at the way it is perceived, imaged to the audience and to the Planning Board, I think it is the kind of thing that could make us very proud about our development. However, I have heard some things that have created a lot of misgiving in my thinking about how quickly this project is headed forward. For one thing, I'm disappointed that we're not, as an audience -- before the Board makes their decision, I'm disappointed that we are not being advised as to the contents of that letter from DEC. And I feel that way specifically because what I heard here tonight was a sort of trilogy of difficulties that this whole project is having with DEC, and how we're going to remediate those potential difficulties. I heard, for instance, that if DEC wanted more slack cut on this project, the development team would certainly give them what they wanted. But I didn't notice that that was going to be put into writing.

I also heard that if the DEC had discussed privately with the developer, I assume, that if they stayed away from a sensitive area in the south, they had no problems with the golf course concept. But I didn't hear any mention that that was put in writing either.

Then I think the thing that was most egregious to me that I heard, that a respected developer stands up and says that one of the difficulties we have got with getting this project through is because DEC has got a chip on their shoulder. And it is a personality problem. That is an extremely untoward thing for any professional people to be doing, especially when they have to deal with DEC.

The final thing that has got me concerned is that it seems that the development team would like the Planning Board to relieve itself of the obligation of pursuing a very long and difficult course in this. Well, I would like to remind the development team, as well as our own Planning Board, that perhaps we ought to think about those opportunities or disadvantages before we glibly jump out in front and make ourselves lead agent. If we got into that, we should be into it right to the end. We shouldn't be jumping ship in the middle of the cruise and letting someone else handle our problems with DEC. I would think one of the most reasonable things to request here would be a tabling of this process until that Planning Board, your Planning Board, Mr. Faso, has had an opportunity for extensive communication directly with DEC, and find out exactly where they stand before we proceed with this any further.

I have nothing against the project, and I think a lot of you up there agree with that.

I think it sounds like a wonderful project. Anyone who has ever traveled this country and has seen some of these things knows that it brings a sense of pride to a community. It brings entre to perhaps new people. I will stretch the point of the devil's advocate and say maybe it will even bring new business into the area. That seems to be a buzz word today.

However, we have to do these things properly, because once we allow the people who stand to gain from this thing to take over our responsibilities with guiding the project, I think we're headed on a course to disaster and it affects all of us, because when things don't turn out as they're planned, it is taxpayers, residents, people who care about their community, people who want to stay here and not retire to the sunny south, who wind up paying the price, and I would heartedly recommend that you table any decision on this project tonight until you have more thorough communication with the DEC, and I thank you for hearing my comments.

BERNICE WILCOX, Stuart Road

MRS. WILCOX: I think this project, as Paul Dobelstein said when I first heard about it, was looked on quite favorably by the people in the Town, but after things got going a little bit, this applicant, in my opinion, has proven to have a very poor track record. And I hate to burst anybody's balloons, but I do believe that that whole project is joined together, and I don't see how you can separate it, and I don't see how you can do anything until you know what the DEC is going to provide with the golf course.

It seems that the developer is coming to Chili here because they are allowed to cut corners that would not be permissible in other towns.

Green space, protecting wetlands and environment appears to be a low priority by the Town of Chili at the present time. Are we fast becoming a Town where people will soon be saying, "Chili was a nice place to live"? When are the Planning, Zoning and Town Boards along with the Building Department going to do their jobs to protect our residents' quality of life?

There have been environmental violations by this applicant resulting in fines and required remedial work by the New York State DEC. The hundreds of loads of fill on this project in the flood plain will force the flood waters to go elsewhere. Where will they go?

What future problems will the Town encounter because of this action? I live on a state and national historic conservation area, Chili Mills, on Big Black Creek, and have noticed the longer length of time it takes for the high water to recede upstream during flooding. The swirling waters do cause erosion problems. At the preliminary hearing, that was May 15th of 2002, it was stated that the developer had no problems with DEC. This is simply not true, and I have the documents to prove it. This time. I didn't at that meeting.

Further, what assurances do we have that the developer is adhering to the fill permit issued by the Town?

Now I would like to read for the record so this time there is no mistake there were problems. This is from the New York State DEC to Willowbrook Greens, LLC, 420 Ballantyne Road, Rochester, New York.

Willowbrook Greens. "They hereby agree to pay to the Department of Environmental

Conservation, the State of New York, the sum of \$3,000 and agree to strictly comply with the conditions of Attachment A remediation plan prepared by Scott Jones dated 12/11/02 and Attachment B approved plans submitted by Passero Associates dated 11/02 which are attached hereto and made a part hereof by reason of my act consisting of the clearing and placement of fill within the regulated areas of New York State protected fresh water wetland number SC -- CI-5, and CI-12. The same being a violation of Section 24-0701-1 of the State of New York's Environmental Conservation Law and Act committed in the Town of Chili, County of Monroe and State of New York in August of 2002. And so stipulating, I waive my right to a hearing in this." William Howard signed it, President Willowbrook Greens, dated January 2nd, 2003.

And there are the signatures of the -- Lieutenant David Baker, and it says Willowbrook Greens, LLC, having violated Section 24-0701-1, State of New York's Environmental Conservation Law at time and matter stated above, and having waived right to hearing on violation, and having offered to pay the sum of \$3,000 by reason of said violation, after due consideration, and... it appears that this order will be advantageous to the State..." and so forth.

And they also had a remediation plan which consists of two pages. I believe the -- they have removed fill and most of this remedial work, according to the DEC as of this morning. Also, July of 2000, fresh water wetlands determination. Possible site wetland violation. A regulated fresh water wetland is located -- this is checked on this letter -- on or within 100 feet of this property and regulated activities in the wetland within the 100 foot adjacent area are subject to permit requirements. Also, checked, the property contains a regulated wetland or is within 100 feet of a wetland boundary, but the described project is located outside the regulated area and will not require a wetland permit. Also, please contact the U.S. Army Corps of Engineers, Buffalo office regarding any federally protected wetlands in the vicinity. Also, checked, the boundary of the regulated wetland located on this property has been precisely delineated as follows: Boundary is well west of existing fill. Entire area is part of recognized flood zone. Town should require compensatory upstream storage of flood waters. If disturbed area exceeds 5 acres, statewide -- I believe that is statewide, storm water guidelines become -- I can't make out his writing, but it has storm water management plan. Recommend, I believe. Storm water management plan. Civil action for future damage likely. Would require detailed historical area and events. Picture of area and events. We have a map here. That is that.

This is a report dated back in 2000. You people on all these Boards said that you had no idea of what was going on over there. That I was told by the Town Board, Planning Board, Conservation Board, nobody knew who to contact. It is funny I, as one little old citizen, could go out and find all this information. I don't think you're doing your job.

"On September 27th, 2000, I received a fax from Mr. Bill Howard which consisted of reports (minus most drawings) that he received from Mr. Scott Witter and Ms. Deborah Freeman regarding an assessment on building an 18-hole golf course at Willowbrook Greens. (Scott Wittier is the landscape architect for the project and Deborah Freeman was the wetland specialist/ environmental consultant.) After briefly reviewing the fax, I talked with Bill, at which time he asked me for a proposal to conduct an assessment of the feasibility of obtaining a wetland permit for the construction of the proposed golf course. On October 2nd, 2000, I sent Bill a proposal for this work. A day or two later, I received a phone call from Scott saying that the assessment had already been done and he thought that I should submit a proposal for doing a wetland delineation. (we discussed permitting, but I said that we should hold off on that until we got the delineation done to see what we'd be dealing with.) I had realized that the assessment had been done, but given the date, May 7th, 1999, I thought Bill wanted a more recent one. (According to Scott, Deborah is now working for an engineering firm and is therefore not available to continue with this project.) In talking with Scott about the project, he warned me that Bill is difficult to work with because he doesn't always hear what is being said to him, or only hears what he wants to hear. He said that Bill is very impatient and wants things done immediately, without really taking a step back and looking at the big picture."

DON FASO: Bea, I will stop you there. What are you reading?

MRS. WILCOX: I'm reading a report from the Department of Environmental Conservation (sic), and I think that this shows that this applicant has serious problems with the DEC and has not been forthcoming to the Town of Chili, and I don't think that you should.

DON FASO: I think it is very unprofessional of DEC to put comments like that in a memo, to be honest with you.

MRS. WILCOX: There are some more interesting ones in here.

DON FASO: Why don't you submit them for the record.

MRS. WILCOX: Would you like to hear the rest of them?

DON FASO: No, I wouldn't. Why don't you submit them, and I will enter them into the record.

MRS. WILCOX: I don't -- you know, I can just go ahead and read them. I am sure that the applicant had his say. I'm sure that it is time the citizens maybe had theirs. Right?

DON FASO: Submit them for the record. We'll enter them into the record.

MRS. WILCOX: They have been sent to the Town Clerk, and the Conservation Board. So you can obtain them from either place, but I do think you should suspend any action on this application and table it and find out the truth about this, because it -- if this person doesn't have the good sense to buy land that is usable, I question his ability to carry out any project. Thank you.

GAIL LYLE, 746 Paul Road

MS. LYLE: Unfortunately, I have been out of Town I so haven't been able to get all of the information I have been hearing tonight. I do understand that the DEC sent a letter to the Town and it was received and when someone went in and asked to see it, they were denied that. Even though knowing full well this discussion was going to happen tonight. I don't understand why you would be denied to see something, yet you have refused to read the said letter that is in question. I don't feel Peter Lent has a personality problem. Peter Lent is very dedicated to what he is doing in preserving, protecting the wetlands, taking care of the green space that we in this Town seem to ignore. Someone buying the wetland and saying the property is no good, do you go to the store and buy rotten apples? No, I don't think so. What you bought you knew you were buying. You're going to try to change the environment. You're talking about mitigation. There are limits about what you can mitigate, how much you can mitigate and that the DEC will tell you. Unless, of course, the fed comes in there. There is something about -- from the Army Corps, they protect and regulate according to Section 404, the Clean Water Act all waters in the United States certain types of activities such as land clearing use and mechanized equipment and sterile water requires certain steps that must be taken. Apparently the certain steps are not being taken. There are certain permits that must be applied before you guys try to do anything. There are studies you have not done that should be done. There are other guidelines that you are not following. So you're asking for a negative declaration when the Town should be doing a positive declaration? I think there are a lot of things wrong with this, and you better table it.

GEORGE PETERSON, 18 Beaver Road Extension

MR. PETERSON: Before I ask a question, you have the minutes from the Traffic & Safety Committee?

DON FASO: I have --

MR. PETERSON: Do you have the minutes from the Traffic & Safety -- you read something earlier regarding the Traffic & Safety regarding specifically Archer Road and Beaver Road. I wonder if you could read the one sentence regarding that. You spoke earlier on that.

DON FASO: Give me a minute.

MR. PETERSON: Sure. If you can't find it, I can go ahead and speak on it.

DON FASO: Well, if memory serves me right, they had concerns about the traffic and Archer, the intersection. They were looking for turning lanes. I really can't find it.

MR. PETERSON: All right. Okay. That is all right. I know some comment was made. I kind of agree with some turning lanes. Just what my concern is is the traffic. Obviously living there almost 40 years I'm pretty well familiar with Archer Road. As I mentioned the last time this was proposed, 12, 14 years ago, the Zubers put a fruit stand three months of the year, you pick strawberries. It was at the proposed second driveway coming out onto Archer Road in the Phase 3 of the project. They actually set the stand up and the Town made them go through the permits and they actually denied the permits stating they thought it was a very dangerous area for cars to be pulling out. Keeping in mind you had cars at that time that were pulling out during daylight hours, seasonal type of use for a fruit and vegetable stand. They cited that even though Archer Road is 30 miles an hour, we know cars don't do 30 miles an hour on Archer. They're doing 40 and 45. So they thought it was a very hazardous location for that kind of traffic to come out there. That was 10 or 12 years ago when they denied Zubers that permit to run that stand there.

Now recently with the traffic going on as far as when they redid any road, Beaver Road Extension, they said traffic has increased, so I just don't know if the Town acknowledged it was a very poor location for a seasonal operation 10 or 12 years ago, how we can now feel totally comfortable with a housing development exiting out of that same area.

Now, when -- I came to a public hearing in April, I guess a couple years ago when they talked about making Beaver Road a cul-de-sac and redoing Archer Road and Beaver Road. The plans that I saw from -- I forget the guy's name who spoke from the County. When you head south on Archer Road, he said there would be a right-hand turning lane developed into that -- on Archer Road. He said it wouldn't be just a small one, but one that would back up quite a ways to allow for traffic to go down Archer Road and turning right on Beaver Road. Heading south on Archer and turning west on Beaver Road. In addition, the plans called for if you're heading east on Beaver Road, that there would be a left-hand turning lane to turn left onto Archer and the other traffic would go straight. For some reason, that got nixed and I think it -- it should have been included in the plan. With this development coming in, I think we need to revisit that and get those turning lanes in because the concern I have, as you get residents exiting out of the proposed secondary driveway, I'm very concerned to avoid the light as it is now, that they may come out Archer, head north and then make that left onto Beaver Road Extension to go -- you know, to head west. I think if you have the proper turning lanes in there, you could encourage that traffic to use that light, go in the right turning lane and head west. Where the concern is in -- if you don't drive that road, I would like people to drive up Archer Road, following traffic, and attempt to make a left on Beaver Road Extension. It is a terrible line of sight. It is tough enough when there is not a car ahead of you, but when there are cars ahead of you and you want to turn left on Beaver Road Extension, it is very dangerous. I think we're waiting for accidents to happen if we don't do something to improve the intersection of Archer and Beaver like it was proposed a couple years ago.

I live on that street myself, and rather than make that left-hand turn -- I'm driving a full-sized vehicle so I feel sorry for someone who is driving a smaller vehicle that doesn't sit up as high. I try to avoid making that left as I head north up Archer onto Beaver Road Extension. I try to avoid making that left. I will go down to the other end and come in to get to my house. I'm just very concerned with the traffic coming out of that secondary driveway, now we're getting a different traffic pattern making that left turn there. That needs to be looked at again. The Town acknowledged traffic coming out of there 10, 14 years ago and it is in the minutes, it is a dangerous situation to have.

The other reason I would like the intersection developed is, I don't know as far as the construction phase, if they're going to have a primary drive and a construction drive. I know a lot of times with a housing development, they will make all construction vehicles use one particular drive, and I don't know if that will happen, but what I don't want is see to dump trucks coming down Beaver Road Extension. We're getting more commercial traffic because it is easier for the trucks to see. I don't want dump trucks using that Beaver Road Extension for a short-cut because there is not a right turning lane if they have to head west.

BARB DENIGRIS, 254 Archer Road.

MS. DENIGRIS: I am also in agreement with most of the people here, that we really would like to have this tabled at least a month just to give us a chance, all of us, to see the DEC letter. I was the individual who was in here this afternoon and was told I couldn't have my copy. I could go out and fill out the Freedom of Information Act and have it tomorrow, but I couldn't have it today because you folks hadn't seen it yet, and it was a letter that was addressed to you, so, therefore, I couldn't have it yet.

It would have been helpful if we had had a chance to review it and go through it a little bit ourselves. I do get the feeling that this is a very rushed thing again, and I understand that we have got money at stake. You have done a lot of work, people have put a lot of work into this. It is a tedious time-consuming thing. I do see changes in the plans, and they are very nice plans. I really like them myself. I think they are exciting. I think we're all kind of excited about this to come into town.

But we as residents are looking at you, the Planning Board, to answer these questions and to do it right. John Nowicki, you said it yourself. If we're going to do it, do it right, or we're going to be sorry later.

And what we're asking you to do is look at that letter, Mr. Caruso has said, "Yes, we'll answer

all these questions." That seems to be, like you said, in sequence, the wrong sequence. The sequence should be they should answer the questions to the letter, and then you make your decision. And as we have all said, what is a month? It gives us all a chance to see it. Now tomorrow morning I can go in and Mr. Kress can give me that letter and I can read it myself and ask him questions. I can call you on the phone and say, "What about this?" And we are the residents that live down there. We're the ones that are dealing with that traffic.

The last wind storm we had, the cars were backed up from the light. I'm assuming it was the light that went off during the wind storm from Chili and Archer Road, from that corner to the end of Archer Road on Ballantyne. Cars backed up, standing still. So we know there is a lot of traffic that goes up and down that road, and it goes very fast. There is a crest of the hill. People don't care. They're zipping over there, zipping back up and over. You should be there some day, just watch it for a while. It is terrible. It is very scary.

DON FASO: I drove that way to work many, many years.

MS. DENIGRIS: It is a thoroughfare from Henrietta to Gates and back and forth. People don't live there. They don't care. They're just trying to get home or get to work.

So we are very concerned about those two exits and entrances there, especially the one by the light. The light has eliminated some of the problem, but to say that it eliminated all of the problems, we know that is not true. Traffic is traffic and people are crazy drivers and we'll have to deal with that. People coming out of that lower entrance, they will try to get out quick in the morning, they're running late and somebody is whipping down the hill and they will try to cut into traffic. Guarantee there will be accidents.

The other question I had is, is the Planning Board aware of what the schedule is of that railroad? How many trains go by there? What times of the day do they go by there? If we have more traffic -- and I know, I was standing behind somebody the night I voted who lives in Wheat Hill, and he -- that whole subdivision there is very concerned about the traffic because they're already trying to get out into traffic in the morning. And they're the same thing. There is Wheat Hill, and I don't know what the name of the street is by the railroad tracks, but that is the same kind of situation where you have two exits and entrances. If you can't get out this one, they will zip through the housing development and come out the other one if that goes faster. People are very quick at learning most things.

So I think we need to know a little bit more about when the railroads go by. I know for a fact because I was out this evening between 5:00 and 5:30, two trains go by. That is traffic time. And the actual traffic starts around 4 in the afternoon.

So for two hours, there, we have got heavy traffic.

We have got -- I myself am in a position where, you know, I have lived there for 30 years, and if I want to throw in the towel, I can. I'm concerned more about the young families that are buying homes and moving into those developments with all these promises, and then they're going to have -- we're going to have trouble -- we have also talked and that is not what we're talking about tonight, but we're talking about all of the development going on in Chili. Perna has bought the land up at the end of the road. Bellaquia (phonetic), that is totally leveled, another whole bunch of acres of land that is going to be houses.

It is like Chili is being eaten alive. And what is going to happen to our school districts? I'm a retired teacher now, and I know what crowded classrooms are like. How is the school district going to keep up with this?

So these are things that the Planning Board needs to be wondering about, worrying about, for us.

In the Gates-Chili News there was an article here, and it really -- for the first time, I smiled. I thought, well, this is really great. The developer has also dedicated a portion of the site to the Town of Chili to be used for recreational uses such as jogging, cross-country, skiing, canoeing on Black Creek and hiking. Where is that? Does anybody know where that is on the plan?

KEITH O'TOOLE: Is that the Black Creek conservation easement?

MR. CARUSO: It would be the only thing I can think of. You know how writers take things out of text.

MS. DENIGRIS: That is not an answer. Why is it here?

MR. CARUSO: I have no idea. I didn't write it.

KEITH O'TOOLE: I believe what the developer intends to do is donate --

MS. DENIGRIS: These are the developers we're talking about right here?

KEITH O'TOOLE: Yes. I think they have answered the question. They have answered the question.

MS. DENIGRIS: Where is it?

KEITH O'TOOLE: If you allow me to finish, I will tell you.

MS. DENIGRIS: Sure.

KEITH O'TOOLE: There is an easement to be donated to the developers by the Town of Chili. The easement will cover the Black Creek corridor, and so people can use it for whatever recreational purposes they want to use it for.

MS. DENIGRIS: What is the Black Creek corridor?

KEITH O'TOOLE: It is a strip that straddles Black Creek.

MS. DENIGRIS: Could somebody go up and point to it?

DON FASO: It follows the creek.

MS. DENIGRIS: How will you jog along there?

JOHN NOWICKI: It's just an easement where you can get into that -- if you want to develop something, you have the right to develop something in there. There are other easements along Black Creek, other development that occurred many years ago, where they did the same thing. They tried to extend those easements along the creek, but again, it is project by project.

MR. CARUSO: It is 100 foot wide, the easement.

MS. DENIGRIS: On either side.

JOHN NOWICKI: On the owner's side -- in this case, both sides.

MR. CARUSO: 100 foot on either side.

MS. DENIGRIS: Of the creek -- from the middle of the creek?

MR. CARUSO: That's correct.

MS. DENIGRIS: And that is a little hard to cross-country ski through there.

MR. CARUSO: Ma'am, those aren't our words.

MS. DENIGRIS: Where would she get them from?

MR. CARUSO: I'm sorry. I wouldn't --

DON FASO: Direct your question to the Board.

MS. DENIGRIS: I will ask her tomorrow.

DON FASO: It is a news article that for whatever reason has a quote in there that I can't answer.

MS. DENIGRIS: Okay. All right. Fine.

And we are also concerned a lot about the drainage, especially those of us who are living on that side. Now that they have scoured the land there and left just a few trees, it will be interesting to see what happens this winter since we're supposed to have another real winter, what happens to our backyards? Now we're all on septic there. And there -- I -- there has been no mention of what is going to happen with the drainage. It said there in a list that the drainage has been addressed. How? How has the drainage been addressed? What is going to protect our homes from our backyards becoming even more soggy? And we know, those of us who live there, that that hill -- and that's a hill. That's a hill -- is going to drain down towards us.

One of the meetings that we had about a year ago, Mr. Caruso said that the slope of the hill -- maybe he could fill this out for me -- I'm not sure what he meant. He said the slope of the hill really can only be 10 percent. 10 percent incline. And maybe you could go on and tell us where that was, the 10 percent incline. I remember you wanted -- you went and showed us what a 10 percent incline really was. That was in your office, and obviously, part of that hill, a good portion of that hill is definitely not 10 percent. That's a hill. I can see where the Town Traffic Department would be concerned about plowing that and keeping that clear in the winter. That is a hill. Those are slippery roads. Thank God there aren't any more cul-de-sacs, just loops, but, you know, when you get loops, lots of people on that, trying to get in and out, lots of driveways, filtering in and out of there, that is going to be a tough job. I can see why they wouldn't want to handle it.

We're also concerned about the sewers. It is a moot point. If they put the sewer line behind us, I don't think there is anybody on that road who has enough money to hook up to it. But on the other hand, we'll be paying the taxes to be in that sewage district.

So --

DON FASO: I don't think that is going to be the case.

MS. DENIGRIS: I'm sorry?

DON FASO: The sewer district will be created for the subdivision. If you want to be in the sewer district, you need to petition the Town to be included in it.

MS. DENIGRIS: So we don't have to pay taxes on it?

DON FASO: You will not be assessed.

MS. DENIGRIS: That is good news. Okay.

I again would like to reiterate that we really would like you to wait just a month, and allow people to get more information, and the Town, as well. I know the Democrat & Chronicle is here tonight taking notes, and know that article will go out and explain more about what is going on and how the Planning Board helped us out and protected us from anything that might go wrong. Things happen. But I think we have been through it. It sounds like you folks have been through this many times in the past years, in Chili. So your experience should speak to the fact it is better to wait than to jump into things and assume that somebody is going to answer all these questions when perhaps they won't. So thank you very much.

JERRY BRIXNER, 14 Hartom Road

MR. BRIXNER: Thank you, Chairman Faso and members of the Chili Planning Board. I am disturbed tonight, and I think -- I can only think of two words: Secrecy and denial. Secrecy because you have a publication from a State agency, and you don't want the community to know what that publication said or that correspondence said.

DON FASO: Jerry (Brixner), I have entered it into the record. What is secret about it that?

MR. BRIXNER: It is secret -- now is the denial word I'm also referring to, Chairman Faso. And one thing I want to note also, Chairman Faso, as Deputy Supervisor you know that on tomorrow night's agenda this issue in generality is to be approached, if I am not mistaken, through a public hearing; am I correct?

DON FASO: I have not seen my agenda. I have been out of town. I got back this afternoon.

MR. BRIXNER: Was it not set up for a public hearing for the 17th?

DON FASO: I do not have my agenda. It is probably in my mailbox. I have not checked it. I can't say --

MR. BRIXNER: I believe the 17th of November has been set up. Now, if you folks approve this project tonight, that public hearing goes forth without them knowing and at least one, two, three, four members of this audience ask you, sir, specifically to have that particular correspondence read, and you have denied them. Whenever you have, in my opinion, a government official who is relying on secrecy and denial, in my opinion, I think that is totally wrong. Thank you.

DON FASO: You're entirely welcome.

MARY ANN BIESENBACH, 242 Archer Road

MS. BIESENBACH: I'm the very first house on the project over there. There were some things that were said at the last preliminary hearing, which was last year, and you gentlemen and the members of the Board at the time assured us that when it came time for the final approval, you would certainly take things more into consideration and think things over and be a little bit more on our side and make sure things were done correctly.

I'm hearing a lot of things tonight that leave a lot of doubts in my mind. I'm not against the project. I just want it done right.

There are a lot of things that we all are considering. It is the drainage. The traffic. My house, when a train is going by, there is -- it is backed up to my house.

Last Friday night there must have been something wrong, so for two and a half hours the traffic was bumper to bumper on Archer Road all of the way down the street as far as you could see both ways. That is just an indication of something that -- an accident should happen and we always seem to have the fire truck and ambulance going down our street, many, many times.

In regard to the streets, at that last preliminary hearing it also was mentioned by the same gentleman, I believe, that was talking before on the traffic committee that he was concerned at that time about the streets being narrow and that the Highway Department wouldn't particularly want to take care of those streets because of no place to put the snow and the golf carts being on the course, being on the street, too. The gentleman brought it up again today, and it seems to just be going in one ear and out

the other, for this panel. I'm sorry, but that is how I feel.

The traffic is still bad. Everything that Mrs. Denigris said is correct. I was here today at the Town Hall, and we were denied access to that form from the DEC as she indicated.

I also talked to Peter Lent today myself, and he assured me that I could get copies at the Town Hall in regard to the DEC report, and I was very surprised when I went up there and found out we could not get them today. Again, as Mrs. Denigris said, they said you had not seen it, Mr. Faso.

The driving range, just where is the driving range going to be? Is it going to be where it has been in the past?

DON FASO: Yes.

MS. BIESENBACH: All right. Now, with the hill cut down, which I am sure it is going to be, we already see the lights at night in the summertime, the big bright lights that come over the hill now. What is it going to be like when the hill is cut down? That is another issue that I would like taken care of.

The homes, apparently there isn't really any description of what these homes will be except the pictures you just showed us. It doesn't really show us that in detail, just exactly.

Are they going to be a four-unit, two-story high, the townhouses? Last preliminary we were told it was going to be two-story in the middle and a single one on either side. Just what are they going to be?

I was surprised to find out that there is a public hearing on December 3rd for the sidewalks already, for this project, when nothing really has been settled.

We would like to know what kind of barriers, if you propose to do that between our houses and the project -- you know, bushes, trees or whatever. And could you tell me approximately how far that Number 7 hole is going to be from the backyard and my yard? I would appreciate that information.

They also called for a restaurant and a bar, snack bar, clubhouse, practice facility. Is that restaurant going to be open to the public or just the people that use the golf course?

Are the utility lines going to be overhead? You know, the gas -- the lights and stuff like that, or will they be buried under the ground? I'm just concerned about especially the traffic and the drainage because we have a lot of problems as it is with the drainage with the big hill. Thank you very much.

IRENE BRIXNER, 14 Hartom Road

MS. BRIXNER: I wonder if Mr. Caruso could tell us just how many acres of land is -- how much acreage is wetland in this area? I know it is 400 acres of land -- or, you know -- does that include wetland and land you're building on? Can you give me an idea?

MR. CARUSO: I don't know, Don (Faso). I don't --

MS. BRIXNER: You don't know how much is wetland?

MR. CARUSO: No, I don't.

MS. BRIXNER: And you complain that the New York State Department of Environmental -- listen. I will be quite honest with you. I don't know much about the project and I don't live in the area, but I don't think it is right that Mr. Faso and yourselves up there, you told us all about the letters, the good letters that favored this, but you didn't read that eight-page report, and what bothers me is why not?

JOHN NOWICKI: It's in the record.

DON FASO: I will read it. I will read it. All right. Here. Here. Pay attention.

MS. BRIXNER: I also wanted to ask something else.

DON FASO: It is boilerplate.

MS. BRIXNER: Has our lawyer, Mr. O'Toole, received the report?

KEITH O'TOOLE: Yes.

MS. BRIXNER: Have you analyzed it?

KEITH O'TOOLE: Yes.

MS. BRIXNER: That is all I wanted to know. I would also like to ask another question. All of the comments we are making, does that go into the minutes? Tonight's minutes, everything is?

DON FASO: Yes.

MS. BRIXNER: Okay. And I really would appreciate your reading that report, because I talked to the DEC, and they told me -- I told them that I have got to go to this meeting, but I do not have any knowledge of what is going on. Could you send me anything that you have sent them, and she

said -- somebody said that they sent you an eight -- a report, but that you won't be prepared unless you can get your hands on the report. I said, "I can't because the meeting is tonight." She said, "Ask them to read it to the group."

DON FASO: All right. Ready.

Don Faso read the report to the audience (see document on file in Building Department).

MR. CARUSO: There are a couple comments Miss Biesenbach made for the record that I wanted to address for the record.

DON FASO: Go ahead. Everybody has had a round of questions.

MR. CARUSO: I wanted to take a second and describe for the residents -- there were some things that were brought up with respect to drainage and how -- the buffering and the distance from the golf course to those properties. What else? Any other ones that I missed?

MS. DENIGRIS: Sewers.

MR. CARUSO: Go ahead. I think that Hole Number 6 -- 7, I'm sorry. Near the -- near Ms. Biesenbach's property, it is about 120 feet to the center of the hole from the edge of her property. There is an existing stand of trees that we intend to leave in place there. There is a sanitary sewer that runs inside that area that we have put in and extended to service some of the proposed homes, but it has also been designed and the design has been completed for the extension if those homes ever do want to tie in, there is a place for the sewer to go. So we thought that through and brought the sewer to that point.

The drainage. There is a complete line of storm sewers in that area. There is also drainage and an under-drain that goes with the construction of the golf course. It is intended to collect the water from the ground surface directly, but any water that comes off the hill that would go towards their houses would be collected by a drainage system we have installed and designed in that back area. Anything else?

The clubhouse is a -- 2005. It has not been designed that I can even comment on what amenities it might have.

MS. DENIGRIS: The clubhouse, bar and restaurant are all one building?

MR. CARUSO: Yes.

MR. PETERSON: On drainage, you mentioned something about you would be able to drain some of it off across Archer Road into that retention pond owned by Zuber. Did you try to avoid --

MR. CARUSO: It goes there naturally. It goes under the road. We collect it in the pond in the northwest corner and then discharge it from there.

MS. DENIGRIS: Somewhere along the way there was a discussion about a bridge going across Black Creek, a bridge somewhere to connect the driving range.

MR. CARUSO: Yes, there was. We eliminated the bridge.

MS. BIESENBACH: The existing pond that is there, will that still stay there?

MR. CARUSO: Yes.

MS. DENIGRIS: One question I had about the driving range and the lights at night. Are those eliminated? Have they been phased out of the driving range so it is a driving range during the day?

MR. CARUSO: The lights are still there. He hasn't used them in two years. He has kept them turned off. I think the intent is when this gets up and going, he would use them again, but we have had some discussion on how we can focus them and try -- I think the lights just shine straight out to maximize the use. He won't have to do that any more because of the orientation of the range. The range is getting a bit narrower. That is how we made up for some of the other course and he can turn them down a little bit. They're adjustable.

MS. DENIGRIS: You can really see them to Paul Road.

MR. CARUSO: I can see them from my track on Talos Way. He is lucky he met me before his conditional use permit was coming back up.

DON FASO: Any comments on the DEC letter read into the record?

MS. NEDER: I can see why you didn't want to read it to the public.

DON FASO: Oh, Bev (Neder), come on.

MS. NEDER: I don't think those were just boilerplate comments.

DON FASO: They will all be addressed in the permit process.

MS. NEDER: I think that the Planning Board should take the responsibility as lead agency, follow the DEC recommendations and declare a positive declaration until these things are answered.

DON FASO: DEC could declare themselves lead agency, too.

MS. NEDER: They're willing to help.

DON FASO: They should have declared themselves lead agency.

MS. NEDER: You took it on first.

DON FASO: Somebody has to start and then it is offered to everybody else. Local agency first.

MS. NEDER: Why did it take from February to May for the Town of Chili to reply to DEC's request for information?

DON FASO: I can't answer that question.

MS. NEDER: And was this information ever sent to the DEC in the beginning? We think it was.

Well, you know, this is a public hearing and I have a feeling tonight at a public hearing you're supposed to hear the positive and the negative. The negative has been stifled. You didn't allow Mrs. Wilcox to read her comments that came from the DEC. You may not have agreed with them, but it is a public hearing. She has a right to free speech and she --

DON FASO: They're entered into the record.

MS. BORGUS: I agree with Mrs. Neder. I understand as this eight-page thing was read, this letter was read, I can understand if you wanted to shove this through, why you wouldn't have wanted to read it. There is a lot in there that really, really brings our points to bear. The various things you have heard here tonight, obviously the DEC agrees with, and we didn't even have the benefit of having read that. So it is not that we took our idea from them. Our ideas mesh because we're right. This thing should be tabled. And until the issues that are in this eight-page letter are addressed this whole thing should be put down on the back burner until we get the facts. Then you can have another public hearing, everybody will be on the same page and the DEC will have been allowed to do the job they're put in place to do. You have to give them a chance to do their job and then you can decide whether this is a feasible project or not. Thank you.

MS. LYLE: Yes, I feel it was very rude of the gentlemen in the suits to all get up and walk out when you were having to read what we had asked at the very beginning of this meeting. They should have stayed. We listened to everything they had to say. They should have heard everything that was going on in here.

MR. DOBELSTEIN: Yes. I would like to say that your reading of the letter, I got most of it before I left the room. That brings to bear the idea of environmental impact. The EIS has to be something that concerns DEC. There is no place I have traveled or lived in this country that people aren't concerned about golf courses adjacent to or surrounding fresh water sources simply because of the chemistry that is frequently and often used on golf courses, and I would think that that alone would have been enough to trigger the encouragement from DEC to encourage that the Town Planning Board create a situation of positive declaration pending further studies about mitigation. There are ways to mitigate those dangers from chemical contamination of waterways, but we haven't heard a thing about that. Thank you.

MRS. WILCOX: I just think we're inviting a catastrophe with all of the filling that has gone on over there, and I would just like to read you something from an interview that I did with a gentleman in 1964. He said there was a log cabin on Ballantyne Road just west of Brooks Road on the south side, so I believe it would be on the southwest corner across from the radio tower. And in 1865 there was what they called the Johnstown Flood and a big Poplar tree 2 feet through was marked about 6 foot high on the trunk which showed the height which the water rose. This tree was next to the cabin. In 1903, July 3rd or 4th it flooded and came within 2 feet of the Johnstown Flood. John Kennefler (phonetic) was working for Joseph Krenzer on Ballantyne Road, had just finished setting cabbage when the flood came. It ruined all Krenzer's wheat and other crops. They had a flood in the spring and George Herbst's (phonetic) father lost three cows, pigs and chickens. Herb Smith would have lived in the house that sits way back across Beaver Road across from that wetland. It would be west of the clubhouse, but you would have to cross Beaver Road and the house that sits way back in the woods there. So let us hope we never have a cloud burst.

DON FASO: I found the letter. It was buried in the map. You want me to read it?

MR. PETERSON: I just can't think I addressed the traffic. Just something that I did hear, and I

do thank Mr. Howard for turning those lights off, but living out here my life, I'm hoping they're not coming back on. There are towns considering light pollution problems from too much lighting. I enjoy the scenery. They're doing a lovely job with the housing up there. Some of the people on top of the hill won't want to look into stadium type lighting. There is nothing you can do to tone those down except remove the poles. With the comment made tonight, I had a feeling they have a temporary stop to keep people quiet, and when it is up and running, you will turn them back on. I would just like to see the lights out there completely.

MS. DENIGRIS: I just want to say that I -- most of us do not want to come across like we're attacking you. We want you to do a good job, and we want to bring up as many questions as possible, and I think a meeting like this, the negative and positive do need to come out. That is how people come out with the right answer. We quarrel and talk about things. I just hope that you will stand up and do all your homework. This could be a real feather in your cap. Chili could get on the map by saying that we did our job and we were careful. We didn't let a Gates and a Henrietta happen to Chili. And it will. Some day we'll wake up, if we're not careful, and it will happen. We'll be gone and it will be too late then.

MR. RETTIG: In regard to the roads, it was previously mentioned at the preliminary hearing that the roads would not be any greater than 10 percent grade. Is there anything to verify that that is the case with the layout now?

MR. CARUSO: I was trying to remember where the 10 percent came from, and I can't. But I do know the roads in the Town of Chili can't exceed 7 percent and these certainly don't. I think I might have said 10 is greater than 7 percent, but an easy way to show it is in illustration.

DON FASO: 10 percent, 10 percent.

MR. CARUSO: Piece of paper is 11 half inches tall and 10 sheets shows you 11 percent. I use that example a lot, knowing it would be less than that. Those roads are designed at less than 7 percent.

DON FASO: Can't exceed 7 percent per code.

MR. RETTIG: That answers that question. The other comment was that with paths, that there were no golf carts on these roads. Has that been reviewed and corrected?

MR. CARUSO: It is not anything we have to offer. It is illegal, and --

DON FASO: Unless it has a license plate on it, it can't be on public highway except to do a diagonal cross.

MR. RETTIG: With previous layout there was no way for golf carts to get to the clubhouse unless they were on the road.

DON FASO: I think there are cart paths, back lots.

MR. CARUSO: They cross. We don't know what people are going to use.

DON FASO: That would be illegal on a highway unless it is a diagonal cross.

MR. RETTIG: That was another reason for not accepting the roads for dedicated use.

MR. CARUSO: The roads were all dedicated, never private. I have met with Joe Carr several times.

MR. RETTIG: That is not true. There was a previous letter that came out of the Traffic & Safety Committee that recommended that they not be dedicated roads. So -- and if there was improper --

MR. CARUSO: I know what we offered. We never offered them to be private. Might have been a misinterpretation from that.

MR. RETTIG: If there was not proper snow removal or storage or turn-around space, apparently you maybe have corrected that, but that was one of the initial comments. But again, getting back to what Mr. Nowicki said, to paraphrase, unless you have all of the information, documentation presented, you can't do a good job. So it should only be approved if you have complete information. Therefore, basically I recommend that this be tabled at this time so that you can get more complete information.

MS. BRIXNER: Thank you very much for reading the letter. I really appreciated that.

DON FASO: What is the Board's pleasure on this? Ray (Bleier), this is quite a document from the DEC. As far as -- we just read it and people here heard it. I'm sure we haven't fully digested everything that is mentioned in this letter.

JOHN NOWICKI: Can I ask you a question? Anybody on the Planning Board. If you look at the applications, and they're primarily just a renewal of conditional use --

DON FASO: Or final.

JOHN NOWICKI: The other ones are for the housing units. It has nothing to do with the golf courses. All of the reading material we're dealing with and DEC issues are with the golf course.

JOHN HELLABY: I agree with you guys, but I think what the big issue is here, if I am reading this right, is that they want to see this thing go through. Their concerns are do we get this housing development started and all of a sudden, whammo, a year down the road we don't have no golf course. Then we have a very nice subdivision.

JOHN NOWICKI: You can still end up with a housing development. The golf course, if it doesn't go, you could still end up with somebody building a housing development.

JOHN HELLABY: But think in -- I don't -- again, I don't want to get into the logistics on it, but I think in the offering, how they're selling this, being part of the golf community, and a year later that thing bounds out, they could have a mutiny on their hands up there.

JOHN NOWICKI: I'm just bringing it to everyone's attention, it is just based on the housing and the conditional use permit.

DON FASO: Application 6 is to amend the conditional use permit to 27 holes, approved on 9/10/02, and expired on 9/10/05. You want to take care of that? So we're renewing the conditional use permit, which is a Type II September 21, 2002 action, a renewal?

KEITH O'TOOLE: Yes.

DON FASO: Thank you. On Number 6, SEQR is a Type II, so no action needs to be taken. The letter will so state that. On amending the conditional use permit for the 27-hole golf course and to include the existing driving range at Ballantyne Road. So when that expires -- when would we want expiration on the conditional use permit on 420 Ballantyne Road?

The Board discussed proposed conditions for the conditional use permit.

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

1. All prior conditions of approval are still in effect.
2. The renewal is granted for a five (5) year period.

DON FASO: Now on Ballantyne Development, LLC, for final subdivision approval of 84 lots to be known as Vistas at the Links at properties mentioned below. This is for final on the 84 lots.

JOHN NOWICKI: That has nothing to do with site plan.

DON FASO: Site plan is the next one.

JOHN NOWICKI: Last one is site plan.

DON FASO: Right.

RAY BLEIER: They're kind of tied in together.

DON FASO: They are tied in together.

RAY BLEIER: In reality, we were getting a total package application.

I feel very uncomfortable going forward with the application. I don't believe we were wrong in doing a negative declaration. I don't think we have to rescind it and make it a positive, but I think a lot of the issues that come out in this letter have to be addressed by the applicant and DEC in concert and get back to us in the future.

DON FASO: From my own experience, positive dec'ing something and requiring an Environmental Impact Statement lists all of the things that need to be addressed to obtain the Article 24 permit. Those things need to be addressed anyway. You still have to comply with them. So if we neg dec it, based on the information supplied, you apply for your Article 24, they give you the notice of incomplete application, all of the things you need to address, which would be the same things that would be addressed --

MR. CARUSO: You wind up with two parallel processes.

DON FASO: The problem with the Environmental Impact Statement, if we positive dec it, then we have to get a consultant to give us a price on what it would cost to prepare the draft Environmental Impact Statement. We can tell the applicant how much it is going to cost to prepare it. The applicant

will say, "I don't want to spend that money." You do it. Then we would prepare it and have to review it. Or get the applicant to do it and then we would have to pay somebody to review the findings. It is a long and drawn-out process. We did this years ago on several of the large projects that came in years ago -- John (Nowicki), you remember this and Ray (Bleier), you would remember this. We did this for Chestnut. There were a couple other ones we did it for, where we did a positive. We went through the process of doing a draft Environmental Impact Statement, hired a consultant, had it reviewed and in the end we ended up addressing all of the things that would need to be addressed for permits. I'm just going to refresh the Board's memory. In the very beginning when we decided to have scoping meetings -- you remember this, John (Nowicki), Ray (Bleier), where we invited all of the involved agencies -- we even did it during the day, took time off from work, sat here, and no one from the State or County showed up for a scoping meeting. We changed them to the evenings. We sat here, and looked at one another. No one showed up. So scoping is -- you know, I would be hard pressed to have a scoping hearing. I really would.

MS. NEDER: Excuse me, Mr. Chairman. In the case of Union Square, when extra outside consultants needed to be called in, they required -- the Board, the Planning Board required the developer to pay for those consultants.

DON FASO: Then we had to pay to get it reviewed.

MS. NEDER: I don't remember that. And we also had a meeting with the DEC downtown that was open to the public to discuss this.

DON FASO: Everything that is in that letter will be addressed or the project doesn't move forward.

RAY BLEIER: I don't think it is -- we can reaffirm the negative dec. I have no problem with that.

DON FASO: Actually --

RAY BLEIER: I just feel uncomfortable about getting more input from the DEC, and the applicant trying to work out some things here ahead of time. Because, you know, Al (Hellaby)'s got--

DON FASO: But their primary concern is the golf course. We have not given final on the golf course. These issues will have to be addressed and they will have to come back before the Board and say, "Item Numbers 1, 2, 3, 4, have all been addressed are, here they are." John (Caruso) has his homework cut out for him.

RAY BLEIER: Yes. It comes down to the issue if we want to approve this with some possibility that the golf courses are not going to be developed.

DON FASO: You can approve Phase 1 of a project, but Phase 2 can never happen.

RAY BLEIER: True.

DON FASO: I live in a subdivision that should have been built out five years ago. It is still not done. Now there is a new builder there. I just promised -- my subdivision is supposed to have hiking trails around the detention ponds. There is not a trail cut anywhere.

MS. NEDER: That tells you how much the Town follows up on the builder's obligations.

RAY BLEIER: I approve preliminaries with the understanding it is going to be a total package, and anything less than a total package is kind of -- rescinds my approval that I gave.

JOHN NOWICKI: What are you suggesting?

RAY BLEIER: Well, I suggest that a lot of the issues with DEC get straightened out. We just got this thing. They drafted -- I -- obviously they were pressed, since October. Whether they received the originals -- I don't know. So you're forcing them to come up with -- you know, on a very short basis, but a lot of the stuff they didn't get until October 22nd, 29th. Here they're trying to get this to us because we set a deadline by 5 o'clock on the 7th.

DON FASO: But they admit they're not sure they ever -- they can't deny or --

MS. NEDER: You're not sure yourselves.

MS. LYLE: I thought with all of the environmental changes that are going to happen under SEQR, you have to be positive.

JOHN NOWICKI: There are a couple things that are in my mind, because what I am hearing from the audience, and what we're hearing up here, amongst ourselves also is positive in many ways. It is the details or the information that is lacking at this point. Yet everybody knows what has to be done. It is just a question of the people getting together to do this very difficult work between the DEC and the engineers and the -- can it happen in 30 days, I don't think so. So if -- is there a reason that we

have to move quickly? I mean, if we just table it for 30 days until next month and see what it looks like and get them to get the details together and go from there -- everybody in the audience basically has been saying they're not against the project. They just want the environmental issues cleared up and get it in the right direction so that the project goes all together. The housing and everything is done --

MR. CARUSO: John (Nowicki), there isn't anything we're going to work on on that list that is going to affect what we're asking for here tonight.

DON FASO: Mr. Caruso has the floor.

MR. CARUSO: There is not anything we're going to be doing on that list that is going to be affecting what we're requesting in our permit. I mean we're going to be working towards that, but in 30 days -- 30 days isn't going to matter what that subdivision looks like, what phase, or when the golf course starts. There is a buffering of work, we'll be doing our DEC permit application for the golf course; that has nothing to do with Phase 1. 30 days, 60 days, 90 days will not make you any happier. You will be happy when we come back for final site plan approval because we will have fulfilled all of the requests on that piece of paper.

DON FASO: I concur with that. I'm willing to go along with that.

MRS. WILCOX: These people have a bad track record. Remember.

DON FASO: Then I will move that we grant final subdivision approval on Number 7 for 84 lots to be known as Vistas at the Links, Phase 1.

RAY BLEIER: Do you want to do that or a straw vote as to which way people might be leaning, tabling versus approval?

DON FASO: All right. Straw vote. Ray (Bleier)?

RAY BLEIER: Table.

DON FASO: Hellaby?

JOHN HELLABY: Table.

DON FASO: John (Nowicki)?

JOHN NOWICKI: Not only the DEC issues, I want to see some other clean up here on a little bit of these issues that we discussed that are in the minutes. For 30 days I don't have a problem tabling. I would like to see them in 30 days. Clean up some of the stuff.

DON FASO: Next meeting is in three weeks.

JOHN NOWICKI: That is fine. Can we do it?

DON FASO: I don't know. Up to the applicant.

JOHN NOWICKI: I just think we need that period of time to clean it up, get it ready to go. I agree with you. Don't misunderstand me. I think that these two applications, 7 and 8, really you could move those off and get those approved because all of the DEC, all -- it is all south. All south, the golf course. And again, there are a few little odds and ends here -- I would probably favor a tabling.

DON FASO: What do you want to tell the developer he needs to come back in three weeks to address?

JOHN NOWICKI: I want to see the agreements. I want to see the one condition -- especially on the houses, the designs, the architectural units so we have some control over there. Definitely need control on that.

And there are some issues in here that Dan Kress and his letter to us, he had some indications in here that he would address that could be taken care of. There were sight distances on the road that they had to deal with.

DON FASO: Well, okay. If it does go to a table, those are conditions that -- or reasons we'll have to address to the applicant.

JAMES MARTIN: I think based on everything I have heard here from the audience and what we have stated up here, I'm leaning towards tabling at this point because I'm not satisfied. To me there is more in this letter, in the second section that -- there were some other issues that we didn't talk about, and I just feel uncomfortable moving ahead at this point.

DARIO MARCHIONI: Yes. We're talking about final subdivision approval right now, Number 7, right?

DON FASO: And 8.

DARIO MARCHIONI: Oh, we're putting them both together?

DON FASO: Well, they go hand in hand.

DARIO MARCHIONI: I don't know what difference it is going to make, 30 days, 90 days.

Basically we're just approving Section 1.

DON FASO: Phase 1.

DARIO MARCHIONI: By the time we get to Phase 2 and 3, I think a lot of these things will be ironed out. I'm sure that they're going to work very hard towards that. It is to their benefit.

DON FASO: Okay. Who wants to make a motion to do something?

RAY BLEIER: I make a motion we table this application until the applicant is ready to resubmit. Is there a second?

JAMES MARTIN: Second. On the motion to table.

DECISION ON APPLICATION #7: Tabled by a vote of 5 yes to 1 no (Don Faso) until the applicant resubmits for the following reasons:

1. No comments received from NYSDOT.
2. The Board would like to see renderings of all building types and styles.
3. Show all phasing limit lines on the plans along with projected time frame.
4. Applicant shall address as many DEC comments at possible by the next meeting.

DON FASO: I assume you want that for 7 and 8?

The Board indicated they did.

The Board discussed what they wanted to see when the applicant comes back.

Don Faso read a list of proposed reasons for tabling.

RAY BLEIER: It would be great to get a statement from DEC that development of the 18-hole golf course is feasible.

MR. CARUSO: I will not agree to that.

DECISION ON APPLICATION #8: Tabled by a vote of 5 yes to 1 no (Don Faso) until the applicant resubmits for the following reasons:

1. No comments received from NYSDOT.
2. The Board would like to see renderings of all building types and styles.
3. Show all phasing limit lines on the plans along with projected time frame.
4. Applicant shall address as many DEC comments at possible by the next meeting.

JOHN HELLABY: I would like to abstain and be dismissed from the remainder of the meeting.

DON FASO: You can do that.

INFORMAL:

1. Application of Wegmans Food Markets, 1500 Brooks Avenue, Rochester, New York 14624 for revised site plan approval to erect two 24' x 50' (amended) generator housing structures at property located at 249 Fisher Road in G.I. zone.

Art Pires was present to represent the application.

DON FASO: Art (Pires) called me and told me they had a power failure and they're taking measures that that won't happen again.

MR. PIRES: Good evening, Mr. Chairman, members of the Board. The application is for two permanent masonry structures to house temporary electric generators. We're looking for reliable back-up source of electrical power to serve our warehouses, that being the frozen food as well as meat distribution and perishable facility. This map (indicating), north is up. This is our complex in its entirety (indicating). This is the location of the frozen food facility (indicating) and then the meat distribution and the perishable (indicating). We're proposing the two separate structures, one within the courtyard, if you will, of the perishable and frozen food, excuse me, and the second one is west of the meat distribution facility.

Subsequent to the application we had a very minor revision and that is in the size of the structure, as well as the location. If it pleases the Board, I would like to submit a couple 8 1/2 by 11s for the Board's purpose as well as two site plans which show this information. This is a full site plan showing the revisions as shown on the excerpts. Very simply put, once again the original application was for a 24 by 24 masonry structure on the west of the -- just west of the meat distribution and then second within the courtyard of the frozen food, a 24 by 24. Subsequent to the application our engineers got into more detail. It is now a 24 by 50 foot masonry structure.

I also would like to submit for the sake of the Board a simple photograph looking towards -- looking towards the first housing just west of the meat distribution facility. What you have there is a picture of a distance of 520 feet from the existing water pumphouse that we have. The reason why I did a 520 foot photograph, distance photograph was because the distance from the west property line to the first housing for the electric generators will be approximately 520 feet from the property line. So the photograph that you have there in hand that I just distributed reflects a distance of 520 feet from the westerly property line once again to that generator. So once again, in summary, I took the photograph of 520 feet from the water pumphouse to mimic what you would see in the distance from the west property line if you went on level plain. That doesn't account for the fact you have a 20-foot berm there. As you can see, the photograph, it is pretty minuscule in size from that distance.

The purpose of the generator, once again, we have certain conditions as we have had this past August here with the power outage, winter conditions and we would like to be in a situation where we're not hauling in a trailer generator. The issue with that is we currently have three generators to serve 65 stores. We have millions of dollars of product in our warehouses and our goal here is to prevent a situation where we not lose a potential large portion of millions of dollar in product, but also the fact that we continue to service our 65 stores in the event that the power grid goes down, whether it be weather conditions or otherwise. That is the simple application. I would be glad to address any questions.

DON FASO: Are these two generator stations going to be sufficient to power the complex or just the freezer warehouse and produce?

MR. PIRES: These two are separate and distinct, one for frozen food, and that housing, there will be three generators, and the second one will service the meat distribution perishable. It is not for the entire complex. We may at some day come back for that, but our primary concern here is we do not want to lose product in the event of a shutdown in power grid or interruption in power grid which does happen one to two times a year. Beyond the weather conditions, there are also times, and it gets technical, but when the grid goes from three-phase to single-phase, which all of our equipment, powers, motors within the warehouses are on three-phase, so what they -- so what the emergency generator sets do, instantaneously or within ten seconds, they turn on and supply the necessary power for safety lighting and security. Then within a minute or so, the balance of it comes on so we can operate all of the other equipment within the facility.

What we have to do again now, we would bring in a portable trailer generator. We have an hour or so of four individuals setting up that operation. Then we have to go through hours of reviewing the potential damage to the equipment and our other systems, and then back after power is back on in the utility grid, one by one check all of the pieces of equipment, so it can be within eight hours that we're having personnel work through the whole system, where with these temporary emergency generators in place, it would be instantaneously up and down with very limited personnel overseeing it. The fact they're in a closed masonry unit has the sound attenuation. Obviously the visual. It allows us to maintain the units in winter conditions if necessary. But the key word is they're temporary only for emergency

use.

JOHN NOWICKI: Is it diesel fuel inside the building?

MR. PIRES: The units are basically -- they're like a truck engine. They have the engine. They have the fuel right at the base of them. It is not below grade. It is above surface, but the --

JOHN NOWICKI: All in the building?

MR. PIRES: All in the masonry structure.

JOHN NOWICKI: All fire protection systems in place?

MR. PIRES: Yes. We'll be building per all building code requirements.

JOHN NOWICKI: Now you have heavy-duty mufflers?

MR. PIRES: Mufflers, and the spec sheet shows 20 d/b/a for a decibel reading. Simple conversation is 60 d/b/a. Your refrigerator is 50. Air conditioners, 50 to 45. The mufflers here are 20.

DON FASO: Will this power the security building there?

MR. PIRES: No. That is a good question. This is not currently planned for the security building, no.

DANIEL KRESS: Just for the record, these are really intended -- I just -- probably -- bears repeating for the benefit of any neighbors that might be curious about this. These are really intended solely for emergency type use. This is not something in routine operation every day.

MR. PIRES: Once again, at best once -- one or two times a year. We can't predict outages, but that is historically.

DON FASO: You build them and hope you never have to use them.

MR. PIRES: Yes. Point of clarification with the security. Small side issue, but security is interconnected to all of the warehouses, so that is how I am sure it would be connected. Computer system and light.

MR. RETTIG: You have two buildings you indicated and how many generators per building?

MR. PIRES: Three generators per structure.

MR. RETTIG: Second comment. In regard to your explanation of mufflers with 20 d/b/a, thank you very much. It is very helpful. In fact, that is very good.

DON FASO: This is for revised final. SEQR is taken care of. So we're going to do -- revised final site plan approval.

DECISION: Approved by a vote of 5 yes with 1 abstention (John Hellaby) with no conditions.

FOR DISCUSSION:

1. Tim Hortons - proposed coffee shop/restaurant at 800 Paul Road in G.B. zone.

No one was present to represent Tim Hortons.

DON FASO: Dan (Kress) and I met with him. Nobody here. Dan (Kress) and I could probably answer preliminaries.

JAMES MARTIN: Significant traffic safety issues with that location.

MR. RETTIG: Informal question on Tim Hortons. What was the location?

DON FASO: Picture K-Mart. You drive in from Chili Avenue. Right there on the left.

MR. RETTIG: In front of the drainage pond.

DON FASO: They would re-work the parking lot. They say that they can take care of -- they will fill in the hole. Apparently they have done drainage analysis that says they can eliminate that.

MR. RETTIG: Good.

DON FASO: Nobody can ever recall seeing water in that thing. Just full of weeds.

I am proceeding with this? Did everybody look at this? Ray (Bleier), did you see this? This is what I brought up at last meeting, but I forgot the map. In from Chili Avenue. Right there on the left.

The meeting ended at 12:30 a.m.

A meeting of the Chili Planning Board was held on December 9, 2003 at the Chili Town Hall, 3333 Chili Avenue, Rochester, New York 14624 at 7:00 p.m. The meeting was called to order by Vice-Chairperson Ray Bleier

PRESENT: John Hellaby, Dario Marchioni, Karen Cox, James Martin, John Nowicki and Vice-Chairperson Ray Bleier.

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

Vice-Chairperson Ray Bleier 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.

RAY BLEIER: There are two informals that were scheduled that have been withdrawn. One is the Tim Horton's proposal. The second one is the James Group for PRD for Paul Road and Archer Road. Those items will not be heard this evening.

OLD BUSINESS:

1. Application of Ballantyne Development, LLC, owner; 3313 Chili Avenue, Rochester, New York 14624 for final subdivision approval of 84 lots to be known as Vistas at the Links Phase 1 at properties located at 420 Ballantyne Road, 210, 230, 252, 280 Archer Road, 573, 555, 553, 549, 413 and 411 Paul Road in PRD, FPO, FW zone.
2. Application of Ballantyne Development, LLC, owner; 3313 Chili Avenue, Rochester, New York 14624 for final site plan approval to erect 40 patio homes, 44 townhouse units, and 3 golf holes to be known as Vistas at the Links Phase 1 at properties located at 420 Ballantyne Road, 210, 230, 252, 280 Archer Road, 573, 555, 553, 549, 413 and 411 Paul Road in PRD, FPO, FW zone.

John Caruso, Bill Howard and William Kreienberg were present to represent the application.

RAY BLEIER: Do you want to continue where we left off? I believe most of the people in the audience have already heard the general presentation.

MR. CARUSO: Yes, I will. Good evening, everybody. I'm John Caruso with Passero Associates. At the last meeting the Board asked us to take a short delay until this meeting so we could review some of the comments that came out of the letter from the DEC and to advise you of the status of that. That was probably one of the biggest issues. The reason you asked us to do that is so you could assess the reaffirming, the negative declaration on SEQR. So I will -- because that is the longest condition that you put on the tabled matter, I will address that at the end, but there were three items above that that you asked us to look into. That was in your letter, Items 1, 2 and 3. What I would like to do is talk about those quick and then we'll go into the longer one which has to do with the DEC status and things of that nature.

So the first one was, the Board asked us to look at what comments or involvement was there from New York State D.O.T. And the answer to that, it wasn't appropriate that night to get into, you know, who is the municipal owner of Archer Road. But Archer Road is a Town road, and as a result, we have been working with the Department of Public Works on spotting where the driveways would be to service this project. That included looking at things such as sight distance for the southern entrance

and also the north entrance which is the one that services Phase 1 to see how far we would want to put that back from the railroad tracks so we didn't have constant disruption from cars backed up. So we have worked that out. We also did a complete

traffic study, and it was reviewed by the Town's consultant, and he agreed with us that although there was some degradation in traffic level of service, we're still way above acceptable level of service, so I do feel and we described this to you once before and you were comfortable with it then -- it has been a while -- but I do think we have covered traffic well. So with that, if there are any questions on the traffic issue, I will move on.

John (Nowicki), that was something you wanted me -- anything else on that?

JOHN NOWICKI: Not at this point.

MR. CARUSO: Okay. Then I will move along.

The second item was the Board had asked us to provide the renderings for the units we were going to provide there, and I know from several feet away you may not be able to see the level of detail, but we are showing the three different product styles that are being proposed to the project. I can bring one up again. But it shows the colors. It shows the architectural roof. 10-foot ceilings. It shows the stone that is going on all of the units -- they will have brick or some sort of fieldstone. The architectural treatment, the window. These are patio villas. Side-loaded garages. Windows in the garages, things of that nature. And I think we talked a bit about the types of units we were going to use. One of the things that the Board was considering, you know, who was the builder, and after having a chance in that last three weeks to talk about it, what we would like to offer back to the Board is as you had requested before, we will submit a resume of who that builder would be, and samples of their products and other projects, but again, we're continuing to tell the Board we want that builder to build this degree and level of finishes and exterior finishes in this project, not what the builder would be. So we would then agree to submit a resume of the builder to the Town for their review.

JOHN NOWICKI: Or builders?

MR. CARUSO: Or builders.

JOHN NOWICKI: I was hoping, seeing you touched on the architectural side of the project, maybe you have already put something together, but I was maybe expecting to see tonight maybe the specifications drafted that are going to control the quality of the materials and products used in the construction of these homes, patio homes, whatever.

MR. CARUSO: That's something that we could submit, John (Nowicki).

JOHN NOWICKI: Because I will make it a condition that we get -- if we get that far tonight, that we have to protect this Town on the quality of these units and those builders, and those resumes, if it is more than one builder. I will ask that you put in a condition that they come back before the Planning Board informally for approval. And that no building permits be issued until those builders get approval from the Planning Board.

MR. CARUSO: So you're going to ask that the Board approve who the builders are?

JOHN NOWICKI: We want to know who the builders are going to be. That is my opinion. The rest of the Board can make up their own mind.

MR. CARUSO: We don't have the problem submitting the resume, but then are we putting the Planning Board as partner with the business --

JOHN NOWICKI: It should be part of our package. It is the Town we should be responsible for and we'll have to address that and make sure the community is protected, and the resumes -- unless you want to submit those resumes ahead of time, either before the Planning Board makes final approval, that is up to you, but I think we have to have some protection here on who those builders will be.

MR. CARUSO: Don't you think you're getting protection with the plans we're presenting.

JOHN NOWICKI: We don't have the plans before us as a submittal. You're not submitting drawings to us along with specifications. If you came in here tonight with 22 different drawings of townhouses, patio homes and single-family homes with a set of specifications that said you cannot go below this level of quality, I would not have a problem with that.

MR. CARUSO: Couldn't that be something that we could -- as a condition?

JOHN NOWICKI: That is what I am saying, putting it up front so we can think about it, how to draft that condition.

MR. CARUSO: I'm trying to satisfy your concern on quality. I think we can do it, but we can do it without having the Board have authority over their business partner.

JOHN NOWICKI: I will be very blunt with you. There are some people that build some things in this community that I don't think should be in this town, period.

MR. CARUSO: But I think what we're trying to offer -- we're trying to offer the design and the quality in the design, agreeing to give you the specifications in the plans, but not have the developer --

JOHN NOWICKI: Give me the specification, give us the drawings, the condition. When we get to that point, if it is worded correctly and fairly for both parties, that's fine.

MR. CARUSO: I think it is a very mutual thing to agree to, because these developers have their financial security in this project. I think they want to see the same thing that you want to. It is easy for us to agree to. I just don't know if legally it's appropriate for us to have the Planning Board approving a builder. What happens if the Planning Board approved a builder and it didn't work out between them?

JOHN NOWICKI: We can work out the wording. We have legal counsel here and your legal counsel.

I'm a little nervous. I'm -- Rivertown comes to mind years and years and years ago. We had a similar situation out there where they said we'll have more than one builder there. It didn't work out too good. I remember that. It wasn't a great experience.

MR. CARUSO: You guys okay with that? We're talking about if we say we put stone and brick on the buildings, that is what we'll have to live with, but that is what we're going to propose anyway.

JOHN NOWICKI: We need to see the specifications.

KAREN COX: If they submit plans and specifications, that's a better control than submitting the resume of a builder.

JOHN NOWICKI: I still want the resumes.

MR. HOWARD: How did Homearama handle it?

JOHN NOWICKI: That was probably through Rochester Home Builders.

MR. HOWARD: Could we have it -- it has to be someone that belongs to Rochester Home Builders.

MR. CARUSO: John (Nowicki), I want to see what we're saying is coming through on the specifications and that is a simple thing to do because we're doing it anyway.

JOHN NOWICKI: I want the inspection, the quality of the project, windows, doors, the whole thing.

KAREN COX: We didn't ask for resumes for the Homearama property.

JOHN NOWICKI: Have it be part of the condition as they submit the specs and drawings --

KAREN COX: It shouldn't be the only deciding factor.

JOHN NOWICKI: The key is the specs and drawings.

MR. CARUSO: I agree, too.

Moving on, a phasing plan. You asked us to prepare a phasing plan of how is the project developing over the next seven to ten years. I hoped you received a copy of our letter and response and that in there is a colored rendering.

RAY BLEIER: Can you outline on the board what the phasing will be so the rest of the audience can see it?

MR. CARUSO: Yes. It should be -- does everybody have it?

What we're showing is the development of the residential community along with the golf course. The residential community is here on the site (indicating). It is the northwest corner (indicating). The first phase of approval we're asking for is Phase 1. That consists of about 84 units total. Almost a 50/50 split of patio villas and townhomes. Phase 1 will come in here. It will be the first loop, through here (indicating). Because there are so many lots in Phase 1, we think it will take two years to build it out.

We're saying Phase 1 will be 2004/2005. Phase 2 will be this next continuation, this loop (indicating), and we think this will be 2006 (indicating). Then Phase 3 would be through here (indicating), completing the loop and the second southern driveway. That would be 2007. But the golf course would be constructed in 2004. Right now, we're in the process of finalizing our permits with New York State DEC that allows us to build up certain areas and in and along the creek. The golf

course is about 50 percent designed right now. So with that, we're expecting that in 2004 we'll be able to start the construction of the golf course, and at the same time doing Phase 1, 84 units.

RAY BLEIER: I would just like to remind the audience that tonight we are just considering Phase 1 of the housing. Each additional subsequent phases the applicant will have to come back to the Planning Board for final approvals. So this is not a final approval for anything other than Phase 1.

MR. CARUSO: All right. And then if you're okay with that, Mr. Chairman, I would like to move on to the question that was asked to us, what is the status of our work with the DEC and how does our work address the questions that were asked to us in our notice of incomplete application. Are you ready for me to move into that?

JOHN NOWICKI: Sure.

MR. CARUSO: On page 2, I labeled it Item -- it is really 4A, but these -- what I have done is I have gone through the DEC's letter. Now, there are two letters that were sent out. One letter was sent to us, because we applied to the DEC for permits. And when they send back comments they call it notice of incomplete application. That is their comments. It is just like the Town Engineer when I submit to Larry (Nissen), he sends me a bunch of comments, John (Caruso), we need to address these things. With the DEC, they call it a notice of incomplete application. And what I did is I looked at that letter, and I compared it to the letter that was sent to the Planning Board. Now, the reason they sent two letters is that he was addressing two issues.

Number 1, he was addressing SEQR with the Planning Board. Number 2 he was addressing with us the actual issues we made to his comments and getting a permit. Just sort of simple. The technical stuff and SEQR stuff. Fortunately they're the same. The contents within both letters are the same. So it was easy for me then to take our letter and sort of summarize in each of these paragraphs what he was looking for and what were the issues. I sort of summarized them in our letter response to give you an idea what we have done about them. What is the status of our work associated with those.

The first one is cultural resource investigation. That has been ongoing for over a year. We are sort of quiet about it because we don't want people going out to the site, looking for cultural resources while at the same time we have professional archaeologists working on the site. We did have that conflict while they were working out there, people were out there -- while they were there, trying to dig up things while they were trying to protect things and the conflict is ironic, yet the sum and substance of what they found was removed from having architectural value. It whittled down to eight areas. Eight areas were determined not to have any further need to study. I'm sorry. Four of the eight were determined not to need further study. Four of the eight were removed from the construction areas. So we were able to avoid them, if you will.

And as a result, we were then able to finish our design report and submit it off to SHPO. So we do have that available. At some point we'll submit it to the Town. We're very cautious about it. It is not a FOILable document because it is a cultural resource and they are protected, so it is not a document that can be FOILED. So right now we're -- once we get our final version of it, we'll supply you along.

JOHN HELLABY: For point of clarification, do you have supporting documentation then back from the State Historic Preservation Office?

MR. CARUSO: No, but SHPO is fully aware of what is going on. It is actually a --

JOHN HELLABY: Have you made a submission to them, though?

MR. CARUSO: We have made contact with them. They have been involved with all along the process with the Phase 1-A surveys, because we have gone right through the progresses. Phase 1-A, 1-B and so on. If we thought they were done, SHPO would tell the consultant they're done, but they have not. They told them to continue.

JOHN HELLABY: Somewhere along the timeline they have to respond to you.

MR. CARUSO: That's right.

JOHN HELLABY: Give me an idea what we're looking at.

MR. CARUSO: I would expect within a month.

KAREN COX: Have they given you an indication that they're not -- I don't want to use the word "approve," but that they like what you're doing?

MR. CARUSO: Yes. As a matter of fact, some of the -- the way we just sort of finalized in the

last month our results was the four areas that we tested that we found that weren't -- we weren't going to have to do anything is as a result of a conversation with them, and the other

thing we found from them is the areas we're going to avoid, if we can hold a 25-foot perimeter around them, that would also be well looked upon. Their report shows the recommendation and implementation of these little 25-foot buffers around these hot spots potentially because we never dug in them. We just avoided them. That was sort of an easy thing to do because some are right in and along the creek corridor. We're not digging there, so there is no sense in -- so we didn't even have to give them a buffer. We said it is naturally occurring out of avoidance. It was an easy thing to give in on.

RAY BLEIER: None of the sensitive areas are within the Phase 1 perimeter?

MR. CARUSO: That's correct. No sensitive areas anywhere near Phase 1. The majority of them is where you would think, and that would be in and along the water course. I can't give you any more hints than that.

KAREN COX: We'll have to wait for the movie version.

MR. CARUSO: We just don't want people out there digging for gold, trying to find an arrowhead and trespassing on the property and things like that.

Number 2 is flood plain impact. You know, from the preliminary review we have always talked about flood plain. We have identified the flood plain and kept the residential development out of it. You have to do a lot of disturbance to a flood plain in order to get you into trouble. Because the size of the flood plain is very vast, we don't think we'll have any impact on it, but we're going to agree to meet with them to make sure that if there are any other studies that they want us to do, that we can do that, but we have had preliminary discussions with the person down there, and he said the type of studies that we're looking for are not very severe at this point, and we think it is just a matter of source, of answering this question with him on the flood plain issue. So our action to be taken is we need to follow up with them on the flood plain issue. But again, we're talking about building in other areas that might even benefit the flood plain by what we're doing, excavating in and around the golf course area.

KAREN COX: Again, that is not a Phase 1 --

MR. CARUSO: That's correct.

KAREN COX: -- issue?

MR. CARUSO: The wetland activities? Well, some of the things they were looking for in the report was full justification on, you know, why are you disturbing this wetland, what type of plant is it. That was all spelled out well in the wetland application. Unfortunately they haven't had time to review it so he just posted in his comments that the justifications for the flood plain requirements need to be met if you're going to disturb an area. There are certain processes you have to do to give back. In our case we're giving back a three to one mitigation ratio. They didn't really have a chance to digest that. When we meet with them to go through some of these issues, we'll bring that up and take them through that in the report. It is very well spelled out. So that is an action for us to do.

The fourth item was mapping. They were asking us to show the wetland and flood plain boundaries on the map. The whole DEC application is full of maps showing wetland and flood plain boundaries. Again, he was commenting on it. He just didn't thoroughly have a chance to review the report to see that we had satisfied that concern.

Irrigation and wetland hydrology. The golf course, if you can imagine designing a golf course, if you designed it and you were complete with the design, it is really a master grading plan is what a golf course is. One of the things they do after is a schematic layout of all of the piping underground, the small piping which is the irrigation system. When you put the number of heads in and so on and so forth, you come up with how many heads you have and how much water that will flow and then you will come up with a flow rate and that is how much water we would use to draw from our ponds. The irrigation portion of the design has not been designed yet, but it is part of our DEC application because ultimately we'll draw water from the creek, which is a very common practice. It is done all of the time in the country -- Monroe County's -- I should say Monroe County's golf course, Churchville, they have to show how much water you will take down a day as part of a permit process. They didn't see that in our work because we had not designed it yet. We told them in the report that as soon as we do design it, we'll tell you how much that quantity is and we'll recommend any improvements over impact. Now I have to tell you what our impact or impacts are is that our first place to draw down will be our own

ponds on the property, if for some reason they don't get naturally fed from runoff, because all of the water that comes under the railroad tracks into this property goes to those ponds. That is how we're feeding them. Plus the ground water, any natural springs. Secondary feed is drawing from the creek. So I think with that approach, not having the primary source the creek, it is an easy thing for them to see. It is a good design. So that is part of the irrigation and wetland hydrology.

The comment he made, if I could, is, well, can you prove to us in your design that you are not cutting off the wetland in this corridor by building this?

The answer is yes we can, because here are the major water courses that come through this property (indicating), come right through here (indicating). And if we connected here (indicating) and we connected here (indicating), naturally, at the same spots, then we're not intercepting. What they're concerned about is us cutting it off and then having it sheet flow through here where it is used to -- their concern is valid, but it doesn't apply to this project. The reason why is because our water discharges from the water courses. They're farmers' ditches. They're agricultural, connected right to the creek, a straight shot. His situation that he is describing is if a water source feeds a wetland -- consider an open cattail area, if we cut that off and rerouted that area, it would dry up and they would lose the benefit of the wetland. They say prove you are not doing that impact to the wetland. We know not to do that, and we have shown that in our report. Now, we will show them when we meet, but right now the golf course is only 50 percent designed. But as design criteria, we know not to do that. That is how I have answered that question.

JAMES MARTIN: I'm not sure whether this is a matter of consideration or not, but certainly there will be pressure on continuing development, the empty parcels of land, the other side of Archer Road, going towards Paul Road. Will there be any impact on your project as a result of drainage changes that may result from that additional development that occurs in that particular area? Has that been taken into account?

MR. CARUSO: What a good question. You're doing your homework. The answer to that is no because I have looked at those other parcels and they drain in the other direction. They actually have a water course -- follow me for a second here, Jim (Martin). But this parcel of land over here (indicating), actually drains this way (indicating). There is a big major drainage channel. If you may remember seeing the parcel that came through your Board for rezoning recommendation, that wetland, a big drainage channel runs on angle through the property. Most of all of the water drains through the channel, crosses under Beaver Road and goes to Black Creek the other way. It does not come across onto this parcel.

JOHN NOWICKI: I don't know if this is an appropriate place or time to ask. What about the hydraulics of the Genesee River? What impacts does that have on the upstream side?

MR. CARUSO: The hydraulics and hydrology of the Genesee River is controlled by RG&E. They control the floodgates down at Court Street for the height of the Genesee River. That is why the Genesee River doesn't really fluctuate much, because it is under a man-made storm water management system control, if you will. So that will dictate the flooding, the back waters on Black Creek. It is a sort of a good thing because we know the limits of it. I can tell you in this area, one of the limiting factors of Black Creek is not so much the effect of the Genesee River, but the culvert underneath Archer Road. Even though it is new within the last 10 or 15 years, is still not big enough to pass all of the water. So it sort of creates two different flooding areas. It will flood over here which you have all seen in the farmers' field (indicating). It will also flood on this property (indicating). But they're flooding from -- not all of the water can get under this culvert if it is flooding fast enough. And this parcel indicates floods from the water backed up from the Genesee River.

Okay. The last two issues for us to go over and then I'm done. Storm water management has been proposed on this project through all of the preliminary design plans and continues. We're implementing three detention ponds on this for storm water management which are shown on the design plans. We have submitted our Phase 2 regulation and all our calculations off to Joe Lu's office through Larry (Nissen) to review. Under standard procedure. That work is actually done, so that is it on that.

Under SEQR, which is the last item in our list, he is asking us to provide them with a copy of the Town SEQR determination. So if you reaffirm that, then, tonight I will have one, two, three, four out of the seven items done. So in your question to me from last month, can we wait another 30 days or so for us to assess where do we stand with these items, we have about half of them completed and we

already know what we need to do on the other half. The other half are no -- are no new items to you. We have been telling you we're doing them all along.

JAMES MARTIN: When do you anticipate meeting with the DEC to discuss the action items you have listed?

MR. CARUSO: Right after the 1st of the year.

Mr. Chairman, any questions?

RAY BLEIER: You have addressed all of the things we have asked from the previous meeting.

KAREN COX: Thank you for addressing all of the comments. That answered a lot of the questions I had since I wasn't at the last meeting. Will you be keeping us apprised of the progress with DEC and SHPO's determination?

MR. CARUSO: Yes. You will get copies of it. I'm sure SHPO will send them to you directly, but, yes, I will. The other thing, too, is we haven't asked for final approval for the golf course yet. We'll be coming back. We want to do that soon. So there is another place for you to see that.

RAY BLEIER: You will definitely have answers to all of the questions then when you come in for the golf course final site plan?

MR. CARUSO: Actually, we'll be looking to get that notice of complete application. It means that you're all set. It is just a matter of process now. Say I did get this all nailed in the first time through, a notice of complete application then starts a 30-day notification period, public comment, things like that go down. There are probably 30 to 90 days of things like that. Once that process goes through and no comments come back, then they will issue a permit.

JOHN HELLABY: The only question I have is the same one I had before in -- I know one of the problems at the last meeting was the short time plan that we had to review all this information. Now that I have had the opportunity to go through it, I think the majority of the problem stems south of Black Creek from my full understanding of this. In your offering for all these houses, should this move forward, I'm assuming they will be offered as a golf resort type situation, and you should be able to continue forward with the golf course north of Black Creek. Am I correct in that statement?

MR. CARUSO: Yes.

JOHN HELLABY: And basically, what the design flaws and changes -- depending on what DEC decides, it would directly impact what is taking place of South Creek for the executive course; is that right?

MR. CARUSO: There is no question, Al (Hellaby), that the southern side is a bit more challenging. It has more impact. It is forcing us to go to the north side to mitigate that impact. It would be an easier project for us on permitting if we were to sort of cannibalize the south side, but there is just way too much value in doing that.

JOHN NOWICKI: Some items that I wanted to clarify with you, John (Caruso), on one of the form letters from the Planning Board. This property has been included in the Drainage District?

MR. CARUSO: Yes.

JOHN NOWICKI: The property is also included in the Chili Lighting District?

MR. CARUSO: Yes.

JOHN NOWICKI: What about the Chili Sidewalk District?

MR. CARUSO: Yes.

JOHN NOWICKI: Have conservation easements been provided to the Town along the creek?

MR. CARUSO: I don't know if we have provided testimony. We have them written and it is just a matter of us giving them to you at this time. We can't give them as part of final.

JOHN NOWICKI: I'm sure counsel will probably want those.

The Conservation Board is reviewing it for landscaping for Phase 1?

MR. CARUSO: That's correct.

JOHN NOWICKI: Setbacks. You have gotten the various variances on setback?

MR. CARUSO: There were no variances in PRD. We set them and established them.

JOHN NOWICKI: That takes care of them.

I want to hear from Larry Nissen, our Town Engineer, in regards to what his comments are going to be.

MR. CARUSO: Sure.

JOHN NOWICKI: Also Mr. Kress, any comments he has, and I -- also from legal counsel.

That is all I have.

JAMES MARTIN: I asked my questions already.

DARIO MARCHIONI: I think we have covered pretty much every issue here. No questions.

KEITH O'TOOLE: You have before you a written SEQR determination, a neg dec resolution essentially which follows up on the neg dec discussion we had last month. Whereas the Board has, in fact, neg dec'd this project well over a year ago, we're doing this reaffirmation more as a courtesy to the developer to facilitate their ongoing discussions with DEC rather than to comply with the State law for our own purposes. Nothing further.

RAY BLEIER: Is that an appropriate time now or should we wait?

MR. O'TOOLE: You might want to wait.

DANIEL KRESS: The only thing I would like to add at this point is the office has contacted the DEC to determine if there are any additional concerns from their perspective. We were informed all remedial work on the south side of Black Creek has been completed to the DEC's satisfaction. A copy of their November 17th letter, of course, you already have. I did try calling Peter Lent again today to find out if there was anything very recent I should be aware of, and I was not able to get a hold of them. But I think it is fair to say at this point that apart from the issue of cultural and archeological resources, which obviously does pertain to the entire site in varying degrees, most of the other concerns in the DEC's letter and that Peter Lent is concerned about generally pertain to the golf course development and, of course, the further south you go, especially south of the creek, even more so. So I think it is important to remember which of these issues apply where on the site I guess is all I would like to remind the Board of.

LARRY NISSEN: We have received the storm water management calculations. We haven't reviewed them yet in detail, but I don't anticipate any problems with regard to this site. There is plenty of storage volume available and plenty of locations for discharge to the creek. So I don't anticipate a problem there, and we feel comfortable if the Planning Board were to grant final approval, to make it contingent upon the Town Engineer's approval.

CHARLES ROBINSON: The Conservation Board would like -- I will read the following letter from the meeting we had last night. In all due respect to John (Caruso) and his prior deals with the Conservation Board, I'm quite sure had he privy to this notice, he would have addressed it accordingly. I state -- the letter was addressed to Don Faso, and the Board has been given copies tonight. "Re recommendations of the Chili Conservation Board concerning the environmental review process for The Links at Black Creek project, and pending renewal/extension of the related fill permit. Recommendation generated at special Conservation Board meeting of December 8th, 2003.

In reviewing the letter dated November 17, by Peter Lent (DEC Regional Permit Administrator), addressed to the Chili Planning Board, the Conservation Board recommends the Planning Board accept the DEC summary recommendation found on page 6 stated as: 'The DEC is recommending that the Chili Planning Board, as SEQR lead agency, consider rescinding the previous Negative Declaration, and previous Board approvals and issue a Positive Declaration and require an Environmental Impact Statement be prepared for The Links at Black Creek project.'

This recommendation is being made so that all opportunity for technical and public input is obtained to generate the best decisions in addressing the environmental issues and challenges of this project, (which are outlined within the letter).

The Conservation Board is also recommending that elevation and linear measurements be taken of the present fill between Black Creek and the Ballantyne Road, prior to a decision for renewal/extension of the fill permit for this project.

This recommendation is being made due to the belief that the fill process has grossly exceeded the magnitude of the fill plan and related permit, potentially caused a loss of flood storage volume within the flood plain, and increased flood risk to Ballantyne Road.

Respectively submitted, Chili Conservation Board."

Attachments, there are -- letter dated November 17th, 2003, from Peter Lent to the Chili Planning Board. Copies were sent to Lent, the Chili Town Board and, of course, the Planning Board has it. Our apologies to the Board giving it at such late notice, but we received the letter on Monday and reacted accordingly.

RAY BLEIER: I believe you had that copy of the letter from DEC in one of your mailboxes long

before last night.

In one of the conclusions, "This recommendation is being made due to the belief that the fill process has grossly exceeded the magnitude of the fill plan and related permit" -- what do you actually base that on? Is somebody going out there and measuring? I kind of question that statement. I would like to get some clarification on that.

CHARLES ROBINSON: Short of actually going through, having the resources and doing it actually according to the law or doing an Environmental Impact Statement, it was stated to be a belief because of the securities of the Board where we have seen berms before, and from expertise, we have approved berms in the past. We truly believe that berm exceeds that requirement. So, therefore, not to get into a legal issue, we stated it is to the best of our belief.

RAY BLEIER: That is an issue with the Building Department.

DANIEL KRESS: Mr. Chairman, if I could follow up on that, since that is the Building Department's responsibility to issue and follow up fill permits. It was January of 2002 was the original fill permit. That was exclusively south of Black Creek work. In the vicinity of and immediately -- mostly to the west of the driving range area, which, of course, had been the subject of a prior site plan approval of the Planning Board back in, I believe, 1997. I explained to the Conservation Board the Phase 1 approval that is requested pertains to the residential portion of the project up in the northwest corner. In other words, the filling permit to my way of thinking is really somewhat of an issue. I'm not sure there is a connection to residential development, but there is something that will have to be sorted regardless what happens to the residential development. I have also explained to the Conservation Board if renewal of the permit has been requested, I'm, of course, going to be reviewing the file and present status of work on the site, both what is already done and what remains to be done before that fill permit is renewed.

RAY BLEIER: Are you filling at all in Phase 1?

MR. CARUSO: No, sir.

RAY BLEIER: You're regrading?

MR. CARUSO: No regrading at all. We actually had them remove some of the vegetation on the ground and left it at that because we topo'd with the hill. We couldn't topo the hill without having to remove some of the vegetation. It was just way too thick.

CHARLES ROBINSON: Once again, the Conservation Board's perspective on this is we're not really concerned about what is going on now with the development that is taking place. Our issues -- we wanted to get our issues known and on the record now the Board is concerned about in front of the driving range and along Ballantyne Road, so we want our issues up front and once again we feel that John (Caruso), in relationship to the Board in the past, he will address that when the time comes in, but we thought it was appropriate we get it on the books now to let you know.

MR. CARUSO: I hear what he is saying. Just so the Board knows, it is a separate issue. You have a fill permit going on. They have some sort of problem with it, and that is fair enough. We did on behalf of the applicant submit a letter to review so we keep that permit going. If Dan (Kress) has some comments or questions to fulfill that that might answer his question, but it that is not what we're asking for approval here tonight. It is a separate issue. So we'll continue on that.

RAY BLEIER: Before I open it up to the floor, the procedure is you raise your hand. Once you are recognized, please state your name and address for the record.

JOHN NOWICKI: This is old business, not a public hearing.

KAREN COX: We don't take public comment on old business.

DARIO MARCHIONI: It is old business. We had the public hearing already.

RAY BLEIER: Keith (O'Toole), this was a tabled item under old business?

KEITH O'TOOLE: I remember this public hearing very well. There is no requirement to have two public hearings on the same --

RAY BLEIER: Even from the tabled?

KEITH O'TOOLE: That's correct. If we had tabled the item and hadn't already heard public comment, we would have to open it up, but since we have heard public comment, there is no reason to open it up a second time.

RAY BLEIER: I guess we're not opening this up for public comment. Sorry, I will not recognize you.

MR. RETTIG: Mr. Faso has let us make comments in the past to the Planning Board.

RAY BLEIER: That may have been true.

MR. RETTIG: Are you changing the process with Mr. Faso not here? There are many people here.

RAY BLEIER: As per the attorney, we are not required to open this tabled item up for the public.

MR. RETTIG: In the name of fairness, I think there should be a dialogue.

JOHN NOWICKI: We have.

RAY BLEIER: We had a three-hour dialogue three weeks ago.

MR. RETTIG: There is further information to be discussed.

KEITH O'TOOLE: As I recall, I believe that the gentleman now speaking -- is in violation of the rules of the Planning Board -- had a fair opportunity to render lots of comments at the last public hearing. As I would point out to the Board, that the rules of law are the rules of fairness. They are the rules established by the State Legislature. If other boards have deviated from these on various occasions, it doesn't make those variations legal. The law is the law. You have asked what my opinion is as to what the law is, and I'm advising you we have already had a public hearing. So if you open up the floodgates to one, you open them up to all.

MR. RETTIG: However, there is new information on the floor that was presented tonight that deserves discussing.

RAY BLEIER: I disagree. We're definitely talking about a Phase 1 only approval tonight.

JOHN NOWICKI: Other issues that will be coming before us, I would like to just ask a question if I can, because Phase 2 and Phase 3 are a little ways away. But the ongoing one is the golf course, and I guess as you get into the mitigation of those issues, how are we going to see you before the Planning Board for updates and our status here? I would certainly like to see some kind of a schedule or opportunity to have you folks come back in and keep us updated, the Planning Board updated. I know you will be working with engineers and Town Building Department, but some other -- either informally at the front of the meeting you can come in and let us know what is going on with the DEC.

MR. CARUSO: Through you, Ray (Bleier), if -- how about if we copy the Planning Board in on our response to the formal request and then you will have on file the things that we're doing, and plus if we want to build this thing in '04, we need to get going on that. Two, we have to come back for approval on it. So I think the opportunity -- the issues that you see in my letter are really where we think we stand, and the ones that we're short on that we need to do more work, you're already advised on. So we're willing to do that.

JAMES MARTIN: I think that would be a great idea. I do have some concern, though, that obviously based on the public hearing that we had, there is a tremendous amount of public sentiment pro and con for your project, to have some sort of informal update for people that may want to come and listen to that, rather than have us get a private correspondence from you. We could read that into the record. That would be one thing.

MR. CARUSO: I see what you're saying.

JAMES MARTIN: It might help alleviate some of the concerns of the public in the Town of Chili if there was at least some informal update on an occasional basis that would allow them to understand where you stand in regard to the DEC and other issues.

JOHN NOWICKI: That gives us a good relationship.

KAREN COX: Come in front of the Board on an informal, you mean?

RAY BLEIER: Strictly informal.

JAMES MARTIN: I don't know how the rest of the Board feels about it.

JOHN NOWICKI: It is good for all of us.

MR. CARUSO: We don't have any problem with that. Maybe we'll try to do it the month before we would come to a meeting so it would be sort of new awareness, and -- but it may not be too long in the future. We really need to get this thing moving.

JAMES MARTIN: Hopefully we could accommodate the schedule so you don't have to wait until 1 o'clock.

MR. CARUSO: I'll check to see what is on your agenda. I had almost four hours at the last

meeting.

RAY BLEIER: I would like to recommend that we make a statement of reaffirmation of our SEQR here, and I would like to read the document for the record.

WHEREAS, Ballantyne Development, LLC (the "Applicant") has submitted a proposal to the Town of Chili Planning Board (the "Planning Board") for approval of a site and subdivision plan, as more fully described in the minutes of this public meeting (the "Proposal"), relative to the application entitled "The Links at Black Creek - a Planned Residential Development."

WHEREAS, the Planning Board makes the following finding:

1. According to New York State Environmental Conservation Law, Article 8 (State Environmental Quality Review Act), and 6 NYCRR Part 617 et seq., the implementing regulations (the "SEQRA Regulations"), the Proposal is classified as a Type 1 action.
2. The Planning Board has considered the Proposal at a public meeting (the "Meeting") in the Chili Town Hall, 3333 Chili Avenue, at which time all persons and organizations in interest were heard. Documentary, testimonial and other evidence were presented at the Meeting relative to the Proposal for the Planning Board's consideration.
3. The Planning Board carefully has considered an Environmental Assessment Form and supplementary information prepared by the Applicant and the Applicant's representatives, including, but not limited to, supplemental maps, drawings, descriptions, analyses, reports and reviews (collectively, the "Environmental Assessment").
4. The Planning Board carefully has considered additional information and comments that resulted from telephone conversations, meetings or written correspondence from or with the Applicant and the Applicant's representatives.
5. The Planning Board carefully has considered information, recommendations and comments that resulted from telephone conversations, meetings or written correspondence from or with various involved and interested agencies, including, but not limited to: the Monroe County Department of Planning and Development, Monroe County Department of Transportation, NYSDEC, the Town of Chili Conservation Board, and various Town staff members.
6. The Planning Board carefully has considered information, recommendations and comments that resulted from telephone conversations, public meetings or written correspondence from or with nearby property owners, and all other comments submitted to the Planning Board as of this date.
7. The Environmental Assessment examined the principal relevant issues, along with other relevant issues, associated with the Proposal.
8. The Planning Board has met the procedural and substantive requirements of the SEQR Regulations.
9. The Planning Board carefully has considered the relevant environmental impacts, facts, and conclusions disclosed in the Environmental Assessment.
10. The Planning Board concurs with the information and conclusions contained in the Environmental Assessment.

11. The Planning Board has made a careful, independent review of the Proposal and the Planning Board's determination is rational and supported by substantial evidence, as set forth herein.
12. Consistent with social, economic and other essential considerations from among the reasonable alternatives thereto, the Proposal minimizes or avoids adverse environmental effects to the maximum extent practicable.
13. Consistent with social, economic and other essential considerations, to the maximum extent practicable, potential adverse environmental effects revealed in the environmental review process will be minimized or avoided by the Applicant's voluntary incorporation of mitigative measures that were identified as practicable.

NOW, THEREFORE, BE IT

RESOLVED that, pursuant to the SEQRA Regulations, based on the aforementioned information, documentation, testimony, and findings, and after examining the relevant principal and other issues, the Planning Board's own initial concerns, and all relevant issues raised and recommendations offered by involved and interested agencies and the Town's own staff, the Planning Board determines that the Proposal will not have a significant adverse impact on the environment, which constitutes a negative declaration.

Ray (Bleier) moved the above motion. John Nowicki seconded the motion. The motion was approved by a vote of six yes.

The Board discussed the proposed conditions of approval.

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

1. Pending approval of the Town Engineer.
2. Submit architectural drawings with specifications of all housing types.

DECISION ON APPLICATION #2: Unanimously approved by a vote of 6 yes with the following conditions:

1. Pending approval of the Town Engineer.
2. Submit architectural drawings with specifications of all housing types.

PUBLIC HEARINGS:

1. Application of Byrne Dairy, 240 Oneida Street, Syracuse, New York 13202, property owner: M/M Harry Gitsis; for preliminary site plan approval to erect a 4,000 sq. ft. grocery store with fueling facility at property located at 3771 Chili Avenue in N.B. zone.

Christian Burnell, Mark Byrne, Robert Eggleston and Rich Williams were present to represent the application.

MR. BURNELL: I would like to start off with handing some plans out, some more detailed plans I gave to the Town Engineer, I talked to Dan Kress about. Very minor changes from what you have in front of you. It is very minor. Just a more detailed set I gave to Larry (Nissen), and Dan (Kress) asked

that I give it to you also. It is the same plan, just very minor modifications which the Conservation Board had asked us to do. I will explain it to you when I give them to you.

JOHN NOWICKI: That replaces the previously submitted one?

MR. BURNELL: Yes. I handed out a picture at another location we have. It is very similar in architecture with this site. If there is any architectural questions at a later date, I would address that to Bob Eggeston. We're proposing to have a 4,000 square foot grocery store with a fueling facility on a southeast corner of Union Street and Chili. We have been in front of the Conservation Board and received approval from them on our landscaping plan. I don't know if they gave you a copy of the minutes. They did sign our plan. They had a few modifications for us. One was species of tree which we had changed and another was changing the fence from a 6-foot high wooden stockade fence to cedar board-on-board. You can see that is the changes in sight plan we made. Two very minor changes, but Conservation Board recommended approval with those changes so I figured I would do those changes to give to you tonight.

We have been in front of the Zoning Board of Appeals. We have been granted two variances last month. So that issue -- I have been in front of you guys before for an informal discussion. Basically the plans have not changed. Very minimal from what we have discussed last time, the main thing being the landscaping, which the Conservation Board has approved. So if there are any questions, I think I gave you the presentation last time. Nothing has really changed.

RAY BLEIER: Well, I believe at the last informal most of the people who are here were not here, so you will have to give a little more description.

MR. BURNELL: Not a problem. Proposing a 4,000 square foot store on the southeast corner of Union Street and Chili with two curb cuts, one on Union Street, one on Chili Avenue. I have spoke to the D.O.T. They have given us conceptual approval on that. We propose a 6-foot high cedar board-on-board fence to buffer the neighboring properties which -- we have met with the neighbors, Mr. Keith Walworth to the east, and he has seen the plan. I have sat down with him. He is at the ZBA meeting. He is well informed of the project and in agreement with it. We have met with the neighbor to the south, Mr. Vargas. We sat down with him and his wife, shown them the plans. They asked that the fence be put on a 3-foot berm. Again, we show a 3-foot high berm with cedar board-on-board fence. I believe we have addressed all of the neighbors' concerns in sitting down with them before we came in front of any Board.

Parking spaces, we have 44 parking spaces. Required is 43. Dumpsters we have enclosed with cedar board-on-board fence again. There is a porch surrounding the whole store. The signs, we propose three signs which meet all of your requirements. The description is right down here. Number one sign would be a 4 by 18, 72 square foot sign on the building, and I submitted packages to you before, the sign package. If you don't have them, I could resubmit them. I do have them with me.

The 4 by 18 is going on the building, 72 square foot.

JOHN NOWICKI: What about the one, could you --

MR. BURNELL: On the fueling canopy -- sign two would be on the canopy, essentially a cow . The third sign would be a free-standing sign. That has changed, but that would be 32 square feet, which is the allowed square footage per your zoning. It will be more like this one (indicating).

Again, that is all within your required zoning limits of signage.

We have shown a storm water management area and that was submitted to your Town Engineer. Monday he did receive that. My engineer did all of the calculations and gave Larry (Nissen) the storm water calculations on that. And I don't know if Larry (Nissen) has had time to review that or take a quick once-over at it.

The landscaping plan was approved by the Conservation Board. Basically we have four white spruces on the east side. Two red maples. We have some royal crab trees, eight royal crab trees in the front to soften the parking. We have a great deal of landscaping on the corner and in these little parking areas right here (indicating) in the front. There would be two entrances to the store. One on Union Street right here (indicating), and the other one would be off of Chili right here (indicating). The one is handicapped accessible with two handicapped parking spaces per code. Loading zone would be in the rear of the store so you could drive around the store.

I think that is a brief overview of the project. Could I entertain any questions?

RAY BLEIER: I would like to have a description of the store, the type of products you would

sell, the hours of operation.

MR. BURNELL: It will be a 24-hour operation, seven days a week. I gave out handouts before with the types of products. Mark Byrne can discuss more of the products that we carry and he will get into more of the inside store, what we carry.

RAY BLEIER: Yes, if it is appropriate for Mark (Byrne) at this time.

MR. MARK BYRNE: Hello. Basically our business is built around a dairy operation so we specialize in dairy products. We handed these out before. The first page there shows we carry basically six different -- six doors of just dairy, basically milk products, anything from chocolate milk to skim milk to orange juice to all different types of milk.

Then we also have a full line of groceries. The second page there shows a lot of the groceries. You know, we have -- we carry a lot of cereal, huge line of different breads. We also have a -- tying back into the dairy, you can see in there we usually have a nine-door freezer which basically six or seven of them would be just devoted to ice cream products that we make ourself. Then the third page there shows like there is our bread aisle. We have our own Byrne Dairy bread. We carry Frieffer, Strohman and all of the different kinds of breads. Then it shows some of the other grocery items we sell there. We're like a mini grocery store. We try to carry a lot of every-day staples, and we're very competitive with the grocery stores on prices.

JOHN NOWICKI: How about ice cream?

KAREN COX: He just said that.

JOHN NOWICKI: I mean --

MR. MARK BYRNE: We also sell -- we sell soft and hard ice cream cones, yes. Being a dairy, that is one of the things we try -- we try to do as many things as we can produce ourselves at the dairy in milk, dairy products.

RAY BLEIER: I wasn't here at the informal presentation, but I read the minutes. Security was brought up. Would you like to touch on that since you are a 24-hour operation?

MR. MARK BYRNE: Really the only reason we're open 24 hours -- it is not that you do any business in the middle of the night. It is basically even if you were open to 11 or 12 at night, by the time that person closed the doors, cashes up, cleans up, gets everything put away, if you open at say 6 or 7 in the morning, there is such a short time there, we have just decided to leave the place open and there is always someone there.

At night we do all of the cleaning, get as much cleaning done, if there are groceries to be put away and get the place put back in order for the next day's business. It just works out better. Then there is always someone at the store if there is any problem with the refrigeration. We have a lot of dairy products. If you have a power outage or something goes down, freezer, you can lose a lot of product. It kind of goes either way, you know, whether it is worth having someone there, but that also helps on the security, because someone is always in the building. You never get break-ins because there is someone always there. So that is really what we have done. That is the only reason we're open all night. You might -- again, someone in the middle of the night that -- a person comes to get a kid Tylenol or something, but you don't get much business in the middle of the night.

RAY BLEIER: What about restocking? What time of the day do you do restocking?

MR. MARK BYRNE: Most of our products come directly from the dairy. Either the ice cream or the milk, and all of the groceries -- we have our own grocery warehouse. The groceries would come once a week. They actually bring them in and put them down the slowest aisle in the store and the people put them away as they are shopping. We're just constantly restocking all of the time. We probably get three or four milk deliveries a week.

JOHN CROSS: But what time of the day?

MR. MARK BYRNE: The milk delivery can vary as to what time it can come. That's really on a route. Some of the stores get it early, some in the afternoon.

RAY BLEIER: I'm wondering, do you have deliveries like between midnight and 6 in the morning?

MR. MARK BYRNE: No, we wouldn't get a lot of deliveries after midnight, no.

JAMES MARTIN: Any deliveries after midnight?

MR. MARK BYRNE: No. Like I said, the only reason there is still someone there, by the time

they clean everything up, if they were there until 2 and someone had to come in at 4 to get ready at 6, there is such a short overlap, we leave them there and know someone is there at the store. Most of the deliveries will be made during the daylight. That is how we operate.

KAREN COX: I saw a letter from the State D.O.T. where they talked about the fact that they were in agreement with the location of the driveway on their highway. Has the County D.O.T. been in contact with you?

MR. BURNELL: Yes, Mr. Henry Herzog, Monroe County Department of Transportation. He is currently reviewing it now as we speak. He has been reviewing it for a few weeks. He has the plan and is reviewing it. He did not have the review done at that time. He made the same comments D.O.T. said. If we align it with the adjacent driveways, he saw no problems, but that was just verbally over the phone. He will get back to me within a week or two he said.

KAREN COX: The porch that is around the building, do you expect to be using that for storage of things like propane tanks and firewood, pop for sale, things that you see at other convenient-type stores?

MR. MARK BYRNE: The reason we built the porch is for basically -- we do put some stuff for sale on the porch. The reason the porch is there is for the ice cream stand. We used to have little tents and different stuff, but in the summer it is nice for people to have an ice cream. The sun is not directly on them. That is mostly what the porch is for. If we're allowed, we do put -- like we sell propane tanks. And we would sell stuff off the porch, whatever we're allowed by the Town code.

KAREN COX: Sometimes it can just start to look a little cluttered and not very aesthetic. That was the reason for my question.

MR. MARK BYRNE: We want to do whatever the Town allows. We want the place to look decent. We'll work with the Town on that.

KAREN COX: The outlet for the storm water management area, that is going to drain across, it looks like two properties. Is that a natural drainage swale?

MR. BURNELL: That drains out to Mr. Keith Walworth's property. It naturally drains there now. My engineer is proposing to put a pipe there. I have spoke to Mr. Walworth in regards to that and he said that would not be a problem. He can address that if he wants later, but I did speak to him about it. The pipe stops at our property line, but the water does go over there.

MR. MARK BYRNE: That is only overflow.

MR. BURNELL: That's only in a 25 or 100-year storm. Very rarely will that happen. I have discussed that with Mr. Walworth. He is very well aware of that.

JOHN HELLABY: There was some concern at our preliminary discussions about cut-through traffic around the back of Union Street and Chili Avenue. Any more thought on how to deter that?

KAREN COX: That landscape berm was not there before.

JOHN HELLABY: People from cutting from Union Street to Chili Avenue?

MR. BURNELL: Personally I don't think they would.

MR. MARK BYRNE: If you were going from Union to Chili, it would take a right there, and to cut through the property --

MR. BURNELL: You would have to take maneuvers.

JOHN HELLABY: If traffic backs up in the morning at that light, they will look for an easier way to get around it.

KAREN COX: I don't think you will get every --

JOHN HELLABY: It is something you need to be aware of. The 7 by 30 concrete refrigeration pad. Each side of the building. What is actually going in there?

MR. MARK BYRNE: That would be any of the refrigeration. We have a lot -- when I showed you the pictures, we sell a lot of ice cream and dairy products that require refrigeration units. That is where they would go, on the pad.

JOHN HELLABY: A store this size, how many compressors would you have in there?

MR. MARK BYRNE: There would be a compressor for the dairy, the milk products, one for the ice cream and probably if we have a dairy case for all of the cheeses and stuff and yogurts and stuff there would be another one. Probably three.

JOHN HELLABY: Three to four compressors?

MR. MARK BYRNE: Yes.

JOHN HELLABY: It says it must have some sort of fence enclosure around it, I would imagine just for air flow. How noisy are these compressors?

MR. MARK BYRNE: They're not that noisy. We'll put them on the other side. They won't --

JOHN HELLABY: What type of fencing is going around that for visually?

MR. MARK BYRNE: They usually are chain link with the slats. We don't always put a fence around them, though.

MR. BURNELL: No, but we have for security reasons in the past.

JOHN HELLABY: If there is no fence around there, how do you secure this area if you have actual compressors running?

MR. BURNELL: They're a contained unit.

JOHN HELLABY: Housed independent units?

MR. MARK BYRNE: Yes. You can't put your hand in.

JOHN NOWICKI: I think architecturally we need them enclosed.

JOHN HELLABY: I'm not crazy about the plastic inserts.

MR. BURNELL: We could make that board-on-board.

MR. MARK BYRNE: Well, you have to be careful. They need air flow. We could have a chain link for security, but you can't box them in. If you put a board-on-board, they might not get enough air when it is hot in the summer.

JOHN HELLABY: You need to look at that.

JOHN NOWICKI: I would like to have you look into that. I'm not convinced you can't do that. I would like assurance you can dress them up a little bit.

JOHN HELLABY: How high is the roof structure? I'm sure the compressors don't run from grade slab all of the way to the roof.

MR. EGGELSTON: It shows on the side of the elevation.

JOHN HELLABY: It is open at the top?

MR. EGGELSTON: It is the same detail as the porch. What it is is it is a roofed area that is about 8 or 9 feet high. There is like a 6 foot high privacy fence facing the road, like a board-on-board to let air circulation to it.

JOHN NOWICKI: You have enough air there?

JOHN HELLABY: I don't know if Larry (Nissen) is satisfied with the drainage, if he has had enough time to look at it.

JOHN NOWICKI: On the Planning Board application it says they're not in a Drainage District and your comments says they're in a Drainage District; are they or aren't they?

DANIEL KRESS: In the interim since the application was filed, application to join the Drainage District has been made.

JOHN NOWICKI: Okay. So we're going to be in the Drainage District.

Be aware of the fact also because we have other applications tonight, there will be a study from that intersection all along Chili Avenue impacting that intersection. What that will do to you down the road I don't know yet. It is a study that is starting next year. Just be aware of that.

When we last met we asked you to investigate what they call dark sky lighting for the site. What did you find out?

MR. MARK BYRNE: What was the question?

JOHN NOWICKI: We asked you to investigate what they call dark sky lighting for the site.

MR. MARK BYRNE: I never heard of that.

KAREN COX: In other words, lighting that faces downward.

MR. BURNELL: I gave you cut sheets on there, directional lights.

JOHN NOWICKI: We gave you the address of Collette and 332. You should have looked at night.

MR. BURNELL: You were going to get back to us. I remember that conversation.

JOHN NOWICKI: You should look into that. That has a very interesting concept to it. You might want to look at it.

MR. BURNELL: What was address?

JOHN NOWICKI: Collette Road and Route 332.

MR. MARK BYRNE: We'll go by on the way home tonight.

MR. BURNELL: Name of the place?

JOHN NOWICKI: I don't know the name of the business there. Probably a convenience store.

JOHN NOWICKI: It is really unusual, but I think it is neighborly friendly. If I can use that term. Just check that out.

MR. MARK BYRNE: Sure.

JOHN NOWICKI: I would like to have that -- either a recommendation or a condition.

JAMES MARTIN: One of the concerns I addressed last time is the traffic safety at that intersection, and, you know, the positioning of your gas pumps, it concerns me a bit. For those people that are very familiar with that intersection, you come down the hill from the expressway, and people turning left onto Chili Avenue, um, oftentimes because people illegally enter the convenience store from across the location where you're proposed to be, there is sometimes a significant traffic jam that occurs or in wintertime often the hill is slippery before it has a chance to be treated with salt or sand. I have seen many, many times people come around the corner going faster than they should and they're right off the shoulder at the right side of the road, the Arrowmart that is there. It puts you directly in line with your gas pumps. I want to be sure you have some crash collision protection where it is appropriate to be sure there is no vehicle crashing into your gas pumps. I think there is a high probability that could happen at the intersection in the wintertime.

MR. MARK BYRNE: Maybe we could have a small wooden guardrail on the outside of our parking lot there.

JAMES MARTIN: It has to be something that withstands a vehicle sliding over the edge of the road with fairly high rate of speed. It has to be stopped before it gets to your gas pumps. You only have --

KAREN COX: They don't have a lot of right-of-way.

MR. MARK BYRNE: If a car was coming down the way you're saying, to get over here to hit the pumps, even if he was coming straight, it couldn't turn -- it would be pretty hard.

JAMES MARTIN: It is not that concern. They come down and around and people are turning into the Arrowmart. They get off the shoulder, the shoulder is slippery and they go off the shoulder of the road into that property. I have seen it happen many, many times at that intersection.

KAREN COX: Couldn't we ask for some bushes or something to slow things down? The problem is they don't have a lot of right-of-way. Guide rail opens the applicant up to liability issues if it is not installed according to State requirements. So if you had some type of planting that would slow the vehicle down, you know, the driver might be able to obtain control of the vehicle.

JOHN NOWICKI: What about large boulders?

KAREN COX: The Town doesn't like people to put boulders around their corners because of the liability issues. You know, if you required plantings, that might be, you know -- that would come under the landscaping plan, but it could also serve as something to slow the vehicle down.

JOHN NOWICKI: What about a slight rising berm with some large timbers there?

JAMES MARTIN: I don't know if we should engineer it at this point. I'm just pointing out it is a very dangerous situation that exists. It may not be a car. I could be a semi tractor-trailer.

KAREN COX: Nothing will slow those down, guide rail, nothing. I'm not trying to refute what you're saying, Jim (Martin). I'm just speaking from my experience that anything solid that a car hits could open up the applicant to liability. John (Nowicki)'s suggestion of a slight rise with a planting berm has some merit.

JAMES MARTIN: I'm not engineering it. I'm just saying it is a condition that needs to be addressed.

KAREN COX: The other thing is could the Planning Board send a letter to the State recommending closure of that westerly access on Arrowmart or is that over-stepping our bounds? That is just a constant problem.

JAMES MARTIN: It is not your driveway location. It is the one across the street that is a problem.

I live 9/10ths of a mile from that intersection and seen cars many, many, many, times off the road there.

DARIO MARCHIONI: Are you tonight just asking for preliminary?

KAREN COX: Preliminary and conditional use.

JOHN NOWICKI: Any particular reason why you couldn't give final?

DARIO MARCHIONI: I see no engineering stamps on these plans.

MR. BURNELL: I do have a plan that is stamped. The one up there is stamped. If you wanted to waive the final approval, that is a stamped plan right there.

MR. MARK BYRNE: It would be nice.

DANIEL KRESS: This applicant did go to Zoning Board on November 25th and obtained the necessary variances for location of parking spaces, canopy and required front yard setback. Probably wouldn't be a bad idea under the zoning summary in the lower right-hand corner for some note to that effect to be made.

RAY BLEIER: On the plans, you want those?

DANIEL KRESS: Yes. I just received this package yesterday and I was out of town most of the day earlier today so I haven't had time to give it a thorough look. There are a couple things that jump out at me. Number one is the discharge point. Apparently you have had some conversations with your neighbor and he doesn't anticipate it is going to be a problem for him, but I can't guarantee to you that there will not be a problem at this point in time with the information that I have here before me. I cannot make that assumption.

The second issue I have is that the side slopes of the retention/detention facility are on the one-on-one which the maximum according to Town code is, one, vertical, two, horizontal, so the slopes are quite steep and generally steeper than we would allow. That is what I come up with at this point in time.

CHARLES ROBINSON: Instead of the stockade fence, the Conservation Board would like to see the cedar board-on-board as you indicated earlier. And also instead of the crab apple, be changed to Royalty Sargentii.

MR. BURNELL: It's done. We had already done that. I do have a landscape plan. That has been done.

CHARLES ROBINSON: Do you have an update on the plans? Can the Conservation Board have an updated plan?

MR. BURNELL: No problem. It is done.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

LYNN COHEN, 27 Haverhill Circle

MS. COHEN: I just wanted to comment that I'm all for this Byrne Dairy project. I think it is going to be a benefit to our community. The offerings of ice cream and milk and a place for our young teenagers to go and work in a family-owned business that they take a lot of pride in the neighborhood, which I think the guys from Byrne Dairy have already proven that. There has been a lot of development in Chili. I have lived in the town for eight years now, and this is a very positive development for our end of Chili. And I wanted to just publicly state that, that I know my neighbors in my circle are very excited about it, and I think it is going to be a real benefit to Chili.

RAY BLEIER: Thank you.

DOROTHY MCCARTHY, 18 Indian Hill

MS. MCCARTHY: Mr. Martin and Ms. Cox have touched on why I came here. I owned a business in the Arrowmart Plaza for a couple years and I want to tell you it is a terrible corner. The west exit at Arrowmart -- your suggestion if the State would do away with it would be good. It was originally an exit only with two signs. One was knocked down. People come around the corner and immediately turn in there. It has caused more fender-benders. Also, it was '98, I think, the State repaved Chili Avenue with pavement at that intersection about this thick (indicating). They -- Chili was fine, but going south of Chili they never bermed it down or slanted it down like they should have. Cars bottom out there, sometimes are airborne and end up in the other lane. I have seen it many, many times. If they're going to have an entrance immediately to the store, D.O.T. needs to do something with that road.

Another thing with Arrowmart, they have the entrance and exit supposedly. An 18-wheeler just

fits between there and they do it all of the time. Going west on Chili Avenue you don't know whether to go around because they're going to come out that exit. It doesn't happen all of the time, but the 18-wheelers pull up. They go in and sit down, eat a long time. It's a very dangerous situation. I am not against Byrne Dairy. I go to the Spencerport store every time I'm up there. It will make the corner all the more dangerous and I'm really concerned about it.

KAREN COX: Can I ask you a question? I have lived in the neighborhood for ten years, but until I was on the Board I haven't paid much attention to the traffic pattern. When the signs were up that said exit only, did people --

MS. McCARTHY: People still ignored it, but not like they do today. That is a very few feet from the corner. They come down that hill and turn left. They zoom in there.

JOHN NOWICKI: Mr. Chairman, can we ask either legal counsel or the Planning Board or the Building Department whether or not we can call the owners of that business into the Planning Board to discuss that situation, and review the approval of those drawings and see what kinds of signs are supposed to be there and maybe we need to upgrade or get the signs replaced.

KAREN COX: Make them bigger.

DANIEL KRESS: I would think at minimum I could have a conversation with them more clearly marking that exit is intended to be exit only.

JOHN NOWICKI: We need to increase the size of the signs.

KAREN COX: If you increase the sign size. Maybe this is asking too much, but also painting arrows.

DANIEL KRESS: I have a new sign permit pending for that location anyways because they want to change over from Sunoco to Mobil, so I'll be happy to use that opportunity.

KAREN COX: Two out arrows on the driveways. It has helped at K-Mart to have the pavement markings clear.

JAMES MARTIN: Tire spikes is the only way you would stop people from going in there, but...

KAREN COX: Well, you can make the effort, I suppose.

MS. McCARTHY: If I can add one thing to it. I hit on it, but I want to stress that I think it is very important that you ask D.O.T. to put no parking signs between those two exits of Arrowmart. It is just terrible there.

KAREN COX: We asked them to do that on Buffalo Road, too. That is usually, in their opinion, a Town ordinance, so they then turn it back over to the Town and say -- if the Town wants to put them up and enforce that, then they can do that. It would help.

JOHN NOWICKI: We can make a recommendation to our Commissioner of Public Works to do that.

JAMES MARTIN: I think it is a very appropriate recommendation.

JOHN PERNA, 3785 Chili Avenue

MR. PERNA: I really don't -- I don't see that they have enough parking spaces if they're going to serve hard and soft ice cream cones with Black Creek Park where the kids play sports, Hubbard Park and Davis Park. You take two teams and they all go there at one time, because they all get out basically the same time, I don't think 44 parking spaces is enough for even two teams, recreational teams to show up there to get ice cream, no less people that are already there shopping, people there already buying gas.

And then the other issue as far as the hill, Union Street, when it is icy, it is very entertaining to watch all of the vehicles pull into that lot down there. When I had a tow truck, I used to make a lot of money. I really don't see putting shrubs or anything, because you really can't put the person that is on the road in jeopardy of killing themselves because they hit something. Where even my location, when they come down the little grade on Chili Avenue heading east, they have taken out a couple of my pine trees already. When the roads are ice and slippery and everybody is in a hurry to go to work in the morning, nobody is slowing down and they drive like idiots. I don't think they have enough parking. They're doing three businesses basically out of one location, the gas, the ice cream and the store.

PAUL DOBBELSTEIN, 32 Parkway Drive

MR. DOBELSTEIN: I would like to say first that I firmly believe that Byrne Dairy

stores have proven themselves to be quite good corporate neighbors to this community and I welcome the addition of a store nearer to me in North Chili. I would say, however, that I would like the Board to consider how we can eliminate one of the mistakes that were made with the Eckerd drugstore when they allowed a driveway entrance on the north side of Buffalo Road into the Eckerd store facility without first of all displacing the driveway far enough to the west away from the intersection. That creates grid lock at some point and it could have been addressed had the Planning Board at that time enforced a divided in and out section to that driveway. Frequently cars coming out of the driveway are slightly in the wrong lane, inhibiting cars from making a right-hand turn into the driveway which backs up traffic into the intersection and actually causes -- at rush-hour traffic, actually causes an intersectional grid lock. Can anyone tell me, not having seen in detail the plan, what is the displacement of the driveway on the Chili Avenue side, especially from the intersection?

JOHN HELLABY: 204 feet.

MR. DOBELSTEIN: That is considerably more than they have allowed at the Eckerd facility. That may not be the problem that it is in North Chili.

Another thing I would like to be concerned about -- I would like the Board to be concerned about, as we develop more retail facilities in Chili, and this may have a lot to do with the Board's ability to liaise properly with the Zoning Board, that frequently we see wonderful drawings and architect's renderings of these facilities, and we approve them wholeheartedly on the basis of that, and all of a sudden, we find ourselves with storage trailers and sometimes unsightly window banners cluttering up the appearance of the facility. I think the Board would like in all cases to be in liaison with the Zoning Board to be sure that we institute from the very outset when these plans are approved, institute expectations upon the operators of such facilities that they will be governed by a certain set of rules which tries to maintain an aesthetic standard in the community.

I thank you and from what I see of the landscaping plans, I think that looks like it is going to be a lovely facility. Thank you.

RAY BLEIER: Thank you. Just for your information, both of the road cuts on Chili Avenue and Union Street, they are about as far as you can go on the property.

KAREN COX: They had to place them -- I'm sure the State D.O.T. had a requirement, and I know the County did, to place both exits opposite -- you know, on the State highway opposite the easternmost one at Arrowmart, and opposite the Perna's gas station on Union Street. From a traffic standpoint, that is a safer way to place a driveway.

MR. DOBELSTEIN: If I may follow up, it would be my suggestion that some cooperation with the applicant be made to divide, to curb those driveways in such a way that we divide those driveways into incoming and outgoing traffic. That would certainly help expedite flow out onto busy streets.

RON PIKEUT, 1030 Paul Road

MR. PIKEUT: When we did studies of the intersections as part of the No Exit Group, we found that this intersection at Union and Chili was a failed exit. I don't know at what point that intersection will be reconstructed by the State, but I would suspect that if and when it is done that the land to be acquired would be on the south side of Chili Avenue taking out that curve and straightening it as it goes up the hill to the west. I would question at this point if that is the case, that that should be looked into, and you might find that there might not be -- nothing against Byrne Dairy -- there might not be enough land there if the State did take property and on that side of the road, you would be eliminating parking spaces. Maybe there would be too much square footage for the store, given the land that the State might take. Has anybody looked into the aspect of the State widening it, correcting that intersection and as such straightening it out?

KAREN COX: I don't think you can assume anything with a State study. I'm not discounting what you're saying. You know, but I don't think the applicant can build with the idea in mind knowing what the State is going to do.

MR. PIKEUT: I agree with that. You as a governing Board in the Town might be apprised what the State might do there before you grant this application and find that the parking spaces are satisfactory, and that there is space enough for that square footage of building. That is what I am saying. I know that at some point -- I don't know if there are immediate plans or -- if you researched it to reconstruct that intersection because it is failed now. So there would have to be some reconstruction

and maybe right-hand turning lanes, but as I said before, I would suspect that they would be taking the land on the south side of the road to straighten out Chili Avenue. So I would suggest that you look into that before you really grant this application, if you're concerned about the parking spaces and the egress and ingress to that property. Thank you.

RAY BLEIER: How many feet do you have from the present edge of Chili Avenue to --

MR. BURNELL: You can see a substantial amount of right-of-way there.

RAY BLEIER: I saw that. How many feet, though?

MR. BURNELL: From edge of road, it's --

MR. EGGELSTON: There is 26 feet from the shoulder to the property line.

MR. BURNELL: So over 30 feet to the edge -- driving lane, so that is --

RAY BLEIER: Did you hear that, what they said?

MR. PIKEUT: So what is the measurement from the middle of the road?

MR. BURNELL: To the right-of-way?

MR. PIKEUT: From the middle of the road to the edge of your property, what is it now?

MR. EGGELSTON: 45 feet.

MR. BURNELL: State currently owns that.

MR. EGGELSTON: They own 45 feet.

MR. BURNELL: They own to this line right here (indicating). All of the green space is the State's, not ours (indicating).

MR. PIKEUT: That is green area now.

MR. BURNELL: Yes. It is the State's.

MR. PIKEUT: That would actually straighten out the intersection --

MR. BURNELL: Yes. That is why I think they acquired it years ago. It is a very large right-of-way they have obtained.

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: There have been a couple points brought up that I think need clarification. Not necessarily to do with this application, but a point that Ms. McCarthy brought up. I think if you look back at conditions of approval for the Arrowmart across the street, those signs were specified to be exit only -- I think if you look back in your own rules, your own conditions, you will see that Town does have every right to correct that situation.

KAREN COX: Whether that corrects people's habits, that is another thing.

MS. BORGUS: Yes, because they have been allowed to do that illegally for a long time.

KAREN COX: We can put them up, but unless it is enforced -- people that have been using it all along still may do it.

MS. BORGUS: I'm pointing out the Town does have an avenue here that should have been pursued a long time ago to correct that situation. That should not have gotten to be such a long-standing problem that is now, an ingrained habit.

MS. BORGUS: Does this store plan on selling beer and cigarettes?

MR. MARK BYRNE: Yes, we do sell beer and cigarettes.

MS. BORGUS: As I have stated here in the room before, I have an objection to having three convenience stores and gas stations on four corners of one intersection, a failing intersection at that. I have not been privy to the sign pictures, as other people here have not been. I take it that you have sign drawings that we have not seen. It would be nice if we could view those. Maybe you could put some up so people could see them.

I would like to inquire, under our current sign law, is this applicant entitled to three signs?

DANIEL KRESS: The answer to that question would be yes.

MS. BORGUS: And the one sign is going to be -- is just going to have the one grade of gasoline on it, with the price?

MR. MARK BYRNE: Yes.

KAREN COX: You're only selling one grade?

MR. MARK BYRNE: We sell other grades. We just post the regular gas.

MS. BORGUS: How big are those numbers on the signs?

MR. BURNELL: 24 inch.

MS. BORGUS: I don't know if the Planning Board has anything to say about that, but that's a trashy looking sign. I'm sorry. I don't care what kind of building you put up, but if you put signs up that tacky, we're going downhill fast. It is a terrible looking sign.

KAREN COX: I don't think it is if you compare it to the Arrowmart sign.

MS. BORGUS: 24 inches (indicating).

KAREN COX: You just did 2 1/2 feet, Dorothy (Borgus).

MS. BORGUS: That is still pretty big.

Now, about this porch. This porch has been a concern of mine since I first saw the pictures. In the drawings it looks neat and organized. I say porch. It is fine, adding to the building. Now -- but we hear they want to store propane tanks under it, sale items out there. They will sell ice cream under this porch. There was some talk that was discouraged when they were here under informal about selling Amish furniture. We have had cases on that corner when we have had Indian rug sales. You know, it is -- I think that porch, if we're going to allow it, it better be with a clear understanding that there are no outside sales. With a 4,000 square foot store, they don't need to be selling on a porch. Let's use the porch for aesthetic reasons, have it look good. If we're going to have to have this store, let's have it clean and neat and no outside sales, period. Because once you open that door for one thing or two things or an exception, there is no stopping it. So I would want no outside sales.

There was a good point brought up -- I believe Mr. Dobelstein brought it up about window banners. We have had a couple cases with that in Town. Arrowmart is a good example. They were -- it was a nice store. Within a month they had all of the windows covered with signs. We don't need that in Town. If we have a nice looking Town, we can't do it with banners slapped in every window. We have another case right across the street here in the pizza shop. It is terrible. It looks like an Easter egg over there with their neon signs and their brassy colors. They have every color imaginable. It is terrible. A nice, good looking building and look what it looks like. Let's get tough with what we'll have on their windows, what we'll let them do with all of the neon signs and the rest of it. Let's make it a good looking store. If we have to have this, let's keep it neat and clean and not an abundance of signs. I hope these applicants understand in Chili there are no banners. We don't allow banners and they better understand that going in.

JOHN NOWICKI: Only on pizza shops
(Laughter.)

MS. BORGUS: Look how long it took to get rid of that, but it's gone.

JOHN NOWICKI: Dorothy (Borgus), just a question for you of these objections you have had, have you made any complaints or registered complaints with the Code Enforcement Officer of this Town?

MS. BORGUS: Sure. Ask Mr. Kress.

JOHN NOWICKI: Okay. Just wanted to clarify.

MS. BORGUS: Ask him. Just ask him.

JOHN NOWICKI: Thank you. I'm not getting into that.

MS. BORGUS: I'm one of his most vocal customers.

JOHN NOWICKI: Thank you, Dorothy (Borgus).

MS. BORGUS: I will be very vocal about this corner, let me tell you.

JOHN NOWICKI: I think they're getting the message.

MS. BORGUS: Now also I do take exception to the fact and I have brought this up -- not with these applicants, but with others that, as usual, material that should be considered in this application is brought in or sent in too late for adequate consideration. The engineer already has a problem with it. How can he review something he got yesterday? You people have received corrected maps today. You have gotten updated drawings of signs today. That is not really fair to the public, not fair to the Planning Board, not fair to the Town. If people want to present material to these meetings, they should have it in so there is adequate time for reading it and taking it into account.

There was some mention made about compressors and power outages and I'm wondering if any consideration has been given to what this ice cream store, dairy store will do in the case of a power outage? Do they have a generator?

RAY BLEIER: Fair question.

MR. MARK BYRNE: Some of our newer stores we do put a generator. Whether this will have

one or not, I don't know.

MR. EGDELSTON: There would be room for it underneath that overhang area that has the compressor units.

MR. MARK BYRNE: What we do have is a portable one. We do wire all our stores up with a transfer switch that allows us to bring in a portable one fairly easily if there is a long power outage, which there seems to have been a lot lately.

JOHN NOWICKI: It would be a good idea.

MS. BORGUS: I hope when you write your conditions, you remember people in this Town don't want outside sales. I think that includes walk-up windows for ice cream. People can walk inside for an ice cream cone. It leads to clutter outside, papers blowing all over the neighborhood. But for sure we don't need propane sales, tanks, pumpkins and whatever underneath the porch.

RAY BLEIER: I personally like to walk up to a window to get an ice cream without going in the store.

DARIO MARCHIONI: That brings the question, will you have any carts at all in the store?

MR. MARK BYRNE: Yes.

DARIO MARCHIONI: You are not storing them on the porch by any chance?

MR. MARK BYRNE: No. The grocery carts are inside. Most people don't take them outside. If they do, we usually like get them right back. We have quite a few carts, but we leave them inside the store.

RAY BLEIER: I think there are a fair amount of drainage concerns for us to waive final.

The Board indicated they would not be waiving final.

RAY BLEIER: I would certainly not recommend we waive final on the preliminary, but I believe we can move along with the preliminary approval.

The Board agreed.

Don Faso made a motion to declare the Board lead agency for SEQR, made a determination of no significant environmental impact, based on the testimony and the material presented at this hearing, and Dario Marchioni seconded the motion. All Board members were in favor of the motion.

JOHN NOWICKI: Any rooftop units on this building?

MR. BURNELL: There are no rooftop units.

JOHN NOWICKI: Everything is enclosed in that one area?

MR. BURNELL: Yes.

The Board discussed the proposed conditions.

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

1. Pending approval of the Town Engineer.
2. All fencing is to be cedar board-on-board per the Conservation Board approval.
3. Fencing around outside refrigeration pad is board-on-board preferred.
4. All outside sales to conform to Town Code.
5. Applicant to investigate "Dark Sky" lighting.
6. Consider protection of fuel pump area (i.e. bollards, etc.)

The Board discussed the proposed terms of the conditional use permit.

DECISION ON APPLICATION #2: Unanimously approved by a vote of 6 yes with the following conditions:

1. Pending approval of the Town Engineer.
2. All fencing is to be cedar board-on-board per the Conservation Board approval.
3. Fencing around outside refrigeration pad is board-on-board preferred.
4. All outside sales to conform to Town Code.
5. Applicant to investigate "Dark Sky" lighting.
6. Consider protection of fuel pump area (i.e. bollards, etc.)
7. Conditional Use Permit is granted for a period of three years.

(Recess.)

3. Application of Kaddis Manufacturing, P.O. Box 92985, Rochester, New York 14624, property owner: County Lane Associates; for preliminary site plan approval to erect a 15,050 sq. ft. manufacturing addition and 576 sq. ft. storage building at property located at 1100 Old Beahan Road in G.I. zone.

Steve Schultz, Ron Ianucci, Jr., Ron Ianucci, Sr. and Max Heagney were present to represent the application.

MR. SCHULTZ: Steve Schultz with MRB Group here tonight with Ron Ianucci, Jr. and Sr. from Kaddis, and Max Heagney from LeFrois Builders.

We would like to request site plan approval for construction of two additions to the Kaddis Manufacturing building and related site improvements to the facility at 1100 Beahan Road. Kaddis Manufacturing is a manufacturer of machine parts and is located within the easterly corner formed by the intersection of Weidner Road and Old Beahan Road. Existing masonry building is on site now, a 2.9-acre parcel and zoned General Industrial. The proposed easterly addition is a 15,050 square foot one-story building which will be used for additional manufacturing space. This addition abuts the east wall of the building where manufacturing currently takes place. That is how the building was aligned. The proposed southerly smaller addition is 576 square feet and it will be used for storage. It joins an existing storage area. Variance areas for relief from both the front and side area requirements are necessary for the construction of the project. We have noted it on the plan and application for variance will also be heard next Tuesday, November 17th.

We're making several on-site improvements to support the building additions. The existing parking area will be removed from the northeast corner of the site, which is where the addition is going. We'll reconfigure that in the southeast corner by adding additional parking in that location. We'll remove the northerly curb cut off Weidner Road. This will lead into the addition. Water and sewer service to the addition will be provided internally by connecting to the existing building systems and we'll provide lighting in the parking lot with two new poles along the east edge of the parking, and that will complement the existing poles which are located out there along the building and we're proposing wall packs around the addition.

Landscaping plan was prepared by Doug McCord which shows tree and shrub plantings

throughout the easterly portion of the site. That was reviewed by the Conservation Board at the November 24th meeting. At that meeting they indicated they would sign the plan and send it over to the Planning Board. We have elevations of the additions that were prepared by LeFrois Builders and the addition will be a masonry block to a height of 8 feet with metal wall above that. Roof - metal C roof which will match the addition constructed to the building to the west end in 1996 which was approved by the Board back then.

RAY BLEIER: You're occupying a good portion of the lot, especially with these additions, and you have -- the allowed percentage of coverage is 50 percent. I was wondering where you stand on that.

MR. SCHULTZ: We're at 45 percent.

RAY BLEIER: With the additions?

MR. SCHULTZ: Yes.

RAY BLEIER: It is a shame you will have to cut down some of these trees. That is one of the nicest things in the neighborhood.

MR. SCHULTZ: There are some nice trees. We have replaced the trees -- we provided more trees than we're taking down. Obviously we can't plant them that big, but we tried to at least offset that loss.

KAREN COX: What is the effect going to be on the site drainage? You're adding a lot of impervious area. Do you foresee having to put in any kind of detention facilities?

MR. SCHULTZ: We do have a comment from the Town Engineer. We'll address this concern checking that the existing drainage facilities can handle the runoff. The site -- we're replacing parking with a building essentially, so some of that is offset, because there-- where the addition, the big addition is going is currently a parking lot. We'll be adding some parking to the southeast, though, which will increase impervious coverage. In talking with the owner, who has been there 20 years, he has never had drainage problems or ponding on the site. It all worked fine. It is not a significant increase in impervious area.

KAREN COX: Will you have roof leaders on the new portion?

MR. SCHULTZ: Yes.

KAREN COX: Hooked into the storm water system?

MR. SCHULTZ: They will go to grade.

JOHN HELLABY: The only thing I got, I guess, is you end up with about half of the required parking spaces.

MR. SCHULTZ: We meet the needs of the owner and we meet the code based upon number of employees.

RAY BLEIER: Do you have a two-shift operation there?

MR. RON IANUCCI: Ronald Ianucci, the Chief Executive Officer of Kaddis. Yes, we run a two-shift operation. We run about half a second shift. We would will be running a larger second shift, but our parking at the present time is only about 15 to 20 percent of the available parking area. Obviously during the evening we do not run a full operations, and there is a large amount of sufficient parking in the area.

RAY BLEIER: I did notice when I drove out to the property there were a lot of empty parking spots.

MR. RON IANUCCI: It is not by design. What happened here, the reason for the addition, on July 3rd -- we run three plants. We had a plant in Tennessee, Honeoye Falls and the Rochester plant. Our plant in Parsons, Tennessee burned down. We had to decide where to build. The County and the State were very interested in keeping us here in Monroe County. Obviously Tennessee was interested in having us rebuild in Tennessee. We did an evaluation. The plant that burned down was over 60,000 square feet. The reason for the addition is because we will be going -- moving toward much more efficient equipment, more modern equipment, and we can accommodate our manufacturing requirements with the addition of 15,000 square feet. So we're accommodating our Rochester personnel. We are obviously a New York based corporation, a Rochester-based corporation. And so we are -- the addition is going here in Rochester. We will be undergoing significant equipment changes, which have already commenced, and the equipment is much larger than the equipment which it will be replacing. It is much larger, more efficient. Frankly it requires less personnel. So we will -- that is the

reason for the addition. In order to accommodate our volume, we have to -- and to stay in the Monroe County area, we have to put in the 15,000 square feet.

Comment on the drainage issue is that there will be -- we have never had a drainage problem in that area of any sort. There will be only about a 10 to 15 percent addition of impervious area because most of the area of the building that we're talking about adding is currently paved driveway. It is currently impervious area.

JOHN NOWICKI: Just Fire Marshal, Building Department, all set? Are you satisfied?

DANIEL KRESS: We haven't seen construction drawings yet, but certainly in terms of general level of access around the building, yes, sir.

JOHN NOWICKI: I will just want to hear the engineer's comments.

DARIO MARCHIONI: Masonry building. Could you elaborate for the audience?

MR. HEAGNEY: As you can see, I put a picture up there of the westerly addition we did back in '97, '96. It will be the same construction as the westerly addition to the east. It will be an architectural masonry block with the metal panel wall as shown on those drawings.

JAMES MARTIN: Nice looking facility.

DANIEL KRESS: The only thing that the Board should take note of is the fact that these folks went to the Zoning Board of Appeals on November 25th. Unfortunately their application ended up being tabled, so if you do see fit to grant site plan approval tonight, you're going to have to include as a condition going and getting the necessary variances from the Zoning Board, which will be meeting a week from tonight.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

The Board discussed the proposed conditions.

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

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

1. Pending approval of the Zoning Board of Appeals.
2. Pending approval of the Town Engineer.

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

4. Application of Anchor Christian Church, owner; 375 Beaver Road, Rochester, New York 14624 for preliminary site plan approval to expand parking lot to front of building at property located at 375 Beaver Road in R-1-20 & FPO zone.

Rob Fitzgerald and Chris Backus were present to represent the application.

MR. FITZGERALD: Good evening. Rob Fitzgerald, project engineer with Avery Engineering. With me tonight is Chris Backus, senior minister. What we're proposing tonight is a parking lot expansion in both the rear of the existing parking lot as well as in the front. The front parking lot will also have a looped drop off area, if you will, where people can drop off people that need additional assistance. That will be handicapped accessible in the front. Right now there is a severe lack of parking for this particular church. They actually shuttle people in from the Town Hall because there's no place for them to park. Of course, they get some people that just turn around and don't make it to church on Sunday mornings, so we're trying to take care of that situation.

We do have a couple issues at this particular location. It is a tough one. We do have some flood plains and some wetlands to the north. If I can approach the Board. We have a wetlands, that's a federal wetlands that is approximately .15 acres in the back of the parcel here. Actually that was

constructed when they did the last expansion of the parking lot, and they dug it out and bermed up behind it, so they essentially created a hole or low pocket and since then it has filled in with wetland type vegetation. Then the front we have a State wetlands in the buffer encroaching on to the proposed parking lot. It encroaches onto an existing building, as well. Both those wetlands have been delineated by Environmental Resources, and we're in the process -- we have submitted a joint application to work within those wetlands. I do have a copy of that report that was submitted. I will hand that to the Planning Board Vice Chairperson. So that process is underway. We also will have to obtain a variance for front parking, and we were actually tabled last month due to a lack of sign, unfortunately, so we'll be back next Tuesday in front of the Zoning Board of Appeals to hopefully obtain that variance.

Another issue is Beaver Road was shifted. I don't know the exact year, but there is a fairly large right-of-way there now. We're also looking into incorporating back some of that property to push the right-of-way back towards the true center line of road. I do have some documentation on that, as well. That process has been started.

That is actually a County highway. I believe they call it a State traveling route, so it has both numbers. But I guess the County is the controlling power, if you will. One last thing, we are proposing a small detention pond to the north side of the rear parking lot and a swale to -- well, essentially to get the water off the parking lot so we don't have standing water and ice buildup in the winter, and also that will act as a -- it will be an environmentally friendly pond, if you will, so it will take care of the first flush for the parking lot, for any oils and whatnot from the cars.

KAREN COX: Did you see the DRC comments on this?

MR. FITZGERALD: I don't believe I received those. They look pretty standard.

MR. FITZGERALD: Right. Just touching base on the federal and State wetlands. That is one of the first things we did is have those delineated because we realized there were wetlands on the parcel. And as far as yes, the proposed parking lot will be in the 100-year flood plain, as is most of the existing parking lot presently. I think everything is actually except for the building. That is right at the level.

RAY BLEIER: I assume your proposed expansion, especially in the back, will be gravel?

MR. FITZGERALD: At this time it would be gravel, Phase 1. If Mr. Backus wouldn't mind addressing that comment.

PASTOR BACKUS: We'll put it into asphalt as soon as we can, even the expanded area. We plan to have a good parking lot. We have crushed asphalt as part of our parking right now. And you know that works, but that is not very good for ladies in high heels and it's not good for plowing snow at all. We have to replenish it for that reason. So our initial approach, of course -- because we can't -- to get started as soon as possible, we can't lay asphalt in the winter, but pending the Board's approval, we can begin the gravel installation as soon as possible.

JOHN NOWICKI: I would like a clearer picture. On the front parking area here, are you planning some kind of an island here?

MR. FITZGERALD: Yes. What we propose is where people could pull into the existing driveway, pull in, have some front parking on either side and also people could continue around to drop people off at the front door, if you will. And there will be a little grass island in between there with some plantings as well as some foundation plantings between the proposed drive and the structure.

JOHN NOWICKI: Is that just going to be a grassed area or will you have curbing in there or what will you do?

MR. FITZGERALD: Just grassed and landscaped.

JOHN NOWICKI: And plantings in that area?

MR. FITZGERALD: Yes.

JOHN NOWICKI: I'm a little concerned -- you have handicapped parking over there on the right and side. I see that on the top. That part should be asphalt paved. You have an asphalt drive in there now. Let that go too long, I won't be too crazy about that. I will go along with the back part, to give you some time there, but that front part has to be paved. I want time frame on that one for the front parking.

MR. FITZGERALD: I guess what would the Board be looking for as a reasonable time frame?

JOHN NOWICKI: Next summer.

PASTOR BACKUS: I am completely in favor of that.

KAREN COX: 2004 you mean?

JOHN NOWICKI: Yes.

RAY BLEIER: I'm concerned with that front appearance. I'm not crazy over the front parking, but if we're going to do that, I want to make sure the landscaping is in there and that front part is paved.

PASTOR BACKUS: Let me assure the Board we have no intention of leaving it in gravel, any of it in gravel for any length of time if we can at all help it.

JOHN NOWICKI: You can see how important it is for the neighbors along there to protect that aspect of it.

PASTOR BACKUS: I do. We're trying to upgrade our property. That is part of it.

JOHN NOWICKI: Good. There is a lot going on around that area. The neighbors are going to be watching everything that happens over there. You have a nice subdivision going next-door to you, one of these days.

PASTOR BACKUS: We understand that. We want to be appealing to that clientele, if you will.

JAMES MARTIN: You do have a dumpster back there on that current parking area?

PASTOR BACKUS: It is off to the side, but yes.

JAMES MARTIN: If it is relocated, it needs to be enclosed according to Town code. It is sitting there open at this point.

RAY BLEIER: Even if it is not moved, it has to be enclosed.

JOHN NOWICKI: You bring up a sore subject. We have other ones in the Town that should come first before this guy has to do it. There are some in Chili Center that have not completed their agreements that they made with the Planning Board. I'm still very, very concerned about that, and I would hope that our code enforcement people get on that and get that fixed up and cleaned up quickly.

DARIO MARCHIONI: I'm not too happy with the front parking. We really don't have too much green left on this whole project, the green area. Have you ever considered sometimes in these projects like this where they park in the front -- probably once a week, most of the parking when -- once or twice a week, or what is the schedule of parking? When would you assume this front would be full?

PASTOR BACKUS: Our schedule, of course, Sunday morning is the biggest part of our schedule. We have meetings happening -- we have a good schedule of events on Wednesday evening right now. We anticipate -- I don't know if this is advantageous for me to say, but we anticipate having as full a schedule as possible in the church building. There are things going on all of the time.

DARIO MARCHIONI: Not every day.

PASTOR BACKUS: There are people who work there every day, but they park in the back because it is closer to the offices.

DARIO MARCHIONI: But the front parking lot will be pretty well filled up once or twice a week?

PASTOR BACKUS: I would say certainly at least twice a week.

JOHN NOWICKI: Is the building big enough to handle the increased amount of people?

PASTOR BACKUS: We are currently running three worship services on Sunday morning to accommodate the crowds.

JOHN NOWICKI: That is a good sign.

KAREN COX: That's not a bad thing.

PASTOR BACKUS: The church is doing very well. We're trying to accommodate those people the best we can.

MR. FITZGERALD: If I could point out, too, just on a comment that Dario (Marchioni) made, even with this proposal in the front asphalt, we still have 79.2 feet of green space between the front parking and the road, so right now the building is some 150 feet back off the road. It is set back. We're trying to make it appear more inviting as well as having a nice handicapped accessible drop-off area.

KAREN COX: The drop-off -- the architecture of that will fit into the architecture of the church now?

MR. FITZGERALD: We're not proposing any building improvement at this point. Probably in the future they would. Maybe we would come back and look for a canopy over the drop-off, but we're not proposing that at this time.

KAREN COX: It doesn't say that. I read that that was going to be built also as part of this application. That is good to know.

JOHN NOWICKI: Landscaping going in next spring?

PASTOR BACKUS: Sure. Especially if you make it a condition.

DARIO MARCHIONI: If I may continue, what I was getting at is some sort of screening for those huge -- all of the cars in the front -- do you have anything to do with that, just to make it more digestible when you're driving down the road. Right now you're used to green area in the front.

MR. FITZGERALD: We were trying to break it up by doing foundation plantings as well as leaving the 5 foot strip there with plantings in there. We had another island to the south a little bit.

DARIO MARCHIONI: I see that. Considerable size trees.

MR. FITZGERALD: We don't want to hide the total view of the church because it is tucked back far, but we can do some shrubs and short growth things to spruce it up.

DARIO MARCHIONI: That is the reason why we don't allow parking in front of the buildings. Some treatment has to be done here if you do get ZBA's approval.

JOHN NOWICKI: Charlie Robinson, did they come before the Conservation Board with the landscaping plans?

CHARLES ROBINSON: Not to my knowledge. Last meeting I was not present. I was out of Town.

MR. FITZGERALD: We did not go before the Conservation Board on this particular project.

JOHN NOWICKI: That will be critical, the landscaping. Again, not to block the entire building, but obviously if you can do some aesthetic thing in the front to block that parking.

MR. FITZGERALD: Is that something you feel that the applicant and the Conservation Board can work out as far as the plantings?

JOHN NOWICKI: Yes. I would like to see them work that out.

DARIO MARCHIONI: They have the expertise over there.

JOHN NOWICKI: Right, Charlie (Robinson)?

CHARLES ROBINSON: Yes. The last Monday of every month. He has been there before, so...

JOHN NOWICKI: Charlie (Robinson), will you let us know how you make out with that?

CHARLES ROBINSON: Absolutely.

JOHN NOWICKI: You said you did -- did you get a copy of this, the County comments?

MR. FITZGERALD: I have Karen (Cox)'s copy in front of me.

JOHN NOWICKI: With regard to the permits, the wetlands and all that.

KEITH O'TOOLE: It should be a condition of approval that the area of activity be deeded by the County to the applicant. Nothing further.

DANIEL KRESS: As with the last application, if you're going to seek to grant an approval, you need to attach a condition about Zoning Board of Appeals approval.

LARRY NISSEN: Nothing other than what was included in my comment letter.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

RAY BLEIER: You don't show your dumpster on the plans.

MR. FITZGERALD: We can add that, and the applicant has agreed to do a board-on-board fence enclosure.

RAY BLEIER: It has to be enclosed.

MR. FITZGERALD: We'll show that detail on the plans.

RAY BLEIER: What is the exact wording of --

KEITH O'TOOLE: The area of activity must be deeded to the applicant as a condition of approval, that being the area of activity within the right-of-way.

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

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

1. Pending approval of the Zoning Board of Appeals.
2. Pending approval of the Conservation Board.
3. Pending approval of the Town Engineer.
4. Resolve the Federal wetlands encroachment.
5. Front parking area to be paved by the end of August, 2004.
6. Dumpster to be enclosed per Town Code.
7. The area of activity within the right of way must be deeded to the applicant.

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

5. Application of Calvary Assembly of God Church, 740 Marshall Road, Rochester, New York 14624, property owner: Upstate Properties of NY; for conditional use permit to erect a church at property located at 3429 Chili Avenue in R.B. zone.
6. Application of Calvary Assembly of God Church, 740 Marshall Road, Rochester, New York 14624, property owner: Upstate Properties of NY; for preliminary site plan approval to erect a church at property located at 3429 Chili Avenue in R.B. zone.

Bob Avery, Rob Fitzgerald, Robert Reeves, Dave Huber and Bob Eggelson were present to represent the application.

MR. AVERY: With me in regards to this application this evening, Rob Fitzgerald once again from Avery Engineering, Project Engineer. From the Calvary Assembly of God, Pastor Robert Reeves. Administrator Gunther Braunreuther. We have the builder Dave Huber and designer Bob Eggelston once again. We would like to give a brief presentation. I realize this has just been in for informal discussion once before.

RAY BLEIER: Yes, please.

MR. AVERY: As mentioned, we're seeking site plan approval for construction of a church to be located at 3429 Chili Avenue with a conditional use permit also being requested since places of worship are not a specifically permitted use within the RB zone. The membership of this congregation has steadily increased over the years and has outgrown the current location at 740 Marshall Road, if you may or may not know, down the hill from the Grove Place Cemetery. The proposed site encompasses 13.2 acres on the southeast gradient of Beaver and Chili Avenue. On property currently is an older existing two-story home and barn with remainder being vacant. The property recently received subdivision approval from your Board in connection with the proposed sale of the property to the Assembly of God by current property owner Ron Easton, and the sale is, of course, contingent upon all approvals from the Town.

Speaking on the conditional use permit, as I mentioned, places of worship are not allowed in the Restricted Business District. Rather the Restricted Business District as set up in Town code is reserved for professional administrative offices and related activities. I would just like to go back on a little history of this project. As some of you may or may not recollect over the years, it has been before you several times in the past for various items.

Mr. Ron Easton, the current owner, purchased this land and two adjacent parcels over 20 years ago in the spring and summer of 1983. At that time the property was zoned R-1-15 residential. In 1985 Mr. Easton petitioned the Town Board to rezone the parcel to General Business, which was approved by the Town Board in May of 1985, but was later rescinded the following month.

Mr. Easton had petitioned for this change in conjunction with a proposed New England style shopping village. Application was brought before the Board in 1985, but was not well received by the neighboring residents who were opposed to commercial use of this property.

Later that year the Town rezoned the property to Restricted Business. In 1998, an application came before the Planning Board for a mixed commercial use of the land which was to include an Eastman Savings & Loan, professional offices and small retail operations. The proposal included request to change to Neighborhood Business. The application was withdrawn after receiving no support from the residents.

Now a church, although not specifically allowed on this property, does actually have a few similar operational characteristics to the allowed uses. Professional offices conduct normal business hours such as attorneys, doctors, architect, other professionals, Monday through Friday usually from 9 to 5 p.m. Patients and clients schedule appointments. Proposed use has normal business hours during the day from Tuesday through Friday from 9 a.m. to 2 p.m. with up to five staff people in the office in the church building. During these hours members of the congregation would normally schedule appointments including those with the minister for any number of reasons, including counseling. This could be considered similar to a patient consulting with his or her own doctor.

Professional offices. Physicians, dentists, psychiatrist, accountants, attorneys. They don't sell goods or products; they provide a service. Churches don't sell goods or products. They also provide a service, albeit of a spiritual nature.

The trip generation for professional offices and the proposed use is somewhat similar because it is on a set schedule of predetermined hours of operations. Another allowed use within this zone are business or commercial schools, and, of course, they provide for an educational opportunity. Commercial schools such as RBI, H&R Block, other instructional schools for anything from cosmetology, dog grooming, massage, floral design, bartending, they offer classes to their students both during the day and evenings throughout the week and also on weekends, many of these operations. The proposed use also allows for educational opportunity. Study groups ranging in size from 5 to 40 people will be held in the evening hours at Calvary Church between the hours of 6 p.m. and 8 p.m. all days except Monday and also on Saturday morning. Sunday worship services will take place between 9 and 1 p.m. with Wednesday service at 7. So there are some similarities.

This property is part of an island of commercially zoned property bounded by Chili Scottsville Road on the east, Beaver on the west, Chili on the north. Loss of residential classification 17 years ago and since that time, two proposals have been brought before the Planning Board to commercially develop the site. Both were withdrawn due to opposition of the adjacent homeowners. The property has been listed for sale by three brokers over the past 14 years: Widewater Group from '89 to '91, Pyramid from '91 to 2000 and James Rund from 2000 to present. There have been no prospective purchasers interested in applying for site plan approval to develop this property in compliance with the Restricted Business zone.

The neighborhood surrounding this property is fully residential with the exception of the veterinarian office across the street, the Town Hall complex on the east side of Chili Scottsville Road and the Anchor Christian Church to just so the south. Past history, any proposed commercial use of the land is not welcomed by residents, and furthermore, it has been for sale for more than 14 years. It is possibly not marketable for assigned use by the Town code. There is also currently a high vacancy rate for office space in the Rochester area. 25 percent in suburbs, 30 percent in suburbs. 7,000 square foot office space currently unoccupied in Chili Center with other vacancies on Chili Scottsville Road and some in North Chili as well. We feel this proposed use is of similar character to the allowed uses in the Restricted Business District and would also be an excellent addition to this neighborhood. At this time I would like to bring Pastor Bob Reeves up to speak a little bit about the church itself.

REVEREND REEVES: Pastor Robert Reeves, 16 Springbrook Drive in North Chili. The church itself began in 1991 with about 12 adults meeting in a home, and my predecessor, the founding pastor, Nathan Richardson, expanded from that to our retreat center and then to a Community Center. And about 1992 they were able to purchase the current facilities on 740 Marshall Road. Pastor Richardson stepped down shortly after a tragic accident, and so I was called to come serve in 1998, January. And about that time, the congregation numbered less than 30 people. Over the course of the

last six years we have grown to Sunday morning attendance that breaks 200 with regularity. We have had to accommodate having multiple services because our facilities are small. We're also bordered by a cemetery on one side, streets on two sides and houses behind us, so there is really no opportunity for expansion at our current location, and parking and seating is a very difficult thing for us to navigate right now.

So about the Year 2001 the Church Council started looking for property in the Chili area. We had considered the possibility of going beyond the Chili area, but quite honestly, for one thing, our official name of our church is Calvary Assembly of God Church of Chili, so we thought it would be nice to stay in the Town we developed a relationship with and served.

And secondly, it is a remarkably high residential area and we think that a church has a wonderful opportunity to minister to a high residential area. Our church has grown and it has created a number of challenges where we are. So in our search for property we have talked to developers first to see what their recommendations were for size of property. They recommended that we not take anything less than ten acres for future growth and development of the church and for current needs. Of course, that limited the number of parcels of land available.

Secondly, we obviously wanted a visible location because even though people don't just drive by and stop in, if they do see a church that appears warm and vibrant on a regular basis, they may be inclined to visit and, in fact, that has happened a number of times where we are now.

So we found this piece of land and we entered into negotiations with the realty group that represented the Eastons and were able to come to an agreement.

The thing that we're particularly interested in is some of the timing of this process. The Eastons were willing to sell the property to us at a reduced rate below what its appraised value was. So consequently there are some tax benefits available to them that if we could conclude this closing before year's end, it would be very advantageous to them, and, of course, it helps us along in our process, as well.

We also made an attempt to speak with every house that neighbors the property to see if there were any concerns that neighbors would have about a church going in there or with the construction of facilities, if there are specific concerns that they have.

And we had very good, positive responses from the neighbors. In fact, we did ask them to sign some cards as to whether they agreed or disagreed with the development of that property, and we have signature cards of ten of the households that were turned in, all of them in favor of the development of the property for a worship facility.

So that kind of gives you a history of our church and why we're trying to conclude this before year's end.

MR. FITZGERALD: Rob Fitzgerald. For me it is a nice parcel to work with. We have public utilities on both the north and west. Both sanitary water, sewer, gas and electric. It's a large parcel so we can take care of the increase in storm water runoff to the south of our property.

I do want to talk about the traffic patterns a little bit. They previously proposed two curb cuts on Chili Ave. and Beaver Road at an informal meeting before the Planning Board. I guess that is kind of frowned upon. Now there would be one access on Chili Ave. and one access on Beaver Road. We also did line up our access on Beaver Road to be across the street from the apartment complex to the west. That was a recommendation from the Planning Board, as well. There is also a concern that travellers might use this as a cut-through to go onto Chili Avenue.

Just to talk about that a little bit, I guess first off if they're traveling on Beaver Road and they wanted to head east, they would just go up by the Town Hall and shoot over on Scottsville Chili Road. That is a direct shot. They just turn right before they came up on Beaver Road. The big traffic issue on this particular location is people trying to turn left. Steady flow of traffic on Chili Ave. Not as big a concern for the people turning right, continuing up Beaver Road. This parcel has been in front of the Planning Board before and it has always been a concern with this intersection because it is hard to make a left-hand turn. There is presently enough room where three or four cars can double stage, if you will, and make a right-hand turn, but we are pushing and part of the plan was pushing the plan back away from the intersection just in case in the future the State or the County wanted to do some improvements, they could acquire that land and there would be land there, so we'll not prevent that.

We do have a landscape architect on board. We have met with him and the church has met

with him preliminarily. What we would like to do is, of course, come here tonight and discuss what the Board would like to see as far as landscaping, and we want to do it different and actually go in front of the Conservation Board and see what the public would like to see for landscaping because it is a pretty visible corner. But like I said, we do have someone on board. Presently, of course, we want to do some foundation plantings. We're also looking at more importantly the two parking areas to maybe do some small berms. Where I am referring to is just in this general here (indicating), definitely on Beaver Road some small berms to break up the parking. We have a nice rendering. We would like to enhance the look of the building. We would like to enhance the look of the building, but we're not looking to hide it.

JOHN NOWICKI: That view is from Beaver Road?

MR. EGCELSTON: That is from the intersection -- it is actually more Chili and Beaver. The view is looking down from here (indicating). This is the front (indicating). This is what you see as you approach coming down Chili.

KAREN COX: It is going to be cedar siding or --

MR. EGCELSTON: Would you like me to talk about the architecture at this point? What we're talking about, 14,000 square feet of space. There will be a main sanctuary piece about 4300 square feet to accommodate about 400 seats. Multipurpose for both fellowship hall activities as well as sanctuary activities.

The centerpiece is an area for people coming and going and an education wing that has eight classrooms, nursery. And then the administrative offices are wrapped back around the corner.

The roof, we're using a combination of hips and hip-drained roof with architectural roof shingle. We have a combination of horizontal clapboard siding and vertical siding with some accent panels around the window areas.

The exact materials we have not selected. Whether it is wood, a composition board or something of that nature, and we're looking at some cost benefits of some of the actual materials in detailing it.

JOHN NOWICKI: Color schemes?

MR. EGCELSTON: We would like to work with the gray tones. In developing the rendering we were trying to play fairly close, and I believe we're close to some of the gray tones that you're looking for; is that correct?

REVEREND REEVES: Some of the original tones were more of an earth tone, but we have not set on a specific color. But probably wouldn't be far off the mark.

JOHN NOWICKI: Have you window treatments that bring some color to the building?

MR. EGCELSTON: Sure. Exactly. And again, some groupings of windows to help the scale of the building.

One of the things that they do want, they want a light and airy sanctuary space so there will be windows for sure.

JOHN NOWICKI: That is positioned in sort of a north/south direction, the sanctuary?

MR. EGCELSTON: That's correct.

JOHN NOWICKI: You will pick up the lighting?

MR. EGCELSTON: Yes. It is in a north and east direction, pickup north and east light so they will have nice morning light.

DARIO MARCHIONI: Bell tower at all?

MR. EGCELSTON: We're not looking for a spire or anything of that nature. We'll probably have a cross over the entrance. There is a large entrance porch that ties in. We have put 13 parking spaces in the front reserved for guest parking, visitors, that type of thing. The bulk of the congregational parking will be in the back. We have provided in the plan to have three main entrances. The front visible entrance and then entrances coming off from the major parking areas. They all come into the center area and then can go from there to the education wing, the sanctuary or administrative areas. And again there is provision for a future sanctuary that would be on access with this entrance.

JOHN NOWICKI: All slab-on-grade or basement?

MR. EGCELSTON: We're looking at engineering on that. We anticipate that the sanctuary,

because of the grading, it is near natural grades, definitely will be slab on grade. We're looking at a two-story sanctuary because we are into the lower end and it is a natural walkout ability. So it is quite likely this area here (indicating) will have basement and possibly crawl spaces on the other side.

JOHN NOWICKI: So the character of the building can be enhanced with the grading of the property?

MR. EGCELSTON: Yes. At this point we're looking at how we're going to treat that. Initially we had thought that most of this would be slab-on-grade, but we're starting to reconsider this area, looking at the grading plan.

JOHN NOWICKI: When would you be able to make that decision?

MR. EGCELSTON: It is kind of a work-in-progress at this point.

REVEREND REEVES: Honestly a lot of that, cost effectiveness comes into play on that, and so we have to get some numbers that let us know exactly what things look like in terms of cost before we can make a decision regarding that.

JOHN NOWICKI: That is one of the areas I will save for later that I want to talk to you folks about.

RAY BLEIER: When, and what are the classrooms being used for that are shown on the plan?

MR. EGCELSTON: They're used for religious education. There is no plan for any day care or any education schooling of that nature. It is strictly for religious education.

RAY BLEIER: What day of the week is that, Sunday, Wednesday?

REVEREND REEVES: Usually Sunday Wednesdays.

JOHN NOWICKI: Somebody was saying you were talking about a soccer field or basketball court.

REVEREND REEVES: We have one drawn in on there. My son believes there should be a baseball diamond on there. I told him if he writes the check, we could do it, but he is 11. It shows a soccer field here. How that is positioned and direction, that would be determined by grade and other factors. Access to the field would be from our rear parking lot.

KAREN COX: Used for church members?

REVEREND REEVES: Church and community. Honestly, one of the things we believe is that a church can find ways to invest in a community, and that is one of the things that we're looking at to make available to the community.

JOHN NOWICKI: What about basketball?

REVEREND REEVES: We haven't drawn one in yet, but...

JOHN NOWICKI: Outbuildings for equipment?

MR. EGCELSTON: I believe we're going to have a small shed structure, and I have to rely on you as to where you had located it in the back area. Primarily for lawn mowing equipment and that type of thing, to keep the gasoline type elements out of the building.

JOHN NOWICKI: You will design that, right?

MR. EGCELSTON: We can design it, yes. It will be something to complement the church.

KAREN COX: You're showing future parking overlapping the soccer field. Is that intended or

--

MR. FITZGERALD: It is in the future, so we're not sure. We're actually showing a future sanctuary, as well, if we're very successful here. And, of course, we can realign this parking. We have lots of area or we can realign the soccer field. Actually, this is a real size soccer field so we could shrink it a little if need be.

MR. EGCELSTON: It is more to show the scale of what the possibilities are on the property.

JOHN NOWICKI: We have some notes here that were given to us through the Building Department and one of them was the possibility of installing a gate at the Beaver Road entrance to prevent the cut-through. Any thought or consideration given to that?

MR. FITZGERALD: We have discussed that. Like I stated earlier, with doing the two driveways we're not sure if that will be an issue and people would probably use the route going by the Town Hall. I think the conclusion was if we did see it being a problem, maybe that is something we could possibly do, is put a gate of some type. They like to stay away from that just for visual appeal.

JOHN NOWICKI: What about speed bumps across the front of that? Something like that to prevent the cut-through. You will have back-ups on the intersection and you will have people cutting

through there whether you like it or not.

RAY BLEIER: I go by there quite frequently. I have to say 90 percent of the traffic goes west. Very little goes east.

JOHN NOWICKI: That is what I am saying. They can't get out and back up.

RAY BLEIER: This is Sunday activity.

JOHN NOWICKI: I drive by there every day and people coming up the road, it is a very heavy traveled road. To make a left-hand turn --

REVEREND REEVES: That was one of the reasons why we brought the drive into the parking area as far back as we did. Originally when we met with you it was placed up here towards the front (indicating).

JOHN NOWICKI: That helps a lot.

REVEREND REEVES: We also brought it back here. So anyone cutting through would have to drive in, all of the way across the building and go back out.

JOHN NOWICKI: Okay.

KAREN COX: That is quite unattractive for people cutting through.

MR. EGGELSTON: I think the configuration is a deterrent itself.

JOHN NOWICKI: I agree with you on that.

KAREN COX: They try it once and they will decide it is not worth it.

MR. EGGELSTON: Hopefully they will get lost and come in for guidance.

KAREN COX: That's a good one.

(Laughter.)

KAREN COX: The parking lot behind the church, I assume everything is going to be paved, or is it going to be in gravel first and then paved?

MR. FITZGERALD: Once again, the church needs to look at their finances. At minimum the drop-off area in the parking out front, that would be asphalt. Then they would have to look at the finances for the back two parking lots.

REVEREND REEVES: It will eventually be paved.

KAREN COX: State and County have looked at the plans for the entrances?

MR. FITZGERALD: I received feedback from the County. I did not receive any information from the State. When I looked at it, I thought they were both State roads. I had State details for both of the curb cuts, but like I said earlier, Beaver Road -- the County has jurisdiction over that, so I do have to change some notes and details on that. They were looking for some more details. They actually asked us to relocate the driveway on Beaver Road where we have it because there was a catch basin there or to relocate the catch basin. We'll probably choose to relocate the catch basin because it was recommended by the Planning Board to have two curb cuts opposite from each other.

KAREN COX: You're still waiting to hear from them?

MR. FITZGERALD: Yes, unless you have received anything from the DRC comments.

KAREN COX: The State hasn't been making comments on those for a while, so....

JOHN HELLABY: Site lighting, I don't see any actual spelled out here. Any anticipate --

MR. FITZGERALD: Site lighting is a detail we want to work out. We're looking for the parking at some downcast lights, probably four box type in this area (indicating), and two on the front area, and then maybe -- I'm not sure of the correct time, but just pole lights with the cans, if you will, something attractive for the front of the building.

JOHN HELLABY: Probably some wall packs or something?

MR. FITZGERALD: Over the doors there would be wall packs.

JOHN HELLABY: Is this a 24-hour type thing, or just when services are going on? After hours? Will the wall packs be on all of the time? Any thought?

REVEREND REEVES: Our parking will be event-oriented lighting. We're required by code to have lighting for nighttime activity, but they will not be dusk to dawn lights. In terms of what illuminates the building, what is necessary for security, but nothing additional to that.

JOHN HELLABY: There is actually no dumpster enclosure or anything shown here. Do you anticipate trash removal?

MR. EGGELSTON: This has a low volume of trash. It will be all stored inside and taken out.

REVEREND REEVES: That is how we currently do it.

JOHN NOWICKI: There are quite a few issues on the County DRC you will have to address.

KAREN COX: Most of the County Comments were boilerplate.

JOHN HELLABY: There are particular ones in here, they're looking for traffic impact analysis. They're looking for sight distances.

KAREN COX: Traffic impact analysis -- sight distance is boilerplate.

JOHN HELLABY: You will have to address all those.

JOHN NOWICKI: Do you do weddings and baptisms over there?

REVEREND REEVES: Sure.

JOHN NOWICKI: Will the building be sprinklered?

REVEREND REEVES: Not designed for sprinkler now.

JOHN NOWICKI: Mr. Kress, does that building require sprinklering?

DANIEL KRESS: Probably not.

DARIO MARCHIONI: It is a church. They have exemption.

DANIEL KRESS: Ordinarily in New York State buildings that are used for public assembly purposes, whether worship or recreation or dining or a room like this, if they have got occupancy over 100 people are required to be sprinklered. There are, however, certain exceptions in particular for places like churches. Based on what I know so far, I think it is probably not. I will need building plans to be sure, but probably not.

MR. EGGELSTON: There will be an ultimate code review on this, and I believe churches, places of worship are exempt from sprinklers.

They do have fire alarm requirements and that type of thing, which, of course, we'll have.

JOHN NOWICKI: Especially in the classroom areas with small children.

I would like to -- I think I will take a little more difficult area that I want to talk about here. Can you talk to us more about the finances? I would like to know if you're going to be able to complete this project in its entirety, and how will you going to do that? Will you mortgage this? Do you have a central church, somebody else you go get mortgage money from?

REVEREND REEVES: If you're offering a donation, we'll take it, but our commitment to our congregation is we'll not break ground until we're ready to complete the project. There is another church in the community that has been prolonged in being able to complete their project. It has created an intense stress on that congregation and that is not anything we would want to do to the stress levels of our own congregation. So our commitment is once we break ground, our goal is within six to eight months to be worshipping in the facility. The earliest possible groundbreaking would be the fall of '04 and could be as late as spring of '05.

JOHN NOWICKI: I'm trying to be fair to everybody here. Somebody mentioned in the presentation here that the Eastons, and they're present this evening, I see that, you were hoping to get something approved here for them to have that this year. So I would assume preliminary final would probably give them the okay on that; is that correct, Mr. O'Toole? Just preliminary? So that they would have the advantage of the taxes this year, the tax benefit?

KEITH O'TOOLE: I guess I don't follow you.

JOHN NOWICKI: I'm not prepared to vote on final on this thing because there is too much work to do. They have an awful lot of things to do here before we can put a final okay on it, but I can see preliminary.

KEITH O'TOOLE: Tax advantage to the Eastons?

JOHN NOWICKI: Yes. It wouldn't be fair to them.

KEITH O'TOOLE: The conveyance occurs when it occurs. It is not dependent on us unless the buyers want some level --

REVEREND REEVES: It is a contingent of our contract with them that we would have Town approval to be able to build.

JOHN NOWICKI: Preliminary would be a good way to go.

I'm trying to be fair to both sides of the issue here. Once you come back, one of the other conditions would be -- will the house and barn be removed by the current owners?

REVEREND REEVES: That is correct.

JOHN NOWICKI: That will be done before any building permits are issued?

REVEREND REEVES: That will be done at time of closing.

JOHN NOWICKI: I had notes here that indicated, "In addition to worship opportunities, we foresee our facilities being accessed for various communities events." What kind of community events would that be?

REVEREND REEVES: Well, there are a number of things. We consider these things investments in our community, as well. There have been a couple high profile Town Board meetings where the facilities here were inadequate here to accommodate the number of people who gathered. We would be very interested in being able to provide an off-site meeting place if that need were available. We also like the idea of providing various seminar style classes for parent training, for marriage enrichment, divorce recovery. They tend to be opportunities that run six to eight weeks. They would meet one night a week, and would accommodate usually somewhere between 10 and 40 people. We also like the idea -- in our parking lot area, we'll have a lot of asphalt, maybe setting up some basketball hoops and arranging some three-on-three tournaments. They would not be left there just wide open all of the time, but just tournament oriented.

JOHN NOWICKI: When you get final approval on this, will you put it out to bid or do you have someone within the church who is the builder? I want to feel comfortable and the neighbors want to feel comfortable that this is going to get built and done right.

REVEREND REEVES: Our intention is everything will be put out to bid. Design/builder company that we have contracted with does a lot of work themselves. We do have some individuals in the church that are capable and competent craftsman at various levels and they would have a right to bid or offer their services, but one of the challenges that you face if it is volunteer labor, it actually winds up costing more money long-term because it holds everybody else up. Those are challenges that we have to face as we work through the process, but it is our intention that the work will be bid.

JOHN NOWICKI: I wish you well. I think the project really is looking like the right project.

REVEREND REEVES: Thank you.

JOHN NOWICKI: If we can get everything together here for the final and get all these questions answered, these little details wrapped up, you would probably be in pretty good shape. Good luck to all of you, and Merry Christmas.

REVEREND REEVES: Merry Christmas.

DARIO MARCHIONI: You mentioned the neighbors. You surveyed the neighbors and they gave you some sort of written letter or something? I know we have a letter from one neighbor in favor of the project.

REVEREND REEVES: Just so you know what was written, it was a neighbor survey. We tried to meet with as many as possible. The card says, "It is my understanding that the church, Calvary Assembly, has contracted to purchase 13.2 acres that borders Chili Avenue and Beaver Road with intention of building a worship facility." The first check box says, "I support the development of this project," and the second box, "I do not support the development of this property by Calvary Assembly," and then they were given the opportunity to write their name address and their signature. Of the ten families that turned in cards, all ten showed that they showed support for the development of the project. So we would be happy to provide copies.

JOHN NOWICKI: Reverend Reeves, what happens to the property on Marshall Road?

REVEREND REEVES: We will sell it.

CHARLES ROBINSON: The Conservation Board was unable to make a ruling because we didn't receive any information.

REVEREND REEVES: At this point we have a letter of intent from a landscape architect. We wanted to hear from the neighbors before we put a landscape plan together. We thought it would be redundant to go back and have to do it over.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

PAT GENDREAU, 3378 Chili Avenue.

MR. GENDREAU: My first concern is having an exit on Chili Avenue. The traffic there is horrendous. If you don't have a turn-around on your driveway, you don't get out. That is my biggest concern.

The other one is landscaping, and I guess you will wait on the landscaping because we'll be

looking at the back end and the parking lot and whether the landscaping is going to surround the entire parking lot and the church itself or whether it will only be out front where you're actually facing. Landscaping is a minor issue. The driveway on Chili Avenue is a very big issue.

RAY BLEIER: You have to remember this is a church and they will have services just on Sunday and probably Wednesday.

MR. GENDREAU: They started with Sunday and Wednesday and then talked about the idea of doing classes different days of the week and trying to use the facility for the community, and now you're getting into having it more than two days a week. You're talking about evenings and Saturdays and Sunday. It started off one or two days a week and when all is said and done, if he has his way, it will probably be seven days a week.

RAY BLEIER: Eight.

(Laughter.)

REVEREND REEVES: That is true. What is also true is that the traffic patterns, whether it is educational opportunity or worship opportunity, whether it takes place on weekends or at off-type traffic volume times. At 7 o'clock in the evening traffic flow on Chili Avenue is less than at 5 o'clock in the evening. We have to give people the opportunity to get home, have their meals and then come back. So our schedule of events is probably the least impact traffic wise of anything that could be developed on this piece of property.

MR. GENDREAU: Live on Chili Avenue and tell me at 7 o'clock at night that there isn't a lot of traffic. It is 30 miles an hour and they do 45. I'm sorry. That's a very big issue for me.

JOHN NOWICKI: Another question. Do you have an organ or a choir or do you sing in the church or anything like that?

KAREN COX: Thinking about joining up?

(Laughter.)

REVEREND REEVES: Our music consists of keyboard, a couple guitars, guitar drums. There is a small worship band. It is not a traditional choir.

KAREN COX: Contemporary?

REVEREND REEVES: No.

JOHN NOWICKI: They're not affected by boom boxes, because you'll hear them on Chili Avenue.

(Laughter.)

RIE RAGUE, 3390 Chili Avenue

MR. RAGUE: I'm very happy with their plans. I think it will be just a wonderful addition to our neighborhood. Thank you.

CARL THOMAS, 122 Stryker Road

MR. THOMAS: I, too, think it will be a wonderful addition to the area. However, I have concerns about loss of one of our historical buildings. Is any effort being made to find someone to move the building or to dismantle it for parts rather than just knock it down and burn it? The McCullum (phonetic) home. It is not unrestorable, I don't believe. I don't know if they approached the museum or not, but I think the Eastons could approach the Landmark Society. It could be used as any type of building. You could move the church backwards and still maintain that building and restore it and have a use for it. It is just a shame Chili will lose another one of the historic buildings.

DAVE BURNS, 14 Westham Circle

MR. BURNS: I think it would be a great addition to the Town. The picture is very nice. This property has been vacant for a long time. I think it would do the Eastons and this Town a great favor if this was approved. I would like to see some of these minor problems swept aside and work with these people to get this closed up tonight rather than let everybody hang.

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: I also think it is a wonderful idea. It is a nice looking building, and the Eastons do deserve to be able to do something with their land, and it's a beautiful site. I think this is a welcome

addition.

PASTOR CHRIS BACKUS, 3750 Chili Avenue

PASTOR BACKUS: I'm a resident of Chili also. I live at 3750 Chili Avenue. My name is Chris Backus. And being what will be a neighboring church to this property, I think it will be a welcome addition. Burger King likes to be next to McDonald's. Tops likes to be next to Wegmans. And it actually will benefit both churches for us to be near one another. It really will.

DARIO MARCHIONI: Share the parking.

PASTOR BACKUS: Yes. Hopefully we won't have to do that any more. The only down side, I had my eye on that property for our next building.
(Laughter.)

PASTOR BACKUS: I want to say this also. As far as the cut-through concern, I drive that way home every single day from work, and what I do is I look up to the end, and if I see they're backed up, I turn right and go up Chili Scottsville Road. I would never consider going through their parking lot, especially with the configuration it is. I think whoever said a person would do it once and realize it is much easier to go the other way is absolutely correct. I can't see that being a concern from a psychological standpoint at all.

DANIEL KRESS: If I may, I just wanted to add that I was contacted by Peter Widener of the Preservation Board this afternoon who also had concerns about the house at the corner. He was indicating that he was going to try to be present this evening, but I told him if he couldn't, I would simply pass along to the Board and to the applicant their concern that that is, in fact, a good example of a small scale Greek Revival home that the Board would be happy to talk to them about any possibilities for preserving or moving the structure.

RAY BLEIER: I am sure the applicant wouldn't mind having somebody move it off the property.

JOHN NOWICKI: Eastons are taking the buildings down.

KEITH O'TOOLE: Do SEQR for the entire project and then vote on the individual applications.

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

The Board discussed the proposed conditions.

RAY BLEIER: I believe there is a good stated case for this, due to the environment surrounding this particular property, I think it is a suitable application. So no time limit.

DECISION ON APPLICATION #5: Unanimously approved by a vote of 6 yes with the following conditions:

1. Pending approval of the Town Engineer.
2. Submit landscaping plans (stamped and sealed by licensed landscape architect) to the Conservation Board for their review and approval.
3. Address Monroe County Department of Planning concerns.
4. Show detailed lighting plan.
5. No outside storage of materials.
6. Submit final architectural drawings with specifications.
7. Conditional use is granted with no time limit on the basis that this church plan was warmly received by immediate neighbors and is also consistent with other

neighborhood uses (i.e. another church nearby).

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

1. Pending approval of the Town Engineer.
2. Submit landscaping plans (stamped and sealed by licensed landscape architect) to the Conservation Board for their review and approval.
3. Address Monroe County Department of Planning concerns.
4. Show detailed lighting plan.
5. No outside storage of materials.
6. Submit final architectural drawings with specifications.

INFORMAL:

1. Application of Mr. & Mrs. Brian Phillips, owner; 575 Mt. Read Blvd., Rochester, New York for revised site plan approval to include approval to erect a modular dwelling at property located at 823 Ballantyne Road in A.C. & FPO zone.

JOHN HELLABY: Mr. Chairman, before you continue, I would ask I be allowed to step down on the next application as I abstained the very initial application. This subdivision bears my brother's name.

MS. BILL: They were police officers. They waited as long as they could. It is my daughter and son-in-law.

KEITH O'TOOLE: Mr. Chairman, close enough. They talked to Dan (Kress) and said they could leave. Tracy B-i-l-l.

MS. BILL: They asked what time it should be and they tried to stay as long as they could.

RAY BLEIER: Apparently site plan approval was given for these mods here. Since -- during the course of the application process, it was not specified they would have a modular dwelling. I think we all have some type of plans here.

JOHN NOWICKI: What does the house look like?

MS. BILL: I do have a picture of this.

JOHN NOWICKI: I'm not sure that's the house or not.

MS. BILL: 2100 square foot Colonial with wrap-around porch.

JOHN NOWICKI: Is this it?

MS. BILL: Yes.

JOHN NOWICKI: Lot 3. Footprint here doesn't match this.

MS. BILL: This is what the engineer gave us. We went through this with Dan (Kress) a hundred times.

JOHN NOWICKI: Hellaby --

MS. BILL: We purchased it from the original people, took it back to Schultz with this plan and this is what they gave us.

JOHN NOWICKI: This footprint doesn't agree with that. My other question, what is this garage doing here (indicating)? Is this attached?

MS. BILL: It is attached. It is attached on here.

JAMES MARTIN: Doesn't come with the package?

MS. BILL: Yes. It is just because of different garages you can pick for different houses -- this is what they told us was all that was required.

JOHN NOWICKI: What is porch section? I assume you're putting the garage off this end (indicating)?

RAY BLEIER: Four sections? Two on the first floor and two on the second?

MR. BILL: Yes.

JOHN NOWICKI: Who is the modular home --

MS. BILL: This is where it is being ordered from, a Richcraft house.

DARIO MARCHIONI: This proposal on Ballantyne Road, does that conform to all our approved building codes for the State and local?

DANIEL KRESS: New York State rules for modular construction for manufactured housing specify it has got to be a design approved by the State of New York, and basically all I do is make sure that design is, in fact, approved and then when it is shipped from the factory, it has to be dropped on a foundation that I can pass according to the building code and according to the manufacturing's instructions since this will come in several pieces. So I have confirmed that particular design is listed as an approved design by New York State.

DARIO MARCHIONI: Town has enough guarding positions to make sure this conforms to all --

DANIEL KRESS: I'm not concerned about building code aspects. It is really a question of the zoning requirements that the exterior appearance of the residence is supposed to be similar to other dwellings in the Town according to the judgment of the Planning Board.

KAREN COX: When I think of modular homes, it is not what I think of. The architecture is nice. So I don't have any issues with it.

RAY BLEIER: Didn't we have one of these back a while.

JOHN NOWICKI: We had one I believe on Paul Road, sitting back in the woods a little bit. That was a two-story one, too.

MR. CARUSO: It is by my house. You can't tell the difference between it.

DECISION: Approved by a vote of 5 yes with 1 abstention (John Hellaby) with no conditions.

FOR DISCUSSION:

1. Tim Hortons - proposed coffee shop/restaurant at 800 Paul Road in G.B. zone.

Matter not heard this evening.

2. Muirfield Development, LLC - proposed 17 lot subdivision with duplex units at 3360 Chili Avenue in R-1-20 zone.

John Caruso was present to represent the application along with Bill Howard and William Kreienberg.

MR. CARUSO: We wanted to bring this application in informally before the Board before we proceed on it. What we're proposing to do is construct duplexes in the R-1-20 district. It is permitted under conditional use. 115-12 item number 7. One two-family dwelling duplex is permitted per R-1-20 lot. So we have got 16 lots laid out here. The site is well serviced by utilities, drainage, water, sanitary. We looked at laying it out several different ways, and to try to minimize any disturbance to the neighborhood, we decided not to use this 60 foot right-of-way because it would bring a road in next to two people's houses; whereas, over here by this design (indicating), we sort of create a transition buffer to GB zone. The zoning line is right here from R-1-20 to G.B. (indicating). It also places the houses as proposed, the furthest away from the six or seven homes in and along Chili Avenue, one of them being the veterinary hospital. In doing this design, we would probably require a setback variance for one of the lots along Chili Avenue. This lot here (indicating), what I have done is -- I have made the setback 50 feet where 60 feet is required by code, so I would take this to the Zoning Board and ask them to grant us that variance, and the reason is I think that this area variance makes the plan a little bit better because we still will wind up with almost a 70-foot long driveway for the duplex use, but it moves these units here (indicating) away from the

railroad tracks by 10 feet, but also moves these units here (indicating) away from these residents (indicating) by 10 feet and there's no detriment in doing it. It makes it a bit of a better plan, more backyard and moving it away. 12 acres of land, total 16 buildings. Not real dense. Sort of a simple design. Dedicated road laid out to Town specifications.

DARIO MARCHIONI: Why do you want to do it?

MR. CARUSO: They think there is a market for people who winter in Florida who may want to own a building and have a place to come back to. They would own the entire building, all on one lot. No property line down the building. This is all one duplex. The types of units are very similar to the ones we showed you earlier for the Links project except a smaller version down in the 1400 square foot, so a little smaller than these boxes that we showed you.

RAY BLEIER: Any thought to single-family residences on those pieces of property that touch on residents on Chili Avenue and then perhaps have duplexes in the back to try and create a mix?

MR. CARUSO: Single families here (indicating) and duplexes here (indicating)?

RAY BLEIER: Yes. For a mix. I did receive a letter from one of the residents there, the Schwabs.

JOHN NOWICKI: There is opposition.

RAY BLEIER: I just want to read it. You know what their concern is. It says, "The other proposal which strictly concerns us is Muirfield Development, LLC, proposed 17 lot subdivision with duplex units at 3360 Chili Avenue in R-1-20 zone. These units will butt up to our backyard. We're very close to this plan and would like to see zoning of R-1-20 unchanged," which it would be, it won't change. "We're particularly against the duplexes as we feel the nature of a duplex does not foster long-time residents who take pride in property and community. Thereby, becoming something of a transient situation. In our opinion, property values will not be stable and less desirable with time and the fact that this property also borders the railroad tracks. Our observations of duplex units both here in our Town and also over the years lead us to these conclusions. We hope you take our thoughts into careful consideration. Respectfully submitted Keith and Mary Kay Schwab. That was their concern.

I can see the duplex concept on those lots that are right close to the railroad. There is no immediate impact on residents there. That is why I just brought up the idea of perhaps a mix there to soften the application.

JAMES MARTIN: Was it planned to be rental units?

MR. CARUSO: No. They would be owner occupied. It was important that we would -- it is a good question. It was important, you know, the intent was to have them owner-occupied with owner buying the building and he rents out the other half.

JOHN NOWICKI: Is there no guarantee on that? A guy could go in and buy five or six and the question becomes the maintenance of the properties that could deteriorate quickly. I have a lot of concern over that, especially when you see that many duplexes in a road. You drive up Buffalo Road and look at duplexes up there over the years and they're all in sad shape. I have a lot of concern for the Town of Chili's sake about duplexes like that tightly packed in there like that, and having no control over the maintenance of that project. I would prefer to see an apartment building in there, to be honest, one owner that will maintain the facility. I think you will have transient movement in there you won't be happy with.

DARIO MARCHIONI: This is like an apartment. If your concept is right where somebody buys a whole bunch, you could one owner with a whole bunch of apartments.

JOHN NOWICKI: Maintenance is the key. You know that. We can go through this Town and look at various apartment projects and see the maintenance on them. Who does a good job and who doesn't. You know what that does to your property values. You don't have to be a genius to figure that one out.

RAY BLEIER: Apartments would be tougher to sell.

JOHN NOWICKI: No question. I wouldn't want to see them there. I don't know what you do on this piece of land. Somebody else owned this piece of land before. You guys own this thing?

MR. HOWARD: Contract on it.

JOHN NOWICKI: I think it was occupied.

MR. HOWARD: Dick Sylvester owns it.

JOHN NOWICKI: Nobody came up with a good idea to do. It is a tough piece of

property.

MR. HOWARD: I have had it listed for three and a half years. I had people come in with apartments, commercial. I had Avery Engineering give me a little piece here, let's do office. All have to be rezoned. Again, the aesthetics of these buildings we were trying to be similar to the courtyard villas down-sized. Trying to have owner occupied because what you're seeing in Chili, all apartments, Blueberry, 1,000, 1200, 900, \$1,100 these apartments are bringing, and what is happening is we're trying to have owner-occupied persons that could buy these units, rent the other side and live for 650, 700 rather than renting these apartments. So they have alternative choices that would be affordable and, John (Nowicki), you're saying about the aesthetics of these, they would be built to specs, built right. You know you can put the integrity into the architectural design so it would not look like Buffalo Road. I hope anything with our name on it would never look like Buffalo Road. We have a vested interest in this community and we're not going to put something up to anything of that type of quality.

JOHN NOWICKI: I would like to hear from neighbors.

MR. HOWARD: That is where it has come from. I have been approached in my real estate business from Blueberry Hill.

RAY BLEIER: Rie, would you like to offer any comments?

RIE RAGUE

MS. RAGUE: I really didn't know anything about this. Our property is right long side on the west side.

Could somebody own more than one structure?

MR. HOWARD: Can they, would they? I don't see an investor would want to spend that type of money. I could see an individual wanting to spend that money to supplement their housing investment.

MS. RAGUE: Could somebody buy three or four of them and rent them out?

MR. KREIENBERG: They could, but market numbers we're working on for each unit would be something in excess of \$200,000. Each duplex unit would be in excess of \$200,000.

MR. HOWARD: These are all first floor master suites. Same as the courtyard villas. The reason we came up with these, there are only 16. I have been approached in my real estate office with people coming from Blueberry Hill and some of the other apartments and they can't afford to move to King Forest Estates to spend 150, but they could spend 100,000 and have someone else rent the other 100 and live cheap, have a nice house, live in the community and make it all work. They could finance it, qualify for it and make it affordable for them to achieve. Where now if they try to build in any of our communities, they can't afford to do it. So they're renting at Blueberry Hill Apartments to try to qualify. They come into my office. I had the property listed three and a half years. I haven't been able to do anything with it. The rezoning, the best use we could come up with, I ran it by some of these potential clients that came in and they loved it.

DARIO MARCHIONI: One of the concepts that I see in other areas such as -- if a person buys one of these, maybe a son or daughter lives next-door so they have separation, but still a family unit.

MR. HOWARD: Instead of in-law, they would do this, but I can't see somebody saying give me three units at \$600,000, because I don't think they could rent them out to get their return. I don't see that happening. Could it happen? I guess. But I doubt it.

MR. CARUSO: Dario (Marchioni) is right. There is no profit in renting duplexes.

KAREN COX: With the proximity of the railroad, would that affect the salability, if that is a word, for the duplexes?

MR. HOWARD: Well, again, they're a little unique because they're a first floor master suite with cape style. What you're finding out, they're spending 1100 at Blueberry and they can move for 750, supplement the other side for a 1,000, own it, versus renting. Could you do it? Or in-law situation with your parents that help you afford it, instead of an apartment, and they're seasonal moving back and forth from Florida. I have had that situation. Mom and dad could live on the other side, watch it until they come back and you have your own place. We're building in these subdivisions and I'm doing a lot of in-laws. I see we're coming before you now in the Fallone subdivisions and King Forest and West Whittier putting in in-law situations and we're building those for 250 to 300,000. This is an alternative.

JOHN NOWICKI: What do you think an appraiser would do with property next to railroad

tracks?

MR. HOWARD: Nothing more than King Forest Estates. No more than was doing with development around railroad tracks. Chili is surrounded by them. Again, we would leave the hedgerows and trees.

KAREN COX: I wouldn't want to, but people do.

MR. CARUSO: Look at Barbato's tract.

MR. HOWARD: 250 up, 3, \$400,000 house there and they back to railroads.

KAREN COX: You can't escape it here.

JOHN NOWICKI: Archer Road.

MR. HOWARD: So again it is a different concept. It is different than apartments just up. There are so many apartments going up. There is a need for affordable alternative type of lifestyle that someone could achieve in a home and not just rent.

MR. CARUSO: What you heard Bill (Howard) describe much better than I can, his marketing idea behind it, but we looked at zoning. We weren't rezoning, trying to put high density residential incompatible with single-family homes. We sort of tried to transition from G.B. to the east, a little bit of duplex, then single-family homes going to the west.

JOHN NOWICKI: What are lot sizes?

MR. CARUSO: 20,000 square feet or greater. It is R-1-20.

JOHN NOWICKI: You meet the zoning --

MR. CARUSO: Yes.

JOHN NOWICKI: -- for the area?

MR. CARUSO: Yes.

KAREN COX: The 16th use, it is awfully close to the back property line.

MR. CARUSO: You're right. At this point it is just a concept plan.

KAREN COX: Could shape it --

MR. CARUSO: Yes. I just got big boxes in there now. I found out tonight from Bill (Howard) that the unit plan that we showed tonight for the townhome up at the Links project is what he had in mind there with something smaller, plus he wants to build basements so we don't have the outside storage issue. Two-car garages. That is the most challenging parcel that one can -- that 16th unit.

KAREN COX: It is a strange shape.

DARIO MARCHIONI: One thing I like about duplexes is you share a big yard. You have a big yard, full-sized lot and you participate in out --

JOHN NOWICKI: He builds them.

DARIO MARCHIONI: I want to say there is no money in it, that's for sure, but on other hand you --

MR. HOWARD: Investors won't buy these.

KAREN COX: Is the duplex population as transient as apartment population?

MR. HOWARD: You know what? Everywhere else in the country -- I went to Vegas, Scottsdale, Arizona, Florida, California, that's what they're doing. Here, it just hasn't taken off. I know there is a need for it because I see the market and I'm dealing with these people. They can't afford the 150, but if they had someone take the other 100, they could certainly get a mortgage, qualify, use 95 percent of the other rent to get that mortgage and own it where they couldn't normally do that and live in Chili.

DARIO MARCHIONI: Not only that, but the New York State law pertaining to single-family home, and this is single converted to two-family, you can choose who you rent it to up to three units. You're a senior citizen and you live here, and you don't want somebody to -- you can control who lives next to you and there is no discrimination thing.

MR. HOWARD: As far as I'm saying it is more family that I have been dealing with.

MR. CARUSO: What we liked about in the layout was the transition zoning, but we also weren't generating -- this is not a 60-lot subdivision with one access on Chili Avenue. It is really 16 buildings. If we get the 16th one in there. It is sort of a small generator, if you will. Everything is sort of low key about this land use. Keith O'Toole asked based on the comments --

MR. SMITH: That 16th unit is in our backyard and will butt up to our back fence. That's one of my problems with it. Tracks is a problem. Drives me crazy. Sitting on my back porch I listen to humming sounds from the power source down there. I can't imagine that would not bother people who might want to buy there. My thought, it is vacant land with terrible drainage. My family cellar floods every year. That 16th home will drive me nuts. It will drive the dog nuts.

MR. HOWARD: You could turn that and change it.

MR. CARUSO: It is just conceptual right now. But -- the project does protrude, but for purposes of discussion we just showed it that way. But we may apply a special design to that site.

JOHN NOWICKI: Does it have to be that density to make it work right, to loosen it up?

MR. CARUSO: We started with 72 units, 36 buildings. We lost 20 buildings from the time it got from the first planner to me. I had to bear the news -- can you imagine me telling Bill (Howard) he lost 20 buildings?

JOHN NOWICKI: Here?

MR. CARUSO: It came to us as a townhouse project.

MR. HOWARD: It was a townhouse project.

KAREN COX: People are paying 300, \$400,000 to build houses next to a railroad. I wouldn't do it. Somebody would be interested in these. It is just whether somebody might buy and two years later say, "I can't take the noise, I need to leave." That is where you might see transient population, but who knows. There have been people living on Chili Avenue with railroads in their backyard for years.

DARIO MARCHIONI: On the other hand, you have Town Hall and library across --

MR. HOWARD: Church.

DARIO MARCHIONI: You can walk to the plaza, pizzeria down the street. It is really centrally located.

MR. HOWARD: You're spending 100,000 for the unit because the other 100 is being supplemented by the tenant. So for you to buy a house in Chili for 120 or even 120, and as Al indicated, 80 for the other unit, it is almost impossible. That is why there is a need for it.

KEITH O'TOOLE: Mr. Chairman, if the absentee landlord issue is a strong concern for the Town and it kind of plays into people deciding they don't like living near the tracks and trying to put the house on the market at fair sale prices, a Homeowners' Association would certainly fix that problem, I would think.

The other issue would be transitional. You have the G.B. zoning off to the east. I think some heavy landscaping and berming on rear yards would be appropriate to take the edge off the problems.

JOHN NOWICKI: What about structural, vibrations in the walls, basements, that close to the railroad?

LARRY NISSEN: Good question. I'm not sure I can answer.

JOHN NOWICKI: Anything you would suggest or recommend for reinforcement?

LARRY NISSEN: Steel rebar.

(Laughter.)

JOHN NOWICKI: Poured concrete walls.

MR. HOWARD: You don't want slab.

JOHN NOWICKI: You will have vibrations.

LARRY NISSEN: Has there been a problem with that in other areas of the Town close or adjacent?

KAREN COX: I don't know if they're that close to the railroad tracks. The ones I see have reasonable backyards.

JOHN NOWICKI: Everybody hears the railroad trains throughout the Town -- I enjoy listening to the whistles, but they're far away.

MR. HOWARD: We sold a house to the old Building Inspector, Leo Carroll. He lives in King Forest Estates and he backs up to the railroad. I sold all those houses for Mr. Fallone.

KAREN COX: That is Conrail.

MR. HOWARD: That is the main line. I have sold all those homes and people, again we start -- we're 150,000 and up in there and we're selling some in the 250's.

JAMES MARTIN: At-grade crossing. They're blowing there, too.

MR. HOWARD: People tell me they get used to it. They don't even hear it any more, if you

believe it.

JOHN NOWICKI: Like the airport.

DARIO MARCHIONI: Attridge Road I see dozens of cars watching the trains.

SUE SMITH, 3370 Chili Avenue

MS. SMITH: When you said it is not that bad being by the railroad tracks, but with Chili Avenue right there, every time you -- the train crosses Chili Avenue they blow that horn. So you're right on top of that horn. The horn is the bad part. It is not the train going by. It is the horn.

JAMES MARTIN: It will be blowing behind those.

MR. HOWARD: My office is right here, and --

GEORGE PETERSON, Beaver Road Extension

MR. PETERSON: King Forest Estates is off King Road to the north there. Granted most of the prevailing winds are out of the west so that is why those people don't have a problem. If we have prevailing winds out of the east, it would be more. I live on Beaver Road Extension. It is amazing the direction different winds going. Some days I don't hear it, some days it is like in my backyard. So the winds play a heck of a role with the train noise. Just food for thought. And remember the -- they're not backing up -- they're backing up to the tracks here, too, and the sound carries more if the tracks went the other way.

MR. HOWARD: There are woods there. We would try to keep all of the trees in that area.

MS. SMITH: How can you keep all of the trees?

MR. HOWARD: In the backyard, along the side.

MR. GENREAU: One street going in, one road?

JOHN NOWICKI: That's correct.

MR. GENREAU: I own the two lots right down where that 60 foot of right-of-way is, and I can't voice enough concern that I don't want duplexes in my backyard. For the same reason that Mary Kay wrote the letter that what has happened in this Town and other towns is they don't keep them up, whether it be the physical buildings or their yards.

MS. SMITH: I can't imagine someone who could afford to spend winters in Florida would buy a house on the railroad tracks.

MR. HOWARD: They would do it for their kids. They wouldn't do it for themselves.

RAY BLEIER: I sat on the Planning Board when the development over on Archer Road, over by Wheat Hill came in. I couldn't believe people would buy houses right along side the train there. Those would be the last ones sold. Well, I was wrong. People bought them and they are still there.

MR. HOWARD: People like the trains.

KAREN COX: I wouldn't because I have small kids. It would be a kid magnet.

DARIO MARCHIONI: One more question. If you want to build a single-family home here, you would have that option, too.

MR. CARUSO: Yes.

DARIO MARCHIONI: It does not necessarily mean they'll all be duplexes? If somebody wants single-family.

MR. HOWARD: It wouldn't work. There are too many other subdivisions all through I -- we would just be "me, too."

MR. CARUSO: He wants the duplex. You're saying if somebody wanted to build single-family, they could, right, because the zoning is there. The lots along the south side are half acre to three-quarters of an acre.

RAY BLEIER: You have heard the comments from the Board and the audience. Your call how you want to proceed.

DECISION: The Chili Planning Board reviewed the proposal for duplex units at the above-captioned property. The applicant is to consider comments made by Planning Board members and immediate neighbors. Applicant may now proceed with preliminary submittals.

FOR DISCUSSION:

3. The James Group - proposed Planned Residential Development at 715 Paul Road in R-1-15 zone and 177 Archer Road in R-1-15 & L.I. zone.

Matter was not heard this evening.

4. Muirfield Development, LLC - proposed two-lot subdivision with duplex units at 2948 Chili Avenue in N.B. zone.

John Caruso, Bill Howard and William Kreienberg were present to represent the application.

MR. CARUSO: Now this is the infamous carwash site. This site was rezoned. It is about three-quarters acre piece of land. It was rezoned to Neighborhood Business and then the carwash was proposed on it. There was a lot of neighborhood opposition, and the owners decided not to pursue the carwash just because of the public outcry.

DARIO MARCHIONI: We could always bring it back up.

MR. CARUSO: As bad strategy it might have been to bring in a carwash and then come in with this next one, but that certainly is not our approach. I think Bill (Howard) sat on this for a while and tried to look at some other uses and didn't think actually putting an office building on this piece was appropriate. A sure way out appears to be the least resistance to neighborhood is something compatible in there and that would be something along the lines we just showed you, same type building. This is a footprint of that building.

John Caruso presented a plan view.

MR. CARUSO: This is a plan view of the duplex.

JOHN NOWICKI: One story?

MR. CARUSO: Yes.

MR. HOWARD: They're first floor master suites with cape style.

JOHN NOWICKI: I would have to see architectural on it.

MR. HOWARD: Two-car garages. Same buildings.

JOHN NOWICKI: So Town park stays there?

MR. HOWARD: Yes.

JOHN NOWICKI: I could maybe see this one a little better.

Town park is maintained by the Town.

MR. CARUSO: This one also required a use permit. And the use permit under conditional use permit for this piece, in the Neighborhood Business, we would have to use the section of the code that says other compatible adjacent uses, and --

RAY BLEIER: It is not a defined conditional use.

MR. CARUSO: Under NB it doesn't say residential houses or duplex unit. That is why I wanted to bring that up, because, you know, I confided with Keith O'Toole a little bit and he said at the pleasure of the Board. I want to be up front with you, we're going to need your approval on conditional use to put this building on this piece of land, but we do think it is more compatible with the neighborhood.

JOHN NOWICKI: More compatible with me in this area. Knowing what is around there. I don't know if anybody would complain about it.

MR. CARUSO: That is why we're here to start with you, to see if you had major objections to it.

JOHN NOWICKI: If architecture is done right.

DARIO MARCHIONI: Cross easement for crossing the lots.

MR. CARUSO: You know both lots touch a right-of-way, so I don't have to make a flag lot out of it. All we need is a little cross-access easement across the first to get into the second and I don't have to have a driveway off Chili Avenue.

DARIO MARCHIONI: That's a bad corner.

MR. CARUSO: There are a lot of bad things about it.

DARIO MARCHIONI: Looks good.

JAMES MARTIN: Good to me.

DECISION: The Chili Planning Board reviewed the above-described proposal. Applicant should be advised that they may now proceed with a formal application submission.

The meeting ended at 11:33 p.m.