

CHILI PLANNING BOARD

March 14, 2006

A meeting of the Chili Planning Board was held on March 14, 2006 at the Chili Town Hall, 3333 Chili Avenue, Rochester, New York 14624 at 7:00 p.m. The meeting was called to order by Chairperson James Martin.

PRESENT: Karen Cox, Jason Elliotto, John Hellaby, Dario Marchioni, John Nowicki, Jim Powers and Chairperson James Martin.

ALSO PRESENT: Keith O'Toole, Assistant Counsel for the Town; Dennis Scibetta, Building & Plumbing Inspector; Larry Nissen, Town Engineer Representative; Pat Tindale, Conservation Board Representative; Fred Trott, Traffic Safety Committee Representative.

OLD BUSINESS:

1. Application of Maude Development, LLC, 22N159 Pepper Road, Barrington, IL 60010, property owners: Mr. & Mrs. Alexander Tulloch & Mr. William Heffron, Jr.; for preliminary subdivision approval to combine four lots into one lot to be known as Walgreens Subdivision at properties located at 4358, 4362, 4366 & 4370 Buffalo Road in G.B. zone.
2. Application of Maude Development, LLC, 22N159 Pepper Road, Barrington, IL 60010, property owners: Mr. & Mrs. Alexander Tulloch & Mr. William Heffron, Jr.; for preliminary site plan approval to erect a 14, 280 sq. ft. retail pharmacy at properties located at 4358, 4362, 4366 & 4370 Buffalo Road in G.B. zone.

JAMES MARTIN: First items on the agenda are under old business.

MR. BRIXNER: Will they be able to --

JAMES MARTIN: You're out of order, Mr. Brixner. Sit down. It is the applicant's turn to talk. Mr. Brixner, you are out of order. Please sit down. Please sit down, Mr. Brixner.

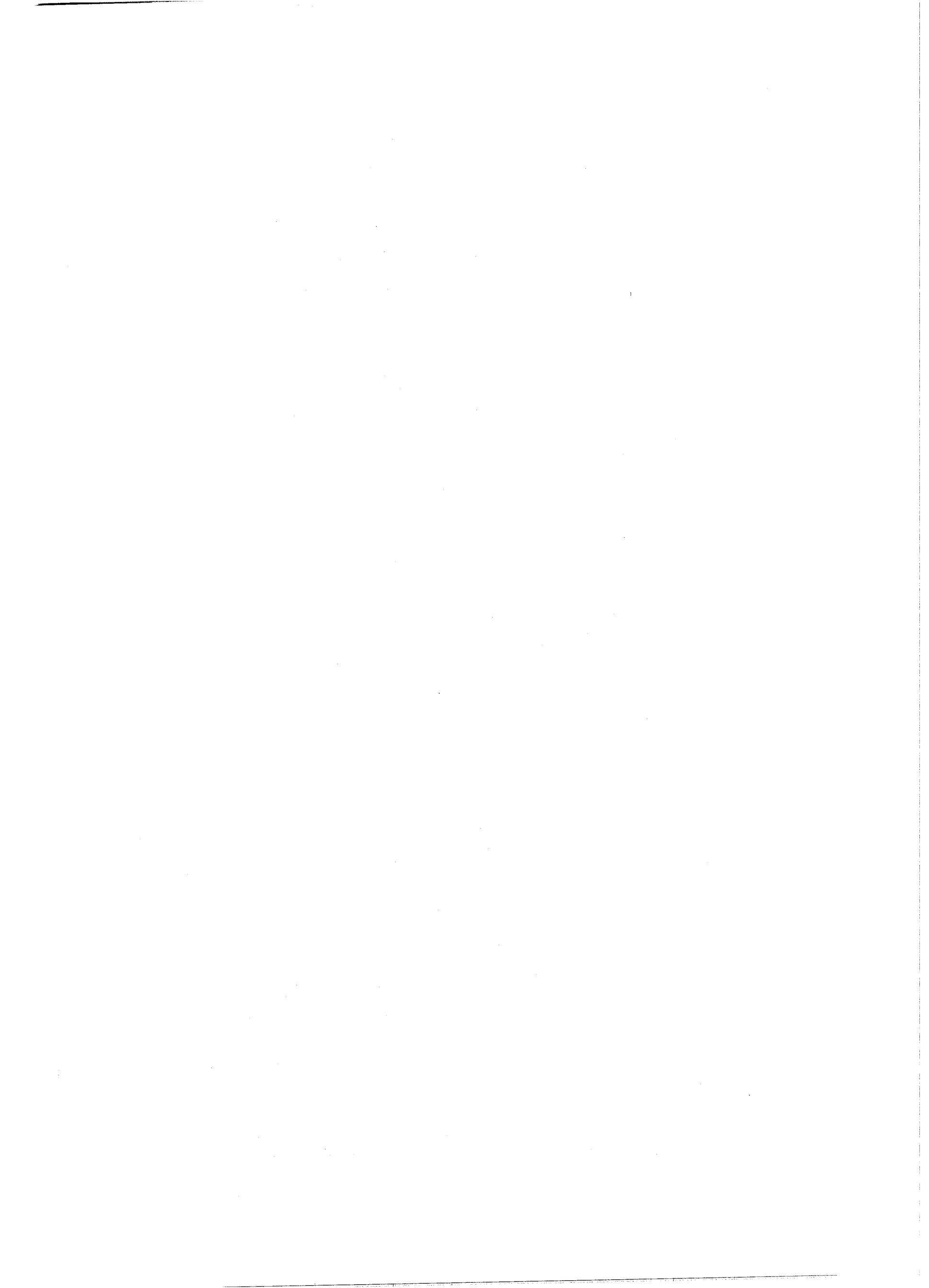
MR. BRIXNER: Thank you.

