

CHILI PLANNING BOARD
May 14, 2019

A meeting of the Chili Planning Board was held on May 14, 2019 at the Chili Town Hall, 3333 Chili Avenue, Rochester, New York 14624 at 7:00 p.m. The meeting was called to order by Chairperson Michael Nyhan.

PRESENT: Paul Bloser, David Cross, Matt Emens, Glenn Hyde, John Hellaby, Ron Richmond and Chairperson Michael Nyhan.

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

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

MICHAEL NYHAN: I would like to recognize John Hellaby, our Planning Board member, who recently received an award from the New York Planning Federation, the Levine Community Service Award. Mr. Hellaby, Al (Hellaby), has served over three decades on various Boards and Committees in the Town.

I wanted to recognize you, Al (Hellaby), and say thank you for all your dedication.

OLD BUSINESS:

2. Application of Hospitality Syracuse, Inc., 290 Elmwood Davis Road, Suite 320, Liverpool, New York 13088 for final site plan approval to erect a 2,380 sq. ft. restaurant at property located at 3240 Chili Avenue in G.B. zone.

MICHAEL NYHAN: On Tuesday, our Planning Board Secretary received a letter from Stephanie Albright representing the applicant in this application and requested that we table the Taco Bell application until further notice.

I make a motion that we table this application until further notice.

JOHN HELLABY: So moved.

GLENN HYDE: Second.

The Board was unanimously in favor of the motion to table.

DECISION: Unanimously tabled by a vote of 7 yes to table for the following reason:

1. Tabled at applicant's request until further notice.

OLD BUSINESS:

1. Application of Tim Giarrusso, Rochester Community Inclusive Rowing, 265 Bretlyn Circle, Rochester, New York 14618 for revised final site plan approval to erect a 5,184 sq. ft. boathouse facility at property located at 20 Black Creek Road in RAO-20 & FPO zone.

Tim Giarrusso was present to represent the application.

MR. GIARRUSSO: Hi. Tim Giarrusso, Rochester Community Inclusive Rowing, Co-founder and President.

I'm not sure how far back you want me to go, but we were here March 18th of 2018. We had a site plan approval with 15 conditions that we assume will remain in effect hopefully after tonight's meeting. The original design was much larger, closer to 6,500 square feet and much more than we could afford to build.

We came back April 9th with a revised site plan approval and a smaller facility down to 5184 square feet, which you can see the rendering over here (indicating).

The AAC in April provided us with several items of feedback to better comply with the suggested building guidelines, so we acted on those over the last five weeks. We resubmitted those and went through that meeting earlier tonight. I will let Matt (Emens) speak to that if the Planning Board needs to hear that.

Other than that, the site plan really has not changed other than the building is smaller and instead of having four doors going towards the water, we only have three, which is part of the square footage reduction. The parking is exactly the same. The entrance points of the parking are the same. The amount of parking is the same. The landscaping is still consistent with what

was provided in March of 2018.

Um, other than that, I will take questions.

MICHAEL NYHAN: Did you change the construction materials to what you have depicted here --

MR. GIARRUSSO: That's correct.

MICHAEL NYHAN: -- from the Architectural Advisory Committee?

MR. GIARRUSSO: Matt (Emens), do you want to comment?

MATT EMENS: Mike (Nyhan), I think you have the recommendation form we did -- we are recommending it as presented tonight. So thank you.

MICHAEL NYHAN: So -- so the Architectural Advisory Committee has made a recommendation to accept the drawings as we see them on the board here for the building.

Any questions or comments from the Planning Board on accepting these recommendations?

The Board indicated they had no comments or questions.

MICHAEL NYHAN: With that, any further discussion? I don't see any additional conditions to place on this. Does anybody see any new or additional conditions? Just the change in the architectural. No? Okay.

I will make a motion to accept the final site plan approval for the application of Tim Giarrusso, Rochester Community Inclusive Rowing, 265 Bretlyn Circle, Rochester, New York 14618 for revised final site plan approval to erect a 5,184 sq. ft. boathouse facility at property located at 20 Black Creek Road in RAO-20 & FPO zone with the condition that all previous conditions imposed by this Board are still pertinent to the application remain in effect.

MICHAEL NYHAN: Motion.

JOHN HELLABY: Second.

The Board was unanimously in favor of the motion.

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

1. All previous conditions imposed by this Board that are still pertinent to the application remain in effect.

INFORMAL:

1. Application of Dan Dettorre, owner; 29 Cottage Grove Circle, North Chili, New York 14514 for final site plan approval to erect a single family dwelling and 50' x 70' pole barn at property located at 786 Brook Road in A.C. & FPO zone.

Matt Tuttle was present to represent the application.

MR. TUTTLE: Good evening. Matt Tuttle from Schultz Associates, land surveyors and the consulting engineers for Mr. Dettorre's project.

After last month's Planning Board meeting when we received preliminary approval, the client went to the Zoning Board of Appeals and was granted his side setback variance to move the site setback for his pole barn -- from 50 feet to 20 feet. And other than that, we have been dealing with the Water Authority and Department comments.

We have those just about squared away. Almost ready to go to mylar. As well as the second round of Town Engineer comments.

JOHN HELLABY: That was the only variance you required, was the setback variance?

MR. TUTTLE: That was the only variance.

MICHAEL NYHAN: You confident from the response you have received from the engineering letter that everything is sufficient?

MICHAEL HANSCOM: Yes. I would recommend that they -- the letter that stated their intent with regard to the SWPPP -- seven days before construction started. I recommend that they provide that sooner for review. Because generally we -- the mylars won't get signed and you won't get approval -- approval for that until the Town receives those and reviews them.

MR. TUTTLE: Yes, sir.

MICHAEL NYHAN: So when -- how many days in advance of that would you want to review that, Mike (Hanscom)?

MICHAEL HANSCOM: I would like to receive them about three weeks in advance.

MICHAEL NYHAN: Three weeks in advance until building permits are issued? Or until?

MICHAEL HANSCOM: Prior -- prior to him doing any land clearing.

MICHAEL NYHAN: I'm sorry.

MICHAEL HANSCOM: Prior to him wanting to do any land clearing or site -- site work.

MICHAEL NYHAN: So the SWPPP must be submitted prior to any land clearing or site work on property. Is that accurate?

MICHAEL HANSCOM: Yes. Okay. I think we had conditions on the previous application. Is that accurate? And they all are still pertinent from last month? Any further comments or discussion? No?

For application of Dan Dettorre, owner; 29 Cottage Grove Circle, North Chili, New York

14514 for final site plan approval to erect a single family dwelling and 50' x 70' pole barn at property located at 786 Brook Road in A.C. & FPO zone.

The only condition that I have added to the previous conditions is that the SWPPP must be submitted prior to any land clearing or site work at this property. Other than that, all previous conditions imposed by this Board that are still pertinent to the applicant remain in effect.

Any other conditions?

MICHAEL NYHAN: Make a motion to accept the application.

JOHN HELLABY: Second.

The Board was unanimously in favor of the motion.

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

1. All previous conditions imposed by this Board that are still pertinent to the application remain in effect.
2. SWWPP must be submitted prior to any land clearing or site work on the property.

PUBLIC HEARINGS:

1. Application of Leo McKinney, owner; 513 Whittier Road, Spencerport, New York 14559 for revised site plan approval and modification of special use permit granted on 9/11/18. Applicant requests to allow up to 17 vehicles to be parked on the property (8 previously approved) at property located at 4210 Buffalo Road in N.B. zone.

Leo McKinney, Susan McKinney and Robert Howell were present to represent the application.

MICHAEL NYHAN: This is 15 outside parking spaces and two inside?

MR. MCKINNEY: That's correct. Good evening Mr. Chairman everyone, Board members. I guess it was back in 1999 that we were granted up to 8 cars on the property, or before that I think actually, and I know with the cars coming and going sometimes having to wait for parts for the cars, we go over the 8, so I'm hoping we can go up to 17. We would have six parked on Westside Drive -- or six on the Buffalo Road side, four on the Westside Drive and four to the south side of the building and one handicapped to the north and two vehicles inside.

I'm hoping this would rectify the problem where we're going over the limit of the vehicles on the property if we can be allowed to have up to 17 vehicles on property. Sometimes there is vehicles being dropped off on the weekends that are towed in there and -- which is kind of out of our control because the cars get dropped. So sometimes it goes over. So we just don't have enough room.

MICHAEL NYHAN: Anything else, sir?

MR. SLACK: That's it, basically.

MICHAEL NYHAN: If the Board recalls, when we heard this initial Special Use Permit back in 2018, it was a court order which limited the number of vehicles that could park on this property. And we granted that Special Use Permit based on that court order, which was eight cars to be parked on the property.

Since that time, Mr. McKinney, the Town of Chili and the Court have met and they have discussed this and it is the Court's opinion and the Town's opinion that they would like to bring this piece of property and treat it fairly and the same as they do any other piece of property of this type in the Town of Chili.

When the original court order was issued in 1999, there were gas pumps at this location, so the parking was treated differently than it would be today because the islands and all fuel pumps have been removed from the property. That is what brings us back to tonight as a result of that agreement between the Town, the Court and Mr. McKinney.

And he is requesting 17 total parking spots, 15 outside, 2 inside, which is based on the Town Code that the Building Department had determined as the appropriate number of spots for this piece of property.

With that being said, any questions?

RON RICHMOND: I don't know if it is a question. More so a comment. I look at the work that is going on on the opposite corner and what they're doing to make that piece of property look the way they're presenting it, 17 cars on this piece of property might be a little bit excessive from what I see. So that is all I have.

JOHN HELLABY: Personally I guess I don't have a problem with the number of vehicles, but a general statement to Ron (Richmond)'s effect is that a little bit of housekeeping goes an awful long way. You want to keep your neighbors happy. I mean the dumpster enclosure, the stacks of old tires and all that stuff, it is all in the housekeeping and how it is presented. So enough said about it.

MR. MCKINNEY: Okay.

DAVID CROSS: Al (Hellaby)'s concerns, I mean -- 17 cars, I don't have a huge problem with either. It is just a little bit of landscaping would go a long way. Dress up the islands. I

don't know if it is mulch or bushes or trees or something. But has there been any consideration to any landscaping improvements?

MR. MCKINNEY: Well, we have been putting mulch down each year and trying to weed control out on the point there. And the beds where we mulch, trying to stay on top of the weeds. I know we took a lot of the pine needles out there the last few weeks and trying to clean it up, yes.

DAVID CROSS: Again, I think a little would go a long way.

ERIC STOWE: Only just a clarification. When you say the Court and the Town and Mr. McKinney met, it was an open public court proceeding. It was not anything else. This was an enforcement proceeding and a negotiated agreement that if we could -- if a -- if a revised site plan could be approved by -- was approved by this Board, the Court would no longer be the one determining the appropriate uses and it would be more appropriately situated with the Planning Board than anything else. But it was as a result of an enforcement proceeding in open court.

MICHAEL NYHAN: Thank you.

PAUL WANZENRIED: Just if you're going to make a condition on landscaping or something like that, make it something quantifiable. Okay? Something that is -- dare I say enforceable? Okay?

Thank you.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

MS. KELLY: My name is Barbara Kelly. I live with my husband at 125 Freedom Pond Lane which is in College Greene a couple blocks down. I brought some photographs that I took and some information that there is a packet here for each of the Board members.

MR. KELLY: Last September 11th, the Special Use Permit on this business was renewed by this Planning Board with all of the previous conditions remaining, including a limit of eight vehicles to be parked there at any given time.

The night before on September 10th, the Conservation Board met and passed a motion unanimously calling for improved plantings, specifically that the plantings that were already there should be maintained and that more plantings be done on the eastern end of the property.

The Conservation Board -- it was Dick Schickler described the property as highly visible and an important entryway to North Chili and the college. Take a look at the pictures. I took the photos on Saturday, May 4th, and I wish I had done it a few days earlier, because literally half of the vehicles that had been there had been removed when this hearing notice went up. Nothing has been done in eight months. October, November, December, January, February, March, April, May.

I made an official complaint in October. There have been two court hearings, one in January and one in March, both of which were adjourned so the Town could discuss this with Mr. McKinney and Mr. Howell. Take a look at the pictures and see what visitors to the Town of Chili and North Chili look at as they come in. The -- the curbs are in poor repair. There -- they're bent over. They're not painted. The plantings go over the curb into the street. The pavement is decrepit. There a dumpster in the back that is supposed to be enclosed by Town ordinance and yet it is not. There is pavement. There is unregistered cars you can see in the third picture. That is still there, by the way.

And more curbing on the north side. More problems with the curbing all of the way down. And about eight pages in, there is a copy of the -- of the code, Town Code that says all parking, dumpsters and service areas should be reasonably screened during all seasons of the year from the view of the adjacent residential lots and streets and the general landscaping of the site should be in character with that generally prevailing in the neighborhood.

Character and appearance. The appearance of this property shall not adversely affect the general welfare and inhabitants of the Town. I'm here to tell you I'm worried about my property values.

The next page defines abandoned and unclaimed vehicles. There were 12 vehicles and -- May 4th when I took these pictures and you can see a -- pictures of each one. There -- they're dented, rusty, decrepit, flat tires, inspection expired, you name it, it's there. I -- I maintain that they are either abandoned or unclaimed according to the definition that I have included with this.

And furthermore, the local authority has jurisdiction over this. The local authorities are authorized to take custody of any of these vehicles, whether abandoned on public or private property.

This place is a mess. I can't go any place without looking at it. Please do not increase the number of vehicles allowed on this property. You can see that a week later there is a -- there is a truck that has no front wheel parked in there. This morning I counted more than 15 cars in there.

The -- I'm just so discouraged by the whole business. I don't know what to say. Please do not increase the number of vehicles allowed on this property. Please do enforce the conditions that the Board imposed -- this Board imposed last fall. I would be also -- also be interested in knowing why these conditions haven't been enforced. Mr. Emens said in September that he was trying to make sure Howell was being a good neighbor and Mr. Hellaby said he felt sorry for the neighbors. I hope you still feel that way and will vote against increasing this and for enforcing the -- the code that is on the books. Otherwise, I think we have malfeasance by the -- by the Building Department. Thank you.

MS. MCKINNEY: My name is Susan McKinney and the gas station is part of my family's LLC. Um, we weren't made aware that the Conservation Board had any issues or suggestions

regarding the property. I'm sure we would have worked with them as far as their concerns about planting and whatever -- if it is necessary that the dumpster be enclosed, I'm sure that is something we would, as good neighbors, work to address.

However, Mr. Howell does run a business there and the whole point of auto repair is that vehicles are there because they need work. I go looking for help with my vehicles when I'm having a problem, not when everything is running fine.

Once again, it is a business. I'm sure we can address some of the concerns as far as the curbing or painting or whatever. However, I think Mr. Howell brings a service to the area, to the college, to people in the neighborhood.

Unfortunately, businesses do end up having some issues. It's not a Marriott hotel. It is a functioning business and he is working to help and support the neighborhood the best he can as far as car repairs and that sort of thing.

We also have mapped out some parking parameters as far as where the vehicles would be contained. And I do think we try to be good neighbors. Unfortunately, when you have an issue with your car, you want to get it there and you park it and you leave it and you hope that somebody is going to come in and repair it for you the next day so you can get on with your life.

So we do want to be good neighbors but we also, um, hope you will view this in the light this is a working business and everything isn't perfect. But we are trying to address some of the issues. Thank you.

LEO MCKINNEY: I just wanted to state that the dumpster is enclosed.

MICHAEL NYHAN: Name again, sir?

MR. MCKINNEY: Leo McKinney. I just wanted to state we do have an enclosed dumpster there. We have to do some painting over there. But we have been trying to wait for the weather to cooperate so we can get some paint on the dumpster, repaint some stuff. But as you know with the rain and stuff, it has been hard to do that. As far as the vehicles being there without the inspection stickers, they're probably waiting there to get inspected. So if the tire is not on the vehicle, it is probably waiting for a repair. You know, sometimes those things happen.

But the dumpster is enclosed. We want to paint it as soon as the weather cooperates.

MICHAEL NYHAN: Okay. Thank you.

MS. RUFF: On July 12 --

MICHAEL NYHAN: Your name?

MS. RUFF: I'm sorry, Jan Ruff. 109 Freedom Pond Lane, North Chili.

On July 12th, 2018, I filed a formal complaint regarding the service area. I did not receive a response.

On March 12th, 2019, I filed another formal complaint. Again, regarding the Howell Service Center. Again, I did not receive a response.

My question to the Board is what has been done, if anything, to correct the appearance of this property? And how it looks on a day-to-day basis? I, too, want to be a good neighbor, but unfortunately, this has turned into a junkyard. It's a disgrace driving into North Chili. That's the first thing that hits your eye. I would like to know how you resolve the Code Enforcement complaints that you receive. There has to be an answer. And I don't think bringing or allowing 17 cars on a daily basis is the answer. It is uncalled for. Look at Donnelly's Automotive. Um, Chili Automotive. M&L Automotive. They don't have 17 cars. They don't even have eight cars in their lot. And I think we have been more than patient to put up with the junkyard. And I think -- I think something has to be done about it.

It's your job as the Board to come to a conclusion with it, and I hope it's the right one because I'm disgusted with it.

MICHAEL NYHAN: Thank you.

MS. MCKINNEY: Susan McKinney again. I just wanted to say that we were advised that we were out of compliance by Paul (Wanzenried), the Building Department, and that originally was why we came to court. They were -- the Town has acted to, um, rectify the situation and work with us. And to say that they haven't done anything is really not true because that's why we got this whole situation going when we met with the Town Attorney and Paul (Wanzenried) at an earlier date.

Thank you.

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

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

JOHN HELLABY: Is there a way that they can work with the Conservation Board coming up with something that is acceptable to the Conservation Board and to give us something to say this is what it has got to be? You know, I -- I got to believe that avenue is open. I mean it's a matter of more time turning it over to the 17 vehicles. I mean because the way it stands today, I would not vote for this. I -- I just -- I can't see it because it's always give, give, give and never get anything in return. If they in good faith clean that mess up, we would have a whole different situation there.

ERIC STOWE: Part of the issue is going to be, I believe, it's in the State right-of-way -- or the County, excuse me.

PAUL WANZENRIED: Both.

ERIC STOWE: County and State right-of-ways.

PAUL WANZENRIED: Westside Drive is a County. Buffalo Road is a State. The curves you see on those plans are within the right-of-ways and they would be the State's --

JOHN HELLABY: I'm not even saying the curbs. I'm just saying the plantings, the mulchings, sweeping the pavement up. General housekeeping situation. Because I can tell you right now, I can see this thing going to a vote and if it goes through, I -- I wouldn't see any housekeeping changes down there six months down the road.

RON RICHMOND: To Al (Hellaby)'s point, we saw this applicant a half year ago and it was a concern then and nothing has changed. I travel that road daily. Multiple times daily. So I understand the concerns of the community and -- and it is concerning. We have been down this road before. So if there is not something that is measurable that can be --

MATT EMENS: Enforced.

RON RICHMOND: -- enforced for compliance, then I don't know where that leaves us.

MICHAEL NYHAN: What do you suggest? What suggestions are you making that we could apply to this property?

RON RICHMOND: Well, for starters, I would suggest we don't even consider this application until the property is -- is brought up to a presentable appearance, and I don't know if we have the right to do that, but it is an entrance into part of our community. And it's a very visible entrance. And I have to concur with the comments that we heard tonight.

MICHAEL NYHAN: Okay.

MATT EMENS: Yeah, I don't -- I think from a parking standpoint, um, I don't have an issue but seeing these pictures and hearing about the Conservation Board -- I think that is where we have to focus. We can't do anything about the curbing. I appreciate the owner saying they're going to paint that dumpster enclosure. I don't know if paint is going to do it, looking at those pictures. So I think that that needs to be looked at.

But mostly I think it needs to be the ring of landscaping of the actual too long legs of the triangle. That's the part that people are seeing from the road. The short leg of the triangle has mature trees on it. I don't think we had need to deal with that. They have to look at these islands and just -- I have this feeling that we have already kind of said this, but I have this feeling that if that landscaping looked good and some of these things were kept up, I don't think people would be as noticed and concerned about the cars being, you know -- sitting on three wheels, instead of four.

JOHN HELLABY: Well, you know, all -- all goes back to the housekeeping thing. I mean classic examples, you look at this picture, all these what I would assume are oil bottles or containers or something just laying out there in the yard. Why? Take the time to pick this stuff up.

MR. HOWELL: May I speak for one second, please?

MICHAEL NYHAN: No. Public Hearing is closed. Thank you.

JOHN HELLABY: So I -- that is where I'm coming from.

GLENN HYDE: I share the same concerns. We talked about this six months ago and nothing has really changed. The parking lot condition, as well. Some of the pictures, just looking in -- this lack of maintenance.

DAVID CROSS: Same concerns. And I guess if there is items like the curbing and landscaping and the public right-of-way, maybe it is time before we do anything on this Board that those items come out and we pull back your parking, we pull back your curbing into the property and make some serious improvements over there before we do anything further.

PAUL BLOSER: Yeah. I think really the housekeeping is the major issue here. Is it very visible. People coming and going from Town. It seems like every time we had a renewal for something on this property, this issue always comes up. And I -- I guess that is my only real concern. I don't personally have a problem with the parking. I have more a problem with the housekeeping and looking at the pictures, they speak for themselves.

MICHAEL NYHAN: So what conditions would we place in order to do that? We can't just say we would like the property to look nicer. It has to be something that is within the code of the Town, and it needs to be measurable and something that we can say this is what needs to be done.

JOHN HELLABY: As I stated, I think they need to work with the Conservation Board and come up with some sort of landscape plan that is as decisive and whether it says five pines or six yews or whatever, it be on the drawing and enforceable; correct?

PAUL WANZENRIED: You could direct them to the Conservation Board and make that a condition. Comply with all recommendations of the Conservation Board. If you wanted to.

RON RICHMOND: And some facilities maintenance, as well. If I was going to suggest anything, I would suggest the applicant table this and maybe go back and think about the comments they have heard from the community and from the Board and from the Building Department and see what action they might be able to take before pursuing this and maybe not having the outcome they were hoping for.

MICHAEL NYHAN: Well, to be fair to everybody, we need to tell them what that is specifically. Having them go to the Conservation Board and working with the Conservation Board to get a recommendation from them as a condition is something that is specific that we can ask them to do. The Conservation Board will provide them with guidance and they can submit a plan to the Conservation Board that they approve or modify.

RON RICHMOND: Of course. But they can also take a look at the property themselves and use some form of sound judgment. Listen, I'm glad any business in our community is successful. It's a good problem to have. However, it is still part of a community.

MICHAEL NYHAN: So what would you like done to the building to make it look nicer? What is the issue with the building? I want to make sure the applicant is clear on what we're asking for. We can't --

JOHN HELLABY: I think it is -- for lack of better term, saying "trash," that is around the building. Whether it is an empty oil bottle or full oil bottles, old tires, exhaust pipes. I mean the list could be endless.

RON RICHMOND: The grounds look unkempt.

JOHN HELLABY: Short of saying okay, get with the Zoning Enforcement Officer, the Town of Chili and walk the entire site and have the person point at each one of these things -- I mean, we're all grown ups here. They should know what has got to go.

MICHAEL NYHAN: Paul (Wanzenried), have you been over there to review that Town Code versus what you're seeing on the property?

PAUL WANZENRIED: Not in the last three weeks. I monitor it -- in terms of parking and the number of vehicles parked, um, which is fairly accurate to the pictures you see before you. But I have not been over there in -- in depth and walked the property.

MICHAEL NYHAN: Okay.

PAUL WANZENRIED: If you look at that site plan you have before you, there are plantings on there. I believe this was a previously approved site plan.

MICHAEL NYHAN: It was a previously approved site plan and a previously approved Special Use Permit for five years. What they're coming in for tonight is to increase the number of parking spaces from our original permit.

PAUL WANZENRIED: I'm aware of that. My -- I think my point was is that they could either work with the Conservation Board or maintain the plantings that you see before you. Okay? If those plantings are or are not there. Or did they take this to the Conservation Board to get recommendations as to what more they could do or -- or I don't know. Maybe the plantings have changed.

DAVID CROSS: But the curbing is in disrepair. It's -- it has been maintained. I mean, it looks like there is an attempt to paint it at one point. It is not -- it doesn't look good. And I mean it was also the concerns -- there is four spots along Westside Drive that are in -- halfway in the public right-of-way. Um --

PAUL WANZENRIED: In the right-of-ways, that was researched from our Superintendent of Highways. We -- both the State and the County are -- are all right with the parking in the right-of-way.

DAVID CROSS: They checked the sight distances?

PAUL WANZENRIED: Brent Penwarden sent an email to Dave Lindsay with regards to that.

MATT EMENS: In regards to the parking spots, are you requiring them to restripe it?

PAUL WANZENRIED: It'd be a requirement, yes.

MATT EMENS: One of the things I recommend professionally they do when they restripe it, have the lot clean and swept for all of the loose debris. Their choice if they want to seal it, but that would be -- normal operating procedure would be to clean it before you painted it anyway.

PAUL WANZENRIED: Correct.

MATT EMENS: I think that could be made one of the stipulations to clean up some of the debris that we see piled up in terms of the pictures, the broken asphalt and loose stone.

I don't think that fixes the curb. Am I to understand the curb is the responsibility of the landowner or some of the curb is to be the responsibility of the State and/or County?

PAUL WANZENREID: If the curb is in the right-of-way, it is our understanding that that would be the responsibility of the County or State, depending on which one it is.

DAVID CROSS: So I guess the other thing maybe we can do as a partner in this is -- is the Town -- maybe the Town could reach out to the County and State to determine if there is any planned improvements or ability to get this into a capital project to be improved in the future?

PAUL WANZENRIED: We can research that. I currently don't know of any out there available to that, so.

MATT EMENS: It's dated. Not serviceable it looks like. I guess you could service it, but it is -- I guess it's --

MICHAEL NYHAN: Actually, it could just be removed, correct?

PAUL WANZENRIED: The curb?

MICHAEL NYHAN: Yes.

PAUL WANZENRIED: No.

MICHAEL NYHAN: Can't be?

PAUL WANZENRIED: No.

ERIC STOWE: Not if it is not theirs.

MICHAEL NYHAN: Okay.

Paul (Wanzenried), in your visit over there, were there any code violations other than the parking condition? Any code violation at the property?

PAUL WANZENRIED: Dumpster enclosure could be tightened up. I didn't really see anything else. I mean, I was counting cars. That was my main focus.

MICHAEL NYHAN: Any other comments? So right now, the conditions that I have, are the subject Town of Chili Court vacating a previous order from 4/15 of 1989.

All vehicles on the property must be properly registered and have license plates on the vehicles.

Applicant shall provide a landscape plan drawn by a landscaping architect along with the

required checklist to the Conservation Board for review and recommendation.

All previous conditions imposed by this Board are still pertinent to the application and remain in effect.

Are there any other conditions that would be placed on this property to accomplish what we're looking to accomplish? What did you say, Al (Hellaby) -- something about the old tires, trash?

JOHN HELLABY: It is just that I --

MATT EMENS: Removal of any and all trash. I would --

ERIC STOWE: We have also done routinely on new construction no outdoor storage of spoils. I mean you could -- whatever you want to call it. I think it needs to be clear whether if it is outdoor storage of vehicles that are being serviced versus the discarded parts that are not for that but that has been a routine condition.

MICHAEL NYHAN: Say that again. No outdoor storage of any materials?

ERIC STOWE: We would have -- they're entitled to have -- it's an exception to the junked or abandoned vehicles code for repair stations, okay? So -- so I think we need to be clear on what it is applicable to. As far as --

RON RICHMOND: Liquid parts or consumable parts?

ERIC STOWE: Petroleum products I think is clear. Old tires, I think -- but you would want to have waste product but not have it apply to the -- the -- the actual motor vehicle, because that is an exception to those junked cars.

MICHAEL NYHAN: So what I have is the removal of tires, trash, containers from view on the property.

Would that cover it?

ERIC STOWE: No outdoor storage of those items. I guess -- what else are you guys looking for?

RON RICHMOND: Automotive expendable items likes oils or batteries or mufflers, wipers, whatever.

ERIC STOWE: I just want to clarify, are you guys doing the -- preliminary and special use with conditions coming back for final? Are you tabling with these are the recommendations and items you need to address and come back? There were discussions of both, so I need to be clear.

JOHN HELLABY: I honestly think that this should be tabled to see what actually transpires over the next 30 or 60 days.

DAVID CROSS: That would be at the applicant's request, right?

MICHAEL NYHAN: First of all, this is just for a Special Use Permit, changing the number of vehicles on the property, not for preliminary site plan approval.

RON RICHMOND: But I made the suggestion that the applicant consider everything they heard here tonight -- I'm just addressing the comment from Eric (Stowe) to make sure there is not a preliminary site plan approval.

ERIC STOWE: It is revised site plan they're here for, as well, because that is to update the parking space count.

MICHAEL NYHAN: You're right. I stand corrected. It's written right here. Yep. Okay.

ERIC STOWE: To be fair, we did start this in the October/November time frame and the weather hasn't exactly been great to do that. So.

MICHAEL NYHAN: Let me make sure I have these additional conditions. No outdoor storage of cars, containers of petroleum products or parts for sale.

Okay. Any others?

MATT EMENS: If part of the building permit or site plan is they have to get the striping done, I think we should say what the -- that the asphalt should be -- debris should be swept clean and removed prior to striping of the parking spaces.

DAVID CROSS: If you stripe it, it has to be seal coated, too.

RON RICHMOND: I don't know that I would seal that. It's a rough lot. Can't make somebody seal their lot. You can make somebody identify striping, especially with ADA stalls. But absolutely clean up loose -- but I mean if I -- if I look about -- at this lot professionally, there is a whole bunch of different recommendations than just sealing and striping it. So I don't know how we address that other than saying clean up loose debris.

MICHAEL NYHAN: What I have is the parking lot must be striped to delineate the approved parking spaces.

RON RICHMOND: Clean and restriped to delineate.

MATT EMENS: Asphalt debris to be removed prior to.

MICHAEL NYHAN: So this is for preliminary and a final; is that right, Eric (Stowe)?

ERIC STOWE: That's your call, guys.

MICHAEL NYHAN: Is that what --

ERIC STOWE: I believe it was just revised.

MICHAEL NYHAN: All it is saying is revised. I don't see preliminary or final.

MATT EMENS: Just says final on the application.

PAUL WANZENRIED: So that takes one of the opportunities off the table. You're either going to table this application and allow him 30 days, come back for revised site plan and if he has cleaned up his act, great. If not, he's -- you vote as you wish.

MICHAEL NYHAN: Correct. Let me make sure I have the directions clear on this and then we'll ask the applicant how they would like to proceed.

So the conditions of approval would be all previous conditions imposed by this Board are still pertinent to the applicant remain in effect.

Special Use Permit is for five years.

Subject to the Town of Chili Court vacating previous order from 4/15 of 1999.

All vehicles on the property must be properly registered and have license plates on the vehicles.

The applicant shall supply a landscape plan drawn by landscaping architect along with the required checklist to the Conservation Board for review and recommendation.

Removal of tires, trash containers from view on the property.

No outdoor storage of tires, containers of petroleum products or parts for sale.

And the parking lot must be cleaned and striped to delineate the approved parking spaces.

ERIC STOWE: With respect to the -- the registered and inspected vehicles, that particular use is exempt from that provision of the code.

MICHAEL NYHAN: Okay.

ERIC STOWE: Such motor vehicles temporarily stored on the premises of the duly authorized motor vehicle service station or body repair shop.

MICHAEL NYHAN: Okay. I will remove that.

JOHN HELLABY: The landscape plan, you made the statement to develop the landscape plan with a licensed architect, but I think you should state -- implement that plan, as well. It -- I will give you a plan, where does it say he has to put the plantings in?

MICHAEL NYHAN: I think to the applicant, I think you have concerns of the Board and some of the recommendations that we have made. You know one of items I would suggest is that if you go to the Conservation Board and work with them, to determine the plantings that would work in that area, and what they would recommend. Then you could come back to this Board and we would understand from them what their approval was and what they agreed and recommended for your property.

At that point, then we could affirm that recommendation of the Planning Board and then the recommendation -- then the -- the -- the condition would just simply be that you have to follow that landscaping plan and you have to comply with it.

So with that being said, I will ask you how would you like to proceed with this, based on the comments you have heard from the Board members and your opinion of how they would like to move forward, your really choices are to move forward with the conditions we have mentioned or to request that you table this so you can address some of the concerns, go in front of our Conservation Board for their approval on some landscaping recommendations.

MS. MCKINNEY: Sir, if we -- if we tabled it, how long would we have, because obviously the weather hasn't been the greatest. We have to get in contact with the Conservation Board. Um -- there would be some steps that we would need to take. We would need to talk to Mr. Howell and see if, um, he is in agreement to do what he needs to do as far as moving ahead. So if you table it, how long would that be for? Or --

MICHAEL NYHAN: The table would be indefinite until you came back to the Board to reapply for us to review your site plan and your Special Use Permit.

JOHN HELLABY: I --

MS. LEWIS: In the meanwhile, we would have to get down to five cars or --

ERIC STOWE: Can we not do indefinite, please? We're holding in abeyance pending this, the stuff that going on in the Court. So I think we need to report to them and say, "Here is -- here is what occurred on -- in front of the Planning Board. Here is where we need to go and here is the timeline that has been set for that."

JOHN HELLABY: I don't think 90 days would be unreasonable.

MICHAEL NYHAN: I would think you would be able to get in front of the other Boards and the weather will break within 90 days. Then you just reapply to this -- or to be heard after you have done all of that.

MR. HOWELL: May I say something? I have a situation right now. I have a medical situation. I just found out May 4th.

MICHAEL NYHAN: Sir, who are you?

MR. HOWELL: I'm sorry. I'm Robert Howell. I'm the owner of the business. And I -- tentatively I will right now have a surgery set up for June 14th. Um, and it's going to be probably a month to six weeks I'm going to be down after that surgery. I can't do any strenuous activity. Um, with that -- I just want to bring that up, because I -- I'm going for a second opinion tomorrow on this matter and I don't know where that is going to put my surgery or whatnot. So I -- I can try to get as much as I can done between now and then.

MICHAEL NYHAN: So this is -- I understand you need as much done as you can between now and then. The question before you is how long would you like to table this before you will be back in front of us so you can give the Court an indication when to expect you'll be back? Would you need 90 days to get in front of the Conservation Board to get the recommendations and then have a plan of when you would implement those? Is 90 days sufficient to do that?

MR. HOWELL: Well, that is why I'm bringing up this thing. I mean where -- we're at May 14th right now. I have got 30 days until my surgery and then after my surgery it's at least a month and a half before I would be able to do anything. I mean -- the 90 days gets eaten up pretty quick when I'm out of commission for two months.

PAUL WANZENRIED: I am -- but there are items that pertain to you, Mr. Howell, as the business owner. There also are items there that pertain to property owners. Okay? The oil, the tires, that would pertain to you, which I would assume you could --

MR. HOWELL: That is another thing I want to bring up also. You're saying no outdoor storage of tires. Well, for me to get rid of my tires, I have to have 100 tires or they won't even

come to pick them up. What am I supposed to do with 100 tires if I can't have them outside?

MICHAEL NYHAN: You would enclose them in -- just like you do for your dumpster, you would have an enclosure where you would put them so they're not seen.

MR. HOWELL: They could be outside, just not seen.

MICHAEL NYHAN: They would be in an enclosure, like your dumpster enclosure.

MR. HOWELL: I generally keep all of the tires inside in an enclosure, but I was closed for six weeks and -- in January and February because my mom passed away. When I came back, I -- there was a whole pile of tires in the yard. People bring -- even though they're not supposed to, people bring tires. It costs me 500 to get rid of a tire. People dump them on me. I mean, I walk into work some days and I have already lost 100 bucks. And people drop off oil. They're not supposed to drop off oil when I'm not open, but they bring you oil. They leave all of the containers. Then I have to fill up my dumpster with their containers. I mean -- there is a lot of things in life that aren't fair, but we work through them.

MICHAEL NYHAN: You're right. That is what we're asking you to do, to work through these.

MR. HOWELL: I don't have a problem with keeping up on that kind of stuff, but I mean I just want to make sure you guys know that there -- there is walls that I'm up against that there is no way around it, you know what I mean?

MICHAEL NYHAN: And so you know, you need to address every one of those. Whether you put the oil, whether you put the tires there or somebody else puts the tires there, it is your responsibility to clean that up.

MR. HOWELL: And I do.

MICHAEL NYHAN: That's what we're telling you. They need to be an enclosure.

MR. HOWELL: All I'm saying, I don't have control what happens when I'm not there. People drop that oil off on the side of my building when I'm not there. When I get there the next day, of course, I clean it up. I don't just leave it laying around.

MICHAEL NYHAN: That is understood.

MR. HOWELL: Oil is a hazardous material. I mean...

MICHAEL NYHAN: So with that being said --

MS. MCKINNEY: We could probably, like he said, table this for 90 days and we'll have to come back in 90 days and meanwhile we can meet with the Conservation Board and that sort of thing and if there is issues that Mr. Howell is not going to be able to address, well, at least you will see what progress we're making and we can go from there.

MICHAEL NYHAN: Yes. I -- I strongly suggest from the comments you heard from the Board, we will need to see progress at the next meeting and a plan that has been recommended by our Conservation Board. You will need to make that application to the Town. It is not automatic. The 90 days is for purposes of notifying the Court. We expect to hear this again within 90 days.

Anything else?

ERIC STOWE: I'm okay with the 90. I think it would be better for court purposes if it were 60. Okay? Or at least we have an answer within 60 that we can point to a date. I think that is preferable to 90. But this -- but that is fine.

MICHAEL NYHAN: Okay. So with that, ma'am, will you request a formal request to table this until such time as you can address some of the issues?

MS. MCKINNEY: Yes.

MICHAEL NYHAN: Or did you want to move forward with the application?

ERIC STOWE: Hang on. When you say "until such time," for a time period no more than 90 days?

MICHAEL NYHAN: Right. 90 days we just talked about. You can address those issues within 90 days.

PAUL WANZENRIED: Mr. Chairman, does the business run while you're going to be out on surgery?

MR. HOWELL: No.

PAUL WANZENRIED: All right. Thank you.

RON RICHMOND: So then that does present some additional concerns. What happens to the property for the six weeks when business is not being conducted and vehicles are being dropped off and oil is being dropped off and tires are being dropped off?

MICHAEL NYHAN: Okay. So right now the issue before us, that is an enforcement issue with the Town.

PAUL WANZENRIED: Falls back on the property owner.

MICHAEL NYHAN: That is -- what is the applicant's wishes at this point? To move forward with this application with the conditions that we stated, and we'll vote on that, or would you like to request that this get tabled until such time as the 90 days that you will be able to address the issues and the concerns that have been raised at this meeting?

MS. MCKINNEY: If you table it for 90 days, is that with the understanding of the 17 cars or 5 cars or --

MICHAEL NYHAN: The one that was previously approved remains in effect. Nothing new has been voted on, so nothing new has been approved, so nothing new can go in effect. It is the previous application that was approved by the Board.

PAUL WANZENREID: That means he has to go back to eight cars.

ERIC STOWE: I think to clarify, part of this whole thing, we were holding enforcement actions pending this Board's -- when we say "back to eight cars," I guess I would say we're status

quo, which is holding everything in abeyance, pending this --

MICHAEL NYHAN: Pending --

ERIC STOWE: -- resolution of this. If it is not within 90 days or if the Board makes a different determination, then that would be the applicable. But the agreement and the request of the court was everything held pending Planning Board approval.

MICHAEL NYHAN: Okay.

ERIC STOWE: So part of that Planning Board approval process is additional time to get these -- these comments that you're seeking. I -- I don't think fairness would allow reinstating that. We -- we have said hold it. The Court has issued that order and we said we'll hold enforcement proceedings. So...

MICHAEL NYHAN: Do you understand that explanation?

MS. MCKINNEY: Clear as mud.

MICHAEL NYHAN: Okay. The Court -- what I'm hearing is the Court has directed that enforcement proceedings would wait until action was taken by this Board. So if we table this tonight, for the 90 days, then that would remain in effect until we heard your application again in 90 days.

ERIC STOWE: Well, I would be sending a letter to the Court tomorrow saying here is what happened at the Planning Board and outside date of 90 days to address concerns with application made. If the Court wants us there on Thursday night, which is our scheduled appearance date, we will go. If they say come back and tell us what the Planning Board decides, we'll come back.

MS. MCKINNEY: We would like the tabling for 90 days, sir.

MICHAEL NYHAN: Okay. So I will make a motion at the request of this applicant to table this until 90 days.

JOHN HELLABY: Second.

The Board was unanimously in favor of the motion.

DECISION: Unanimously tabled by a vote of 7 yes to table. The following list is to guide the applicant in its reappearance before the Planning Board and what future conditions will be:

1. Subject to Town of Chili Court vacating previous order from 4/15/99.
2. The applicant shall supply a landscaping plan along with the required checklist to the Conservation Board for review and recommendation. Applicant to work with Conservation Board to gain compliance with recommendations.
3. Removal of tires, trash, containers from view on the property.
4. No outdoor storage of tires, containers or petroleum products or parts for sale.
5. Parking lot must be cleaned and striped to delineate the approved parking spaces.
6. Make application and return within 90 days for revised site plan and special use permit approval.

MICHAEL NYHAN: Have you copied or ordered the items I mentioned here? If not, I will make sure the Building Department has those and gets them to you.

MS. MCKINNEY: That would be great.

2. Application of Mobil Mart Buffalo Road Inc., owner; 3774 Chili Avenue, Rochester, New York 146243 for renewal of special use permit to allow a convenience store with fuel pumps at property located at 3774 Chili Avenue in G.B. zone.

Thomas Fromberger was present to represent application.

MR. FROMBERGER: Good evening. Tom Fromberger with MRB Group. As indicated, we are here to request reapproval or extension of the Special Use Permit. In your package you also included -- we included some updates to the facade or the canopy and proposed pump station. This is the beginning of some improvement that we were planning for this entire convenience store. I did receive comments from Lu Engineers and hopefully you got my updated letter and SEQR form. I do have copies here with me if you would like.

MICHAEL NYHAN: I received it. The rest of the Board received it? Okay. Just for clarification, you made application for renewal of the Special Use Permit. Any review of the sign or canopy or any signage will be part of preliminary site plan approval so we won't be approving or hearing or making any determination on that tonight.

MR. FROMBERGER: I understand.

MICHAEL NYHAN: This is strictly for the Special Use Permit renewal.

MR. FROMBERGER: Okay. I just want to make you aware we are working on the overall facility.

MICHAEL NYHAN: Which will be a later hearing, correct?

MR. FROMBERGER: Yes.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

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

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

MICHAEL NYHAN: Any further discussion? This is the renewal that -- I think this is the second renewal that we gave on the property. They haven't come before us with the preliminary yet. The permit expired. That is why they're coming in again tonight.

JOHN HELLABY: Curiosity question, how come it has taken so long to do anything in there? It sounded like they were in such a hurry.

MR. FROMBERGER: They are. It was just other issues came up that we're resolving.

MICHAEL NYHAN: Any idea when you will come back in for preliminary?

MR. FROMBERGER: We have updated the architectural plan and we'll be submitting that this month or the first part of June.

MICHAEL NYHAN: Okay. With that, we do have an updated SEQR that addressed the comments from Mike (Hanscom), our Town Engineer.

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

MICHAEL NYHAN: Any conditions?

MATT EMENS: All previous conditions still apply.

MICHAEL NYHAN: Your previous conditions. So the only condition would be -- all previous conditions imposed by this Board are still pertinent to the applicant and remain in effect.

With that condition, the application of Mobil Mart Buffalo Road Inc., owner; 3774 Chili Avenue, Rochester, New York 146243 for renewal of special use permit to allow a convenience store with fuel pumps at property located at 3774 Chili Avenue in G.B. zone.

JOHN HELLABY: Second.

The Board was unanimously in favor of the motion.

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

1. All previous conditions imposed by this Board that are still pertinent to the application remain in effect.
3. Application of Cantina El-Amin, 507 Parsells Avenue, Rochester, New York 14609; property owner: Davpart Rochester LP; for preliminary site plan approval for a change of use in Suite 40 to allow an entertainment/party room (formerly offices) at property located at 1220 Scottsville Road in G.B. zone.

Cantina El-Amin was present to represent the application.

MS. EL-AMIN: Hi. Cantina El-Amin. It was an office space and I wanted to change it to be an event center.

MICHAEL NYHAN: I'm sorry, what center?

MS. EL-AMIN: It was formally an office space and I wanted to change it to an event center to do like kids' parties and baby showers. I'm asking if I can -- I've never been -- I want to get this space changed to get it -- what they call it, change of use for the space to be changed into an event space.

MICHAEL NYHAN: And how many people will this facility hold?

MS. EL-AMIN: There is two party rooms. One of them -- it can hold -- one can hold up to 70. The other one is up to 40. Most of the parties we do is like kids' parties, so there won't be 40 or 70 kids. Birthday parties or baby showers.

The birthday parties are probably up to about 25 people in a birthday party. Baby showers, maybe a few more.

I do this typically on the weekend, or always on the weekend. Saturdays and Sundays. Saturday and Sundays, there is really nobody else in that plaza pretty much except for me and the neighbor next door. He is not there on Sundays, but he is there on Saturdays until 5. Most of the parties are between 12 and 8, so the parking lot is pretty much empty when I'm doing my services. There is not a lot really going on in the plaza at the time I'm actually doing things. I mean, I do plan hopefully in the future to do like craft classes or painting classes, hopefully,

which will not be that many people either. So probably like 8 to 15 people in a class.

MICHAEL NYHAN: Okay. Do you have any questions?

RON RICHMOND: I don't at this point.

MATT EMENS: My only question would be to Mike (Hanscom) about your analysis on the parking then? She kind of confirmed what you found on the website as opposed to what you were assuming, correct?

MICHAEL HANSCOM: Yes.

MATT EMENS: So what would we -- other than you redoing math, what do we need to do there?

MICHAEL HANSCOM: Well, a lot will depend on how many people you're assuming are in a vehicle. Um --

MICHAEL NYHAN: Standard based on square footage?

MICHAEL HANSCOM: There is not a standard for this type of a situation that I can find in the parking code. I have to look at her usage. If you looked at -- if you looked at it similar to say a restaurant, a restaurant is typically like one vehicle for every four -- four occupants. Plus one vehicle for every two. So if you had a maximum of 70, probably reasonable to divide up -- how many parking spaces they would use, 40 plus 70, maximum number of people 110, so they use 25 to 30 parking spaces.

MICHAEL NYHAN: I think it exceeded that, didn't it?

MS. EL-AMIN: The parking lot is pretty empty. Especially on Sundays there is nobody there except for me and Saturdays, sometimes there is a -- there is another business down in the other end that does like training classes, but they're usually done by 1 o'clock and there is only a few cars for that.

MATT EMENS: I don't have anything else at this time.

JOHN HELLABY: Only question I have is -- Paul (Wanzenried), are you listening?

PAUL WANZENRIED: Yep.

JOHN HELLABY: There is -- bathrooms used to -- capacity there would be 110 people in there. Can she get away with just one toilet room with 110 guests?

MS. EL-AMIN: Well, there is a -- I have one bathroom in my space itself. But we do have access to a bathroom in the hallway.

The second room is in the back, so there is a door that goes out into that hallway. So there is another full like men's and woman's bathroom in the hallway of our building.

JOHN HELLABY: Where is that door out of? Room 1 or 2?

MS. EL-AMIN: In the back. So the -- so the Room Number 1, that is where the bathroom is -- the bathroom is.

The Room Number 2, um, if they went out that back exit, there is a bathroom in the hallway. Rarely going to be maximum people in both rooms at the same time. I have been doing this for ten years.

JOHN HELLABY: Is it code issues? Is it acceptable?

PAUL WANZENREID: If she has access to the bathrooms in the common area or another area, yes, that is acceptable.

JOHN HELLABY: All right.

MICHAEL NYHAN: I will put the code compliance regulations condition there.

PAUL WANZENRIED: Building permit and code compliance. We have scheduled a site visit on Friday, the Fire Marshal and I.

JOHN HELLABY: From what I understand, she is already under operation, right? So the renovations have been done.

PAUL WANZENRIED: That came to my attention this afternoon, too. We'll work with the applicant to come into compliance.

PAUL BLOSER: Are you serving food here?

MS. EL-AMIN: No. The client can bring in food, but we're not allowed any cooking.

PAUL BLOSER: Any drinks or anything being served?

MS. EL-AMIN: Soda. People bring their -- in their own food and drink but not alcohol.

PAUL BLOSER: Are you allowing alcohol if they bring it?

MS. EL-AMIN: No. I don't allow alcohol. Like I said, it's kids' parties and baby showers so they won't be -- probably most likely wouldn't be. I won't have alcohol.

PAUL WANZENRIED: Just as previously stated, building permit.

MICHAEL HANSCOM: Um, no additional comments.

MICHAEL NYHAN: Okay.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

CHRIS MARTELLO

MR. MARTELLO: Hello. My name is Chris Martello. I have been in front of you before. I own the paintball store at 1250 Scottsville Road. I have numerous Special Use Permits, sign permits, building permits. You name it, I have done everything the Town has asked me to do to be in business. I'm only here because I have had a lot of problems with the operation that is next to me.

I'm never -- as a business owner, I'm never one to squash other businesses. I expect -- I want businesses to be successful, but I have made it abundantly clear to Property Management, which is Davpart, to Pyramid Brokers that brokered this deal and to the applicant herself that everybody has dreams, but when your dreams affect my dream, I'm going to be standing in front

of this Board.

I was made aware of the operations that happened next to me. Originally, a dish store. The guy that was in there, Mike, he was there -- he basically lived there. He basically was there all of the time. Even had a dog in there. Never heard a peep out of the guy. He -- there was no obnoxious smells of food, no noise, no nothing. No one said anything. No one cared.

He leaves, the space is vacant. They lease it to someone. I'm told right away I will have a new neighbor. "It's going to be a party center." These are their words, not mine. Immediately, concerns hit me. Maybe I'm the next nostradamus. I immediately shot a letter off, email, which I sent to you guys. It was dated way back on November 23rd. I sent it to Property Management. I also sent it to Pyramid Brokers. I made them aware of concerns that I had about a party center. A lot of noise. Serving -- because these are things that affect me.

Two of my walls, they actually are with this party center. My business is there. Anybody who has run a business will tell you that when the open sign turns off, that is when real work gets done. I am in there working. So I come in on weekends. I work until 3 in the morning. I work Sundays, Saturdays. I'm there. If there is noise, that's a problem. I shouldn't hear noise in my space.

If there is food being -- I don't care if it is being brought in. If it is going to be in my space, I don't want it in my space. I have soft goods. I have clothing. Prior to the remodel of the gym that was there, they used to have a guy, Cassie's (phonetic) Deli. This guy served all kinds of food. Stunk everything up. My clothes all smelled like his cooking. Guess who took a bath on the food odors and the clothing. I did. They got rid of them, but I took the bath.

So I try to nip these off before they happen. I made it a point, I thought, if there was going to be something going on in that space, before even one screw got put in, they needed to discuss something for sound deadening. Um, construction was done. Property Management said nothing. Um, build out, never did anything to address any of this. So there is no sound deadening there.

If you want to do the Chicken Dance, you come to my store on a Saturday. You can listen to it. You want -- you do the limbo, it's no problem. You can hear it in my space. Want to hear kids screaming, no problem. You can hear it in my space. And it's not just children parties and it's not just birthday parties or anything.

We -- I finally got my wit's end at the end of March. I send -- every time there a problem -- and there has been a lot -- I send text messages and I call. So there is a report of me making a phone call as well and I followed up with a text message to Property Management. Property Management seems to be dropping the ball. They don't want to do anything. They're passing the buck off to me to be the bad guy tonight discussing this with you. There -- I'm right at my wit's end when I'm trying to work in my space and now we're doing an adult party there.

The music is so loud, the pictures in my office wall are vibrating and one falls off the wall. I couldn't even do work. Any of that is unacceptable at any level. For someone to want to put a business in there -- it could be a party center -- and to have -- and not address any of this in a build-out, is bizarre.

I work exclusively with law enforcement on my less-lethal technologies. When the space became available, I was asked specifically by FBI and Monroe County Sheriff's about what -- the shooting solutions. Their virtual shooting. They said that might be a great thing for us to do in there. Could get a demo of that. "Maybe you would like to do that with us."

I had two companies come up. They set up in that space. All I can tell you is it was loud. I'm a good business owner. I couldn't come up with any business plan that showed me putting sound deadening in there to make it quiet enough to make it affordable to me that I could make money. So I tabled the plan and said it's not feasible. It's not affordable to do.

Now I don't mind anyone being in there, but I have a serious problem with the noise and I have a serious problem when I come into my space, it reeks of food. These are things that clearly were never addressed. No one thought of them. But if you look at my email, way back on November 23rd, I must be nostradamus. I put those in. I said I wanted these things addressed before any building was done. The building was done. Demolition was done. No building permits. No demolition, no nothing. Not me. I follow letters to the T. I know you can't fight City Hall. You want to go to work, you go to City Hall and you don't put a screw in a wall until someone tells you, "Yes, Chris (Martello), you can put the screw there."

You don't ask for forgiveness and permission later. You don't do that. You ask you guys first and tell me what I have to do and I build accordingly to what the plan is. That is how I conducted my business and I have been very successful in that plaza since 2006. I'm only asking that you consider this when you consider doing any type of change of use or is it is going to definitely affect my business. And it's not just -- the problem is it is not -- we're not saying that this may happen. It is happening now. Because she is in operation illegally now.

And I sent you guys documentation. Normally I'm pretty good proofreading things. You will notice misspellings. The reason why the cover page looks like that is I physically had to scramble to put anything together for you guys because the signage to tell us about this meeting tonight wasn't displayed until yesterday late afternoon. So I had to scramble to put paperwork together to appear tonight. I scrambled to tonight's meeting. I cancelled today's meetings because that is how important it is, because this is affecting my business.

The signage -- didn't we say they have to put their signs out to tell about these meetings a few days, out by the road? I -- none of this.

So I appreciate your time tonight. I want to come in and talk to you about this, tell you my feelings. Maybe we should put together any contingencies that these type of things can be put a

change of use, since it is truly affecting my business right now. And -- and I go to work there. I don't care if my business closes and it is closed; I'm doing work. My truck is there. I'm a work alcoholic. I'm there all the time. I don't need noise and I don't need stench.

Thank you very much.

MS. EL-AMIN: Can I say something?

MICHAEL NYHAN: Just any other comments from the public?

MS. EL-AMIN: He is closed on Sundays. If a business is closed, I mean like how is that bothering the business if it is not open? I -- like I'm not -- he is not open on Sundays, so how -- how is it affecting his business? The business is not open.

This is -- my business is on Saturdays and Sundays, and it's only for a short period of time. And like most of the events really don't start until 3 and they end at 7. Even on Saturdays -- we'll -- it is open from 9 to 5. You wouldn't be talking about a three-hour window of time that noise would be heard by him because he is not open on Sundays. And there -- there is actually nothing going on until like really 3 to 7, honestly. So I just don't understand how I'm affecting his business when I'm the one on the weekend, it's only a three-hour window he is hearing the music and the noise.

And I have addressed the noise. I have been -- I looked into trying to put -- we looked into possibly getting insulation put in the walls, maybe having somebody open up the -- you know, like they screw in and put in the insulation, because we do share two walls.

And the smell he is talking about, I have no idea because people are usually buying pizza. We're talking about kids' parties. I don't know what smell he is referring to for food. Nobody is coming in there with big dinners. They're bringing like finger foods. So I'm not -- I'm really confused about this food smell he is addressing, because there is no food that is cooked in the space at all. Nobody is cooking nothing. It's really just pizza and finger foods. I don't know how he can smell that through the walls. I just don't understand how that could be. But I just don't know how that is possible.

MICHAEL NYHAN: Okay.

MR. MARTELLO: As I stated, I work when my store is closed. I work at my business. If my business is closed on Sundays, I am there on Sundays working. Just because a business is closed, doesn't mean the owner is closed.

MICHAEL NYHAN: Got it. Thank you.

MR. MARTELLO: Thank you.

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

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

JOHN HELLABY: Well, I can understand the neighbor's concern. But in all honestly, what -- I would think it would be a lease issue that he needs to work out with whoever he is leasing that floor space from.

MATT EMENS: If the landlord is not responding to his emails, I would assume you have an attorney that can review the lease and see if there are things --

MR. MARTELLO: They're just -- they're --

MATT EMENS: Well, that -- I don't know what else to do about that.

MR. MARTELLO: That's why I'm here because they made me the bad guy, I guess.

MICHAEL NYHAN: Paul (Wanzenried), does the code require any kind of construction requirements between tenants that we can enforce?

PAUL WANZENRIED: That would be a Building Code issue. And it's not necessarily the purview of the site plan.

MICHAEL NYHAN: I understand. But there is something in the code to --

PAUL WANZENRIED: Not that I know of. There is minimal STC, but you can get that in drywall. I agree with what Mr. Emens said and Mr. Hellaby. It sounds more like a tenant/landlord dispute. The Town doesn't need to get --

MICHAEL NYHAN: I understand. Just if everybody could get together and try to figure out how to sound deaden the walls with the landlord, if it is possible.

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

MICHAEL NYHAN: For conditions right now, what I have assembled, the applicant shall comply with all pertinent Monroe County Development Review Committee comments.

Building permit shall not be issued prior to the applicant complying with all conditions.

Application is subject to all required permits, inspections, code compliance regulations.

Applicant shall comply with all required life safety conditions and permits for the Town Fire Marshal.

Any signage changes shall comply with the Town Code, including obtaining sign permits.

Any other conditions that we can place on this or should place on this?

JOHN HELLABY: I think you should probably work with the landlord and/or contractor, because I assume it was her contractor that did the modifications in there, to investigate this

sound deadening issue in some way, shape or form.

MICHAEL NYHAN: So what would the condition be? Is there -- is there a final resolution you're looking for?

JOHN HELLABY: I don't know if you will get final resolution. I mean, if it meets building code, I don't know what the neighbor's lease agreement states. So --

MICHAEL NYHAN: Again, we have already been advised and we all know these lease agreements are between the landlords and the tenants and not necessarily the Town or the Planning Board.

JOHN HELLABY: I don't want to get in the middle of that.

MICHAEL NYHAN: We hear what the gentleman is saying and we understand his concerns. I can't think of anything within this code that can force us to change what his landlord does at this point.

JOHN HELLABY: Agreed.

MICHAEL NYHAN: So any other conditions other than with the ones I just mentioned? Application of Cantina El-Amin, 507 Parsells Avenue, Rochester, New York 14609; property owner: Davpart Rochester LP; for preliminary site plan approval -- is there a request for waiver of final on this? Paul (Wanzenried), was that paid for in --

PAUL WANZENRIED: Yes.

MICHAEL NYHAN: -- with waiver of final for a change of use in Suite 40 to allow an entertainment/party room (formerly offices) at property located at 1220 Scottsville Road in G.B. zone.

JOHN HELLABY: Second.

The Board was unanimously in favor of the motion.

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

1. Applicant shall comply with all pertinent Monroe County Development Review Committee comments.
2. Building permits shall not be issued prior to applicant complying with all conditions.
3. Application is subject to all required permits, inspections, and code compliance regulations.
4. Applicant to comply with all required life safety conditions and permits from the Town Fire Marshal.
5. Any signage change shall comply with Town code, including obtaining sign permits.

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

MICHAEL NYHAN: We'll take a five-minute break.

There was a brief recess.

4. Application of TUGI, LLC, owner; 1233 Lehigh Station Road, Henrietta, New York 14467 for recommendation to rezone approximately 10 acres from A.C. (Agricultural Conservation) & FPO to L.I. (Limited Industrial) & FPO at property located at 1891 Scottsville Road.

Jerry Goldman, Bob Turner, Bob Winans and Matt Segney (phonetic) were present to represent the application.

MR. GOLDMAN: Good evening, Mr. Chairman, members of the Board. My name is Jerry Goldman. I'm the attorney and agent for TUGI, LLC and its affiliate, Turner Underground Installations, Inc. which would be the operator of this property at 1891 Scottsville Road.

With me tonight on the application are Bob Turner, who is the Principal of TUGI and Turner Underground Installations.

In addition, Bob Winans is here who is the Project Engineer from DDS Engineering as well as Matt Segney (phonetic) here from LeFrois Builders, a quality builder in Town who is a part of the project team.

We're here this evening, as Chairman pointed out, on a rezoning referral and recommendation from the -- from the Town Board. Town Board would ultimately be taking action on the rezoning itself. The subject property is zoned AC. Um, and frankly, it's -- it's kind of an anomaly the way it sits, being an AC zone property, because south of us is a multi-family residential property and I see we do have neighbors here this evening. One to the north and to the west of us is zoned Light Industrial and to the east of us is basically Scottsville Road and then the Genesee River.

Um, the objective of this is to essentially continue a use that has been ongoing on the site

for 40, 50, 60 years. Todd Cable was the last occupant of it operating under a special permit under the old code. Um, since that property has been vacant for more than six months, it requires us to come in for full zoning review and approval on the site to essentially utilize the property for use consistent with what the property has been used for all this time.

Turner Underground Installations basically is an underground installer of gas, electric and telecommunication utilities for public and private entities in the regional area. They aren't doing that work here. This basically is where they start out and then they go off site and they do their work.

Um, the property itself is slightly less than ten acres. I believe it is 9.93 acres. Our proposal is going to be to maintain the 100-foot buffer required under code and in light of neighbor concerns, we have talked to the landscape consultant who has recommended that if we were to embellish on the landscaping, that we do that with Norway Spruce, Eastern White Pines and other trees of a sort that grow relatively quickly. Given a change in elevation and grade over here, it's tough to actually fully screen the residential properties with any sort of fencing or other barriers. So our objective would be to come up with an effective screen which would help the -- the neighbors.

Um, the property itself, um, is -- is one which has been used for this particular use for quite -- quite a bit of time. It's interesting, because AC zoning at one time was thought to be a more benign zoning. Now, agribusiness which has gone on -- things like Intergrow which has acres and acres of buildings and are growing hydroponics and the like and agribusiness itself is a conditional use or special use in the AC District.

We think this use is going to be self-contained on the site and one which we think will have lesser impact. Our intention is to maintain the existing curb cut, to come in with a use which is in full compliance with -- with code in terms of the bulk requirements. No setbacks, nothing of that sort. 30,000 square foot area for the primary use, 5,000 square foot office with an -- with addition in the building and we intend to maintain -- those are going to be issues we would come back to this Board and deal with at site plan.

But in terms of the use itself, um, given the fact that it has been utilized, um, the way it has for all these years, it's adjacent to Light Industrial, that we will provide necessary buffering and screening. We would request the positive recommendation from this Board to the Town Board which would conduct yet another Public Hearing on this, and -- at some point in the future.

I know you have had a long night already. You have already taken a break. What I will do is stop here and we'll be able to answer any questions that the Board may have.

MICHAEL NYHAN: Sure.

DAVID CROSS: So the rezoning is recommendation to go from AC to what?

MR. GOLDMAN: Light Industrial -- or Limited Industrial, excuse me.

DAVID CROSS: Limited Industrial. With that rezoning are -- you probably mentioned -- are any variances required if you were to go to LI?

MR. GOLDMAN: We won't need a variance, but we will need a special permit because this use is not specifically enumerated in the Light Industrial District, but we consider it to be similar and same to the other. There are no bulk variances. We are staying well -- well outside, if you will, variances set forth in the code.

MICHAEL HANSCOM: I don't have any comments with regard to the rezoning. I would just kind of just like to mention so when they go to do site plan work, um, when they come back, this plan shows the storm water management area down by Scottsville Road. One of the requirements is that storm water management areas are supposed to be located outside of the 100-year flood plain. It may not be fully possible on this site, but it should be located up as high out of the flood plain as possible.

MR. GOLDMAN: Okay. Thank you. Good comment.

MICHAEL NYHAN: Will this be a new building, Jerry (Goldman)?

MR. GOLDMAN: I'm sorry? Yes. Yes, it will be a new building.

MICHAEL NYHAN: And I know it will go through all of this at the preliminary site plan approval, if it is approved by the Town Board, but you're confident you can maintain all of the required 100 foot buffers as well as for the screening for the entire length of that property?

MR. GOLDMAN: Correct. The only 100-foot buffer is adjacent -- I believe adjacent to the multi-family residential. I don't believe we have to buffer to other LI zoned property.

MICHAEL NYHAN: Correct.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

RONALD DUSING

MR. DUSING: Hello. My name is Ron Dusing and I'm Vice President of the Board of Directors for the Homeowners' Association for Genesee Riverview, which is the neighbor of the property here.

And we are owners of the property. We're not renters at this point. And we're very much against having this rezoned to the point where we got a petition together and we had it signed by the homeowners, of which I would like to give you a copy of. I only have one copy. And if you would take that.

MICHAEL NYHAN: Is this your only copy?

MR. DUSING: I have a copy. There is 120 names on that of homeowners. And we have 159 homes in the complex.

And one of the things that really concerns us as homeowners, as previous to this when

Todd Cable was in there, we had a lot of noise from 5 o'clock in the morning, moving equipment around, loading trucks and as you know, OSHA has to have beepers on the equipment that loads when they put it in reverse and so on. And it goes all through the community. Particularly if we get the wind in the right direction which is coming out of the north.

Again, we have a traffic problem. We have had two people killed in that area over a period of, I think, about ten years now. And the new development on the other side of them, is -- was supposed to be just warehousing. And that's what we were told. That is the Regional Market. However, we have a children's center in there. We have a -- two gyms in there and then we have a sports arena in there. So it doesn't show it is just warehousing.

So we're concerned with that, and with the fact if we're going to change this to Light Industrial like that, then we're going to be into the noise situation, the traffic situation and we're really upset about it.

Any questions you would like to have me answer?

MICHAEL NYHAN: I don't have any questions. Nope. Thank you, sir.

MARGARET LIPTON, 3 Overview Circle

MS. LIPTON: Margaret Lipton, 3 Overview Circle in the same complex.

The problem is, besides the traffic situation of trucks going in and out of there -- and there were two deaths right there in that property. You can look that up -- um, the noise is -- is terrible. You can hear through the whole complex, all of the beeping, the trucks, the uploading, but also the unsightliness of them storing all these big rolls of cables, the trucks. Um, and if they could put a sound barrier or something up so that we didn't see that, because you can look down. We're very close. If you come to the end of Great Meadow Circle, right over to the end, you can look -- all you have to do is walk up on top of the hill. There is only a chain link fence and you can see everything.

And they have got stuff, some stuff stored there now. I don't know if these people have it or if it was from Todd Cable still there. There is a couple trucks. There is rolls of green cable there. Um, there -- there is some other equipment. It looks like a -- the end to a tractor-trailer truck, the -- the storage truck part. And there -- it looks like other equipment there. It's orange. I don't know what it is. But if you're going to start storing this -- if you look at their site when you Google their site, um, at Turner, it comes up with a picture of this massive storage area that they have. If this is what they have got planned, please don't let it happen. Um, we have --

MICHAEL NYHAN: Excuse me, sir. No need for comment.

Go ahead, ma'am.

MR. LIPTON: That's about it. It's just -- it gets to be very unsightly. When it was Fibertech, it was unsightly. Todd Cable took over. The same thing. They didn't seem to care about the neighbors over there. Um, we would like to keep our values up on our homes. And the noise down.

I mean there was nothing you could do about the warehouses in back. I came and talked to you about that. Because that is New York State. But if you can do something about this, we would appreciate it. Thank you.

MICHAEL NYHAN: Thank you.

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

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

MICHAEL NYHAN: So there is no SEQR on this. For tonight this is simply a review and recommendation to the Town Board which would go to -- I believe it's on their agenda for tomorrow night, if that is accurate, to set a Public Hearing and then the action will be from the Town Board.

So tonight's vote is either a -- a positive recommendation on a non-recommendation for the rezoning of this piece of land and then based on their decision is where we will start with the site plan conditions, et cetera, cleaning things up.

So with that, any other Board discussion? Comments?

So with that, the application of TUGI, LLC, owner; 1233 Lehigh Station Road, Henrietta, New York 14467 for recommendation to rezone approximately 10 acres from A.C. (Agricultural Conservation) & FPO to L.I. (Limited Industrial) & FPO at property located at 1891 Scottsville Road.

JOHN HELLABY: Second.

The Board was unanimously in favor of the motion.

DECISION: Unanimously approved by a vote of 7 yes to recommend rezoning of 1891 Scottsville Road to L.I. & FPO.

The Town Board will be notified of the Planning Board's decision by copy of a decision letter. Applicant be advised that it 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.

MICHAEL NYHAN: This will go before the Town Board for review and action.
I make a motion the Chili Planning Board minutes of April 9th, 2019 -- for approval.
JOHN HELLABY: Second.

The vote on the motion was 5 yes with 2 abstentions (Ron Richmond and Michael Nyhan).

FOR DISCUSSION:

1. Greenwood Townhomes - proposed changes to the PNOD district for phase II of the development (commercial area) at property located at 751 Paul Road in RB w/PNOD zone.

Jess Sudol and Jack Howitt were present to represent the application.

MR. SUDOL: Good evening. My name is Jess Sudol from Passero Associates. With me this evening is the applicant, Mr. Jack Howitt.

I'm not sure how many Board members are familiar with the Chili PNOD. It has been around for over ten years. We originally started development back in 2009 with some original site planning for the whole project. And actually the plan you see over there, the lower left-hand corner was the approved PNOD plan back then. If any of you had a chance to read through the code, the PNOD has a very specific set of zoning requirements as it pertains to bulk area requirements, land use, what have you, that we worked very hard for well over a year with the Planning Board and Town staff and the Town Board and what have you to establish those parameters and design hopefully a project that would fit those parameters.

While certainly we experienced some significant successes in the last ten years and some that wouldn't exactly qualify as success when it comes to the commercial development of the piece, I think everyone is well aware the residential part has been very successful. It has been full and complete for quite some time now.

The entire back half is designated as senior and has been completed as such and is now again fully occupied with the front portion being market-rate apartments of mostly 2 and 3-bedrooms. There has really been a high demand for additional residential. So as Mr. Howitt -- and over the course of time, he has really looked to try to comply with and find tenants for the commercial piece to complement the residential after that was completed.

Unfortunately, there have not been many retail type users that could fit their type of use in that original layout that was established when the PNOD was approved. That particular layout you see there on the lower left is made up of about nine different buildings ranging in size 2800 square feet up to 10,000 square feet for a total of approximately 53,000 square feet that was contemplated back then when we went through the entire SEQR process. The 10,000 square foot is interesting because it's actually specifically called out in the PNOD code as being a maximum for a building footprint. Which is something that, you know, we're here to discuss tonight because ultimately, as procedurally the way this goes, there -- there are a few things that we have in our new plan, which we feel gives us a chance to be successful that deviates slightly from the PNOD. If you read through the PNOD, specifically the last section, it prescribes the procedure for how to make changes to the actual code and we're not necessarily a code but more specifically the approved PNOD plan. That really starts here this evening with this Board. You know, if things were to move forward, we would come back and ask for official recommendation to the Town Board and it goes to the Town Board and there's a Public Hearing and we go to the Zoning Board for a variance and then we go back to the Planning Board for site plan review and hopefully it's not snowing when we come back to see you.

So that is procedurally -- you know, we're at the very first step of talking about making changes to this PNOD Master Plan. If you read through the intent of the Chili PNOD, which stands for Planned Neighborhood Overlay District, and really go even further into the Town's Comprehensive Plan or the Town Center Master Plan, you know, it really talks a lot about this desire to have a mixed-use community that is kind of, you know, not necessarily work in play, but an area where you have both residents and apartments as well as commercial retail uses at a relatively small scale. Not 50,000 square foot boxes, which I think is what the original intent of the code was when they imposed that limit of 10,000 square feet.

Quite frankly, we thought we were getting pretty close to complying with that with the intent of our original design. Unfortunately, from a market perspective, from a financial perspective and the ability to finance it, um, you know, it wasn't a very successful strategy on our part.

What we have come up with, and what we are very confident will work -- and again, we have ten years of experience we're relying -- is a modified plan that basically shrinks down the number of buildings and makes them bigger buildings and we're also going with an approach that has residential built on top of commercial for these two L buildings on the right side.

The building on the left side we're proposing to be all residential. So the reason for that is we still feel there is the opportunity to provide commercial space here and have that be successful.

Again, over the years, there have been a lot of tenants or prospective tenants have been interested, but the problem is not enough interest to warrant moving forward with all of the site development efforts and all of the costs that would go into establishing these building pads and bringing the sewer in and building all of the parking lots. A 4,000 square foot lease for a few

years isn't going to cover that.

What would really make the project financially viable is to have residential units. We're not just proposing residential units because it allows our financing to move forward. It is also proposed in response to that previously stated demand. So the town homes are a lot of 2 and 3-bedroom units.

And what Mr. Howitt and his staff have found over the course of time is there is a significant demand for 1 and 2-bedroom units. If you're familiar with the Town of Chili Planning documents, it talks extensively -- it's not just the Town Chili. It's everywhere -- about a rapidly increasing demand for people that are, you know, in their 55s or basically kids have moved out and they want to move out and they want to get rid of the house. You guys have heard the story before. We're certainly feeling that demand based on what is currently over there and are confident a lot of those folks that can't move into our place now because there is no vacancies, would be able to move here. And certainly we think it would also be attractive to young professionals, young couples, people that are single because of its location, you know, in Chili Center. Certainly the -- the possibility of having some various retail uses on the first floor.

You know, certainly it wasn't feasible for us to take the original site layout and just start plopping residents on top of all those individual buildings because when you put residential units on the upper floor of these buildings, you end up with requirements for accessibility and certainly that is important for seniors or for anybody. You have to start building elevators and you have to start building staircases and trying to do that on those smaller building pads and basically build a multi-level structure at only a 10,000 square foot pad or less is not feasible. You think of a multi-story building, very few of them are at that size for that reason. You lose so much space just in circulation and allows the costs for the elevators.

So here by combining the buildings, we can certainly still afford to provide all those amenities and what is required by building code, we think in a more efficient space, but without necessarily losing the intent of the original PNOD which was to this have village feel to it, to have this idea of mixed use, which was to have this idea of pedestrian connectivity which we feel we're beginning to accomplish.

Certainly there will be a lot more details that come down the pipe when it comes to location of sidewalks and how that all works out, but again, we're just starting the discussion.

I wanted to bring the picture that's over there in the upper left. That shows where we are in relation to the rest of the entire Wegmans Plaza area. I think that what we have an opportunity to do at this site is really kind of book-end the commercial component of Chili Center, which, you know, comes from Chili Avenue, all through Wegmans and Target and everything that is there. And we're really looking to frame that -- that eastern edge of that.

If you look at our building elevation, the longer one that's on top is what would be facing, you know, back towards Wegmans and that parking lot. That is certainly -- you know, we think that has a more commercial feel to it with a lot more storefront type glass on the first floor and glazing, a lot more masonry with the brick and water table and what have you.

And then as we go transition to the residents to the east of us, which again are residents. Mr. Howitt still owns that project. These are our residents. You know our neighbor is us in this case when it comes to those town homes, but that is a more residential feel.

That is also why the building itself has things like sloped roofs, has these gable ends. We want to feel relatively or very much residential while still having that commercial component on the first floor as opposed to some building with a flat roof that was maybe a little more contemporary.

What is interesting when it comes to impact, the amount of traffic generated by this revised proposal when compared to the original is actually comparable or a bit less because we are squeezing down the overall amount of commercial space that was originally proposed.

Again, we were originally about 53,000. Now we're close to about 40 feet. You know, I do want to say that we're -- certainly recognize the sensitivity of going from two stories up to three stories. I have personally been before this Board in other areas of Town where maybe it was not quite as appropriate. But I think here it is certainly warranting a different discussion. For starters, we have buildings like Wegmans that frame the plaza that has similar building height when you look at -- I think we actually cited the numbers in our letter.

We have gone with a relatively or very low pitched roof as opposed to a really steep roof to try to limit that height. But quite frankly, the third story is needed for us in order for us to finance the projects, building the elevators and the commercial space and build forward to get that residential unit count up to basically a critical mass that is available to afford paying for all of the infrastructure that are we currently proposing.

I think it is done in a scale that is appropriate. I certainly don't think it would be obtrusive or to any of the neighbors or certainly any of the uses around us. We have met with the residents who are currently living in Greenwood. They were excited to see something like that. They really had no objection to what we were proposing, whether it be three stories or what have you. So that is currently where we stand.

Again, we are proposing changes to the PNOD Master Plan or approved plan. The first of those changes again is the increase of the allowable square footage of each building. Each of those L buildings is approximately 20,000 square feet as opposed to the 10,000 square foot that currently exists within the PNOD and also we are proposing to have residents on the first floor within the commercial area of the PNOD on the building that is all of the way over to the left.

Quite frankly, with the layout that we currently have, we already have 40,000 square foot of retail. We certainly think that's a very healthy amount that will take us some time to fill up.

You know, when you look at that piece in the context of the overall development, it is starting to get pushed further and further back. It doesn't have great sight lines from Paul Road. You know, Wegmans is at a similar setback, but Wegmans is huge and you can see it from anywhere. With that building behind the other two proposed buildings, we certainly don't think we have many opportunities to put a retail user in there. We even talked to some different users. Over the course of the last years, we have kind of examined every one those original buildings in that layout and certainly the further -- you know, really the only interest really ever came in this area here (indicating) for any retail user because of the visibility and location on Paul Road.

Anything from this area south (indicating), there was very little interest comparably. So while we think these (indicating) present a lot of opportunity, back here (indicating) the highest and best use is to help satisfy that residential housing demand.

So with that, again, when you go to different communities, whether it be here in Monroe County or Erie County, you see this well executed with retail on the bottom and a couple stories of residential above done in a way that is architecturally pleasing and aesthetically pleasing. I think it really does have great chance to be successful.

So we're starting with here (indicating) this evening. We hope to be back here next month and then to the Town Board and then kind of down that road. Again, I would be happy to answer any questions.

MICHAEL NYHAN: What type of retail operations are looking to be residing here?

MR. SUDOL: I guess the best way to describe it would be village-type retail. Our current plans are broken up into 2 to 4,000 square foot areas. We don't have any letters of intent we can share right now, but things like bakeries or -- very similar to the type of retail uses that exist in between Target and Wegmans. Or if you think Main Street Canandaigua or other areas like that, maybe -- I don't know if there is a barber shop. Having trouble coming up with all different ones. More like service-type retail than necessarily like what is going on at KMart plaza.

RON RICHMOND: Maybe the College Town type of retail?

MR. SUDOL: That is the idea. If we could get a user in there that takes two of the spaces at 5,000 square feet, that would be great. That is the type of retail, service base that is a benefit to the residents not just in Greenwood, but the whole area.

RON RICHMOND: So there was more expressed interest in this different format of footprint than the original?

MR. SUDOL: Yes. When you have that old plan, have you a 2,000 square foot user for five years and a 5,000 square feet for ten years -- to try to put that together with that plan and then come up with a capital investment date to pull off all the site work and build the shells and what have you, it was never going to happen.

RON RICHMOND: And the residential above the retail will be rent -- all rental units?

MR. SUDOL: Yes, sir.

RON RICHMOND: I think it's a great idea.

MATT EMENS: I hear everything you're saying and I think a lot of it makes sense, but I feel there is a disconnect. And I think it is that you're saying a lot of the things that makes sense in terms of first floor retail, second and third floor residences for rent.

You mentioned it and Glenn (Hyde) brought up the point about retail and actually you made the point about College Town. And I think the difference you have here, this is -- site plan (indicating) shows the idea is a good one, but this site plan (indicating) seems to be a suburban and I will just say a Henrietta-type solution to it.

I don't feel -- one of the things we haven't done is surrounded all of the buildings with parking, right, in this layout? One of the things you talked about was the interest in the part that fronts Paul Road. Obviously in this layout the way these buildings are, it limits the amount of tenants and linear footage of frontage that you have for retail on that street front.

But once again you have parking in front of it, too. Right?

MR. SUDOL: I'm -- I hear what you're saying, parking along Paul Road. I'm certainly willing to take a look at that. Outside of that, there is already a sea of parking at Wegmans. I think when you talk about -- especially when you look at the Chili Center Master Plan and it looks at putting buildings up closer to Chili Avenue, that is a great idea. You have a lot of pedestrians there. This is obviously different.

What you're saying is primarily directed at that Paul Road frontage and I certainly can agree to taking a look at softening that.

MATT EMENS: I think it's a challenge for the developer and for the designer, but you have got -- the other problem you have is you have a plaza next to it and you're talking about back-ending the plaza but the plazas are not connected. So if you were fronting that and not putting your parking up against their parking, which I don't know that you can do or maybe you can't do because it doesn't make sense, but if I was a business owner, I'm looking at this saying, "Okay, you want me to lease space on this first floor. I want it up front here."

I'm sure you will find other uses that will go back in these other ones that don't need a street front. Like you said, there is not a lot of pedestrian traffic down there. Probably won't be.

MR. SUDOL: No.

MATT EMENS: It's not Chili Avenue. I agree with you. I just think you have a challenge here. I don't know what the solution is, but the challenge is you have parking wrapping this whole idea and then you have it wrapped by parking, as you pointed out, too, by Wegmans and the plaza and then you have got a residential area next to it and now you're long and narrow.

Now if I'm going to any of the businesses in these places and I don't know where they are, the first time I come in, I'm going to go in and I'm going to drive around this whole thing and

drive around and drive around to try to find it. Which I don't know there is a solution to it. I'm just pointing it out.

MR. SUDOL: The reality is, these units, the way they're laid out, retail spaces go through the entire building. So each one when we get to that would have signage here and here (indicating). If you enter from here (indicating), you can see the different retail users. If you're over at Wegmans and say, "What is going on over there?" you will be able to that, as well.

You're absolutely right. We're limited by this very narrow piece and there are only so many ways we could lay the site out. One option would be to take this building and you know push it up closer to here (indicating), but with three stories, we also want to maintain that 360 access for fire-fighting reasons, having fire apparatus roads.

That is the same reason why we can't necessarily just take all that away because now you have a dead end greater than 150 foot and you have to wrap around.

Are there ways to soften it to do this a little bit better? I'm sure there. But I think the shape of the parcel does in many ways dictate the layout of it. We looked at a lot of different options. Whether or not this parking up here (indicating) flips to the inside, then you start to get a little concerned with a bigger sea of parking next to the residents. I think we were really trying to seek a balance of the two.

Is it the greatest scenario to have a building wrapped in asphalt? I don't think is it so bad in this type of commercial application. It's not ideal. But we have a lot of things, pieces we are trying to fit together here.

But absolutely comment noted. There's going to be many modifications to the site plan moving forward as we get input from various stakeholders.

JOHN HELLABY: I realize you will get a lot of push back from Wegmans as far as tying it into the plaza, but are these lined up so say 5, 6, 10 years down the road if something changes, it could be connected?

MR. SUDOL: It could be. There is no reason -- this whole space here (indicating) -- it is not exactly lined up with this particular drive aisle, but if anything ever worked, it is close enough that they could be relatively easy connected. There is nothing in this space here (indicating).

Even if they were offset, that wouldn't be the worse thing in the world because we don't want to encourage cut-through traffic coming from Wegmans shooting out through here (indicating).

JOHN HELLABY: For some reason, in the back of my mind, I'm thinking track signal. There was something that triggered a traffic signal out there. Do you recall that conversation? I would have to go back and sort through years of paperwork.

MICHAEL NYHAN: I think it was if it was connected to Wegmans, it would justify a traffic signal.

MR. SUDOL: Yes. Based on the counts back in 2010, that we connected -- again, that was with 53,000 square foot of commercial. One of the things we're doing is providing an updated traffic study. But, yes, that is when we were starting to hit the warrant for that particular area. That was also back when Walgreens was open. Not that that is a huge contributor, but...

JOHN HELLABY: I assume these are all stick-frame buildings with masonry fire separations?

MR. SUDOL: Yes, sir.

JOHN HELLABY: Sprinklers?

MR. SUDOL: Absolutely.

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

DAVID CROSS: I like the concept. I do. I appreciate you bringing it up. Talking about another area of Town, three stories proposed, it didn't seem like it fit that area of Town, but I think it does here. I think it's great.

I guess my only comment at this point, is pedestrian linkages. So you have got a sidewalk, dead end at the south side. Is that Mulcahy there, Jess (Sudol)? Somehow linking that through the site to the sidewalk up on Paul Road.

And then in addition to that, the -- Al (Hellaby) spoke of a -- a vehicular linkage to the Wegmans parking lot, but at a minimum, a pedestrian linkage.

MR. SUDOL: I have a very good pedestrian plan that I'm not ready to show everybody yet what we're working on -- there is a lot of stakeholders here, but we are very much creating pedestrian connectivity between Greenwood, the new Chili Rec Center and Wegmans, all three of those working together. I just got to get all three of those groups to come together. I have a great plan. Once everyone stamps it, I will run right in here with it.

PAUL BLOSER: Are these sidewalks for this new plan connected with sidewalks and everything you have already done in the current project?

MR. SUDOL: Absolutely. Yeah. Sidewalk from the old project already comes across the creek and dead-ends here (indicating). But the idea would be to bring it in here -- you know, this plan doesn't do a good job showing the pedestrian connectivity yet. You have all of the sidewalks throughout here (indicating) that then connect over here (indicating), connects out to the sidewalk that we have that we already built here (indicating) and then connects over to Wegmans.

And then we were looking at connection that is kind of like a bridge that has to go through wetlands to get back to the Rec Center and the Rec Center to get to Wegmans, there is no good way past the loading area. So we're looking at bringing the Rec Center up the other end past Target because it's a lot cleaner there.

ERIC STOWE: Procedurally, you're just doing concept tonight and coming back for the revised site plan and PNOD?

MR. SUDOL: Well, procedurally, we're going to come back for a formal recommendation to the Town Board. Unless the Board has the ability to make that this evening? Just because it is or --

ERIC STOWE: You have to present a modified overall development plan as a preliminary site plan.

MR. SUDOL: That one.

MICHAEL NYHAN: There. (Laughter.)

JOHN HELLABY: That answers that.

MR. SUDOL: But yes, that is the idea.

MICHAEL HANSCOM: Have you been involved in any other similar developments anywhere else that have been successful?

MR. SUDOL: Me? A lot of them.

MICHAEL HANSCOM: Passero Associates?

MR. SUDOL: Absolutely. We have done them in northern Amherst on French Road. We did this at a larger scale. We did the entire North Shore development or the first phase of it down in Canandaigua. That has worked out very well. Relatively urban area.

We have done a ton of them in the City of Rochester obviously with all of the interloop in-fill projects we're doing right now.

MICHAEL HANSCOM: This brought to mind the Canandaigua North Shore project. Have they filled all of the apartments there?

MR. SUDOL: The apartments filled up immediately, yes. The leasing -- the retail space has been a little slower. All these projects, the lease -- to fill up that retail space takes time which is why the banks will say yes, "I will absolutely give you money for 92 residential units," but are a little bit more hesitant when it comes to building 40,000 square foot retail space.

So by having the two together, they can finance the whole project and we can move forward. Even in our own building downtown, Passero, apartments filled up like that. Retail pieces followed behind once there is a lot of activity at the building. We think that is what would happen here.

MICHAEL HANSCOM: On the Canandaigua sites what type of retail has come in there?

MR. SUDOL: This is a little different because you have the interaction with the lake. So there is a lot of Abbots there. There is a gym that is there now. There is obviously Young Lion Brewery was the first big one to go in there. A little different scene than Chili.

But a lot of it, again, are service-type uses. Not, you know, big retail. Not Tractor Supply or something like that.

MICHAEL NYHAN: So your plan is for next month to come in front of us?

MR. SUDOL: Yes, sir.

MICHAEL NYHAN: Any other comments, questions, feedback? I think you had all night in the past.

MR. SUDOL: Yes. Thank you.

MICHAEL NYHAN: One thing, when you come back for preliminary, I think you will have updated traffic study both related to residential and commercial, especially the rush hour times if there is residential here.

MR. SUDOL: I want to talk to these guys over here a little bit -- not right now -- about that word "preliminary." We're not filing a preliminary site plan application that has, you know, 35 drawings and SWPPPs and drainage reports and all that yet. This is just our revised site plan. We wouldn't do all that until we got through the Town Board process.

MICHAEL NYHAN: The other item was some sort of recollection -- the height of this building relative to the other buildings in the area, both the town homes and the commercial residential -- we talked about that.

MR. SUDOL: That is in our letter of intent.

MATT EMENS: Wegmans is at 42 feet approximately.

MICHAEL NYHAN: Got it. Missed that. That's all I have.

MATT EMENS: One last quick question for clarification. The L drawings that are here --

MR. SUDOL: Those are no longer -- they have been replaced by -- we went for something a little more residential.

MATT EMENS: I can say that I -- this is way more attractive than that right now.

DAVID CROSS: Agreed.

MATT EMENS: I think that is something you guys will want to look at a little harder.

MR. SUDOL: Okay. It's noted.

MICHAEL NYHAN: And the --

MATT EMENS: The other thing I will say, too, the change in color versus the change in depth is -- I'm fine with you presenting -- or the project presenting something where you want to look at both of those, but it definitely has to be a relief. Because one of the things that is just so annoying is long, flat, 2 and 3-story buildings that change colors that are not actually -- have a shadow -- shading shadow and an actual step.

MR. SUDOL: Certainly there is more detail being provided on the lines. Those are not flat walls. Those are going in and out.

MATT EMENS: Fair enough.

MICHAEL NYHAN: Anything else?

MR. SUDOL: See you in a month.

The meeting ended at 9:25 p.m.