MR. GREINER: Good evening. My name is Tom Greiner, attorney at Nixon Peabody, Clinton Square, Rochester. Here on behalf of Maude Development with Brian Maude, Principal of Maude Development, Mr. Doug Hutter, who is a principal at Zaxis Architectural and Paul Colucci from the engineering firm of Costich.

We'll be very brief and happy to answer any questions that the Board has or directs us to answer.

What I would like to do is simply pick up from the last meeting. The last meeting we received comments from the Board. We have since taken those -- or questions from the Board. We have since taken those questions and by letter dated March 9th, we have answers to them, but very briefly, for everyone's sake, one of the questions the Board asked was whether -- and when the lights would turn out, and basically we posit a closing time of 10:00 p.m. All employees gone by 10:30, and so the store would be shut down, and the employees would be out a half hour after and except for security lighting, the lights would be gone. We also note in that response that in the Christmas holiday season they may keep the store open to midnight for customer service.

There was a question regarding where employees would come from, whether they would be hired locally. Policy of Walgreens here is that the entry level employees, all of them would be hired from the immediate area. They will have knowledge of the clientele as well as the



neighborhood. Management is also hired from the market area. Some assistant managers also live in a nearby community, but basically this is a local operation.

Again, responding to a question from the Board regarding snow removal, Walgreens operates and has operated stores in Western New York for many years that -- that have snow like we have.

And snow removal is typically not a problem. The likelihood here is that the snow falling in the front parking lot would be pushed along the curb or just past the curb along Union Street.

I think the -- at the last meeting we also depicted that on the site plan. I think it was pointed out where it would be.

Like any operation, in an area like our area, sometimes the snow gets to be so that you have to actually put it -- and store it in some parking spaces. That would be the remote parking spaces that people typically would not use. Of course, as a last resort, like some operations or some years, there may be times when snow has to be hauled away. That was responsive to the snow storage and removal question.

There was also a question from the Board regarding whether Walgreens would install a picture, a nice picture of the building that is on the property right now. And the answer is that Wegmans -- excuse me, Walgreens would be happy to do so, and that there is certainly room just inside the entry door to mount a nice photograph with a frame.

Again, as you will recall from our previous meeting, we have also offered to create a monument outside for placement of a plaque that would be -- the wording of that would be open to whatever the Town would want to see that would accurately depict some of the history of the building.

We have also received a follow-up letter from SHPO. You will recall that at the last meeting a letter from SHPO had come regarding the building on site, and spoke to that and spoke to the fact that at the very least, measured interior, exterior floor plan, footprint and archival photos. We have a follow-up letter that Mr. Scibetta, I hope, has received it -- it's shown as having received it. Without reading the whole letter, basically the second phase or the second issue with SHPO beyond historical is archeological -- and this letter confirms that Mr. Shifferly (phonetic), one of the in-house archeologists at SHPO, has looked at this and has determined that, quote, "our office has no archeology concerns." So that is on file with the Town, and it does finish the SHPO review of this matter.

With that, Mr. Chair, I would like to -- there was one more question that the Board had at our last meeting. I would like to turn this podium over to Paul Colucci, or maybe he wants to go over there, but to Paul Colucci to talk about the photometrics the Board had a question with. Again, we're happy to answer any questions that the Board will direct us to answer.

MR. COLUCCI: Mr. Chair, I have a couple of exhibits I would like to hand out to the Board.

I will give a second for those exhibits to reach you.

At the last meeting, February, a possible alternate light fixture was mentioned, antique light style fixture which Mr. Maude -- Maude Development has since approached Walgreens with and Walgreens has approved it for use on this site. As you can see --

JAMES MARTIN: Speak loudly so everybody can hear you.

MR. COLUCCI: As you can see in the exhibit, it's like a Bishop crook style fixture, hanging, antique style fixture, more village-like than what was previously proposed, the standard commercial downcast light. We re-ran the photometrics, and what we have is the -- the proposed photometric plan that you have in front of you matches almost identically to what was proposed. We have the same number of poles. Pole height is identical, 30-foot pole on 2-1/2-foot concrete base. Metal halite, same as previously proposed. We're going with 400-watt bulbs in these luminaries.

So in summary, I guess comparing this plan to the previous plan, we have the exact same

number of poles, the same number of luminaries, more attractive fixture than what was previously proposed, and we have that same average foot candle level across the site, and the same amount that we have proposed previously at the property line, averaging about 1 foot candle at the property line, which meets the Town Code standard.

JAMES MARTIN: Any questions on this so far from the Board?

JOHN HELLABY: Are these same type fixtures being wall mounted?

MR. COLUCCI: Yes.

The only other piece of information to share with the Board was we received a letter from the Town Engineer, addressed to yourself, dated, I believe, March 10th, stating they had no further comment at this time on the plan.

I believe we don't have anything formally to present to you, so we turn it over to the Board.

JAMES MARTIN: Any other comments from the applicant at this time? Any more presentations?

MR. GREINER: No.

JAMES MARTIN: All right. I will go to the Board at this time for any further clarification, issues, concerns that may exist. This is a third iteration on this. We have been through a lot of it.

JIM POWERS: All set.

KAREN COX: Paul (Colucci), does Walgreens have a regularly scheduled maintenance program for that CDS water quality unit, do you know? Paul (Colucci)? Those tend to sometimes fill up with debris.

MR. COLUCCI: We're starting to see a lot of these type of treatment units, mechanical separation units utilized in reconstruction sites where there is not room for a pond.

Basically, in talking with the rep, it is about a one-year maintenance schedule, that they actually pull the top off, pick up the -- the separation unit that is inside, and empty it on a flatbed. It takes about an hour.

This site would be owned by Walgreens, correct?

MR. MAUDE: That's correct.

MR. COLUCCI: So part of their regular maintenance would be to have that unit serviced yearly. That would be incumbent upon them as it would be maintaining anything else on the site.

JOHN HELLABY: One more thing on the wall-mounted fixtures. The same bronze anodized as the pole? How do they relate -- I'm trying to recall, the rendering had green canopies?

MR. COLUCCI: This is made by WLS. It is an aluminum casting. It's powder coated, so it can be powder coated to match any color that we choose.

JOHN HELLABY: Is it your intent to match these to the trim on the building or the light poles in the parking lot? I guess it is going to really depend aesthetically where they fit on these canopies.

MR. COLUCCI: I would probably defer to Doug (Hutter) on that as far as --

MR. HUTTER: Just as a quick response to that. Any of the light fixtures mounted to the canopies, whether the mansard canopies we added or the ones over the windows, they will match that. If they're mounted on the building itself, we'll have to take a real close look at it if we match the brick color or create an accent like the door colors.

JASON ELLIOTTO: I want to first thank you gentlemen for getting back to us on the questions that we brought forward at the last meeting.

I just need some clarification on a couple of things. The last comment about the picture, is that what we decided was just a picture, or --

KAREN COX: I don't know --

JASON ELLIOTTO: You know --

KAREN COX: We suggested it.

JIM POWERS: We did not specify. I remember mentioning a photo area. The one over in Gates -- that that might be a good area to show some pictures of the old building, stagecoach, or other historical homes along -- in North Chili or in Chili, period.

JASON ELLIOTTO: Almost like what Tom Wahl's has, or is it Bill Gray's?

JAMES MARTIN: Similar to that, yes. That was our concept, I believe.

JASON ELLIOTTO: I just -- are we on -- it sounded like in the presentation it was a picture, and I mean -- I would personally like to see more than just a picture inside. Something -- I don't know if it can be added into the store itself, on the inside, or with pictures around the store. Myself, that is just --

MR. HUTTER: At this point, the original request was to talk about photographs. We have contacted Walgreens and they certainly said there is no problem placing the photograph right inside the building so as people are entering or exiting, it will be right there.

JASON ELLIOTTO: You're saying photograph.

MR. HUTTER: If the Board has a request to have additional photographs, we'll certainly bring that to Walgreens' attention. I'm sure we can find places for them to be in the store.

JASON ELLIOTTO: Well --

JOHN NOWICKI: Or you can make it available to public libraries in the area. Whatever the case may be.

MR. HUTTER: That is certainly an -- just as a quick comment. Photographs within the store, since Walgreens is within the community, they certainly want to present the community interest within the store. So any request, we just have to go through the process.

JASON ELLIOTTO: Just for clarification, what did we come up with for the final look for the monument that they will put with the plaque?

JAMES MARTIN: I think it was pretty much in line with what we saw, the elevation that they provided to us.

KAREN COX: It was a brick -- you know, a three-sided type structure with the plaque area.

MR. HUTTER: If you need extra copies, I brought them for the Board.

JASON ELLIOTTO: This is good (indicating).

DENNIS SCIBETTA: Only comment I had, the Historic Preservation Board would like to be contacted in order to do some photo documenting of their own, and they would hope that they could get in touch and they would like to do their own -- I guess they photo doc the building so they will have a record for the Town to have and to keep. So you may want to coordinate something with them on that.

JAMES MARTIN: I will capture that as a condition.

The Conservation -- you're okay with the landscaping plan.

PAT TINDALE: We approved the landscaping plan. I would like to ask one question. I didn't understand what you said about the snow removal.

JAMES MARTIN: You did have comments about snow removal and whether that could be pushed to the northeast corner. I guess that is something you really need to take a look at. Or Walgreens needs to take a look at.

Okay. In answer to your question, Mr. Brixner, I am sorry I had to call you out of order.

MR. BRIXNER: Please.

JAMES MARTIN: By the rules, we really do not have to have public comment tonight. This is not a public hearing. However, I stated at a previous meeting that I would take public comment at this meeting tonight.

MR. BRIXNER: Thank you.

JAMES MARTIN: So due to the fact that we have had some significant changes in regard to this application since the public hearing that we did have in December, regarding the site plan and architecture of the building, I will be taking limited public comment tonight. The limit will

be 15 minutes. I will hear public comment for 15 minutes when I start the public forum part of this presentation tonight. At the end of 15 minutes --

MR. BRIXNER: Not very long.

JAMES MARTIN: I don't care. I am setting the rules tonight. I don't have to have public comment. You understand that. I am allowing 15 minutes for public comment. But before we get into the public comment session, I want to go through a couple of facts regarding this application.

Number one, the applicant has fully cooperated with the Planning Board on requested changes related to the site, and the building architecture.

The business decision as to the project is Walgreens' and is not under the purview of this Board for consideration.

The property is properly zoned for this project.

The current owner has a right to sell the property.

The drainage plan for the site has been thoroughly reviewed by the Town Engineer and approved.

The Board shares the concern, as many of you, regarding the potential demolition of the historically significant building on the site. However, there is no known recourse that would result in preservation of the structure if this application is approved.

As previously discussed, the applicant has agreed to construct a monument commemorating the historic nature of the location, and to comply with the request from Roberts Wesleyan College for bricks from the old building.

The last item is the Board must follow the law as it pertains to this application.

At this point, I will now start the public forum and I will recognize the gentleman in the front row.

And I would ask you to keep your comments brief so that as many can speak as possible.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

CHARLES PEESLEY (phonetic)

MR. PEESLEY: I represent Carpenters Local 85 on 21 Jet View Drive. We have over 200 members that live in this area and work through our Local. I want to address a comment the attorney representing Maude Development brought up. That was the issue of local labor and he referred to entry level personnel. I'm sure from his reference he was talking about the service people. We represent the contractors or the carpenters that actually build the building and there are several other trades here, as well.

Our concern is that -- we're concerned with the store, like the ones that came before this one, that they were built with outer area contractors that don't -- or outer area workers, contractors that didn't provide benefits. Some of the very items that the store sells to the public, their contractors don't provide to the workers, and we're asking that the Town of -- that the Town take a look at the same provision that was put in in the Town of Brighton where they required that they use 90 percent local people with contractors that were responsible and paid respectable wage and benefit plans. Thank you.

JAMES MARTIN: Thank you for your comments.

STEVE GINOVSKY - 19 Hubbard Drive

MR. GINOVSKY: Good evening. 19 Hubbard Drive, North Chili.

First of all, the use of local labor on this job site, since it is going to be located here in Monroe County, would strongly utilize and support the local area.

That is the number one issue.

Number two, I would like to bring it before this Board that there were three repair shops

behind the Stagecoach Depot. One was Small's Repair. Second was Bill Doyle had a repair. Third was Mr. Fodge. There is a waste fuel oil tank that was in the front of the parking lot of the building, directly behind the Stagecoach. To let you know, that there is a potential environmental problem there. It should be corrected.

Third, snow removal. Banking it over on Union Street side would be pushing it onto the road, and we do get snow coming in, and it blows in from the west. It would be strongly suggested to make it to the north end if you're going to stack it, and to the east end of the parking lot. Strong suggestion on that so that is not a pushing match.

Fourth, signage. On the building and any in the front. I strongly suggest not to have a Las Vegas type signage like at the end of Coldwater Road and Buffalo Road by the firehouse. There is an obstruction to traffic and you're sitting at the signal light, and it bothers you when you drive. If you have anything like that, it takes your attention away, and causes a potential problem. The corner is finally fixed up halfway decent that we can do right-hand turns and such. Thank you very much.

JERRY BRIXNER - 14 Hartom Road

MR. BRIXNER: Thank you, Mr. Chairman. Jerry Brixner, 14 Hartom Road. I'm extremely disappointed. Last month you made the reference you would have a public hearing. You made the reference you were going into SEQR and that at the end of the 30-day period, which would be up around March the 9th, that you would allow public speaking at this particular meeting.

JAMES MARTIN: That's what you're doing right now. I didn't say public hearing. I said public comment.

MR. BRIXNER: My question, sir, would be when are you having a public hearing in reference to the format of SEQR requiring a public hearing?

JAMES MARTIN: Mr. O'Toole, we had that in December, if I -- at that time, we declared our intention to become lead agency and asked for a coordinated review, which we did.

KEITH O'TOOLE: In absence of an environmental impact statement, there is no requirement by statute to have a public hearing for SEQR purposes.

JAMES MARTIN: Thank you.

MR. BRIXNER: Thank you.

Oh, one more point. I have a list of pictures and I will submit them to the Board tonight. Thank you.

JAMES MARTIN: Thank you Mr. Brixner.

RUSTY BENNETT - 10 Madiera Drive

MR. BENNETT: Good evening, gentlemen of the Board. I'm Rusty Bennet. 10 Madiera. I'm a local tradesman. As a result of the conditions in the local economy with several of the big manufacturers moving out of town, there is a substantial vacancy in jobs for local tradesmen to fill. Subsequently, there is a number of people in the Chili area, myself included, who have been under-employed lately, and, therefore, the ability to pay our taxes and be responsible citizens of the community and support the businesses that already exist is diminished. So I would highly suggest that if Walgreens wants to be the community partner that they have suggested that they do, that they absolutely be willing to use exclusively local labor to the extent it is feasible. By local labor, I'm thinking Monroe County. For them, local labor could easily be the northeast region. The fact of the matter is, if people who were planning to build businesses in this community were to use exclusively local labor, there probably wouldn't be a labor shortage. There is enough construction going on out there that I think to be responsible as a Planning Board, that would be a requirement that would be necessary on this project. Thank you.

JAMES MARTIN: I will comment on that. It is not within the purview of this Board, all

right, to take any action that would basically demand local labor on this project. I want -- we do not have the authority to do that.

KAREN COX: Can we clarify that the -- why the Brighton one used local labor?

JAMES MARTIN: Keith (O'Toole), I believe that the Brighton situation was different in that there was a zoning issue, not a Planning Board issue, that was utilized in order to make that demand on them.

KEITH O'TOOLE: And that may well be. I would point out that the Town of Brighton has a different code than we do, and if we are going to apply the zoning and planning laws of the State of New York, they do include a labor relations component.

JAMES MARTIN: Thank you.

DAVID YOUNG

MR. YOUNG: Good evening. My name is David Young. I'm from the Electrical Workers here in Rochester, New York. I'm also from the Rochester building trades.

JAMES MARTIN: If you could keep it brief. We have already said we really don't have any --

MR. YOUNG: One of our problems here -- this goes back to an issue you addressed. Walgreens is continuing to refuse to address any of the local labor issues concerning construction workers. Right now their history throughout the region is to hire construction workers underpaid, poor health insurance or no health insurances. As a matter of fact, speaking of the Town of Brighton, they're refusing to communicate with the Town of Brighton at this point in time. In essence, snubbing their nose to that.

I would point out several of the neighbors in the area, existing stores such as Wegmans, continue to hire contractors that provide quality pay, quality benefits and decent educational programs for their workers at this time.

JAMES MARTIN: Somebody have a comment other than on the labor issue, because it is a non-issue as far as this Board is concerned.

MICHELLE RANDALL - 1490 Vroom Road, Spencerport, New York

MS. RANDALL: I did previously present a letter to Mr. Martin for the Board to review.

JAMES MARTIN: Yes. We all have copies.

MS. RANDALL: Have you reviewed that?

JAMES MARTIN: Yes.

MS. RANDALL: My question is to Walgreens and also to the Town, simply why? Why you choosing North Chili? Why do you want to put this big Walgreens in North Chili, and why are we allowing it?

We have this building that I'm reading more and more about and how many other old buildings are around here. This building needs to be saved. We send our kids to school to learn about history. We have got history right here that the kids can touch. Why do we want to get rid of it? I don't understand that.

And I want to know -- another question, the recent construction in that area, how much money did we spend to save this building so it doesn't get damaged during the construction? We put that wall up to protect it. Now we're just going to rip it out.

KAREN COX: Well, I can answer some of that. If you care to let me.

JAMES MARTIN: Make it quick, because I don't want to take away from their time.

KAREN COX: The State put that wall up not to -- maybe not to protect the property as much as to be able to build the road without impacting the property to the point where they would have to go through a full environmental process. That is one way, when using public money to build a project, to be able to build it in a good amount of time. I don't know how much it cost.

MS. RANDALL: My question still is why? Why do they want to come in here? I see empty buildings in the future. We have smaller businesses in the immediate area that have been established. IGS is convenient. Walgreens comes in and what other empty buildings will we have now because of this? Thank you.

JAMES MARTIN: Thank you. Hello.

SABRINA HENNEMAN - 122 Stryker Road

MS. HENNEMAN: And I'm Collections Registrar at the Genesee Country Village and Museum. We have heard a lot about labor unions, a lot of other things, but I'm here to speak about the tavern itself, and it is not just an old building. It has local and national significance that is not something to be taken lightly. I understand there is tremendous pressure from Walgreens. I don't have anything specifically against Walgreens, although we do have an Eckerd's, a K Mart, a Wal-Mart. There are a lot of other stores around. So I understand that.

But this building means more to this community and it shouldn't be something just taken lightly and said it's a done deal.

Its history was here -- it was here before the Town of Chili was established. It was an early tavern. Grover's Tavern and these taverns were centers for the community. It is not something that can just be brushed aside by a monument, a plaque, a photo. That doesn't capture history. Speaking from that profession, I know what captures history. I know what is important to our community, and more and more people are saying, oh, I wish we had saved these buildings that were destroyed in the urban renewal of the 1960s. And it -- so let's look at alternatives then. If Walgreens has to build on this space, build two stories, safe -- the lot is large enough. I had an understanding that both buildings could be built. Build two stories. Other stores do it successfully, and we retain -- we can retain this building. Restore it. Use it as either -- let Walgreens sell that section, rent it, or something. Use it as a sensitive renewal of maybe a bed and breakfast for Roberts Wesleyan College. Architectural tourism is huge in other areas. Brings people in. City of Buffalo is focusing on that. That is what makes us unique and special and not just like every other town that has the same look, same things. You might tweak it a little to make it look a little more cute and quaint. It is not the same. Let's see some other alternatives. There is no reason. Other towns have done this. They build up.

Let's do something else. Use -- use some of the space in the plaza across the way. There is no reason that we can't do both and look at other alternatives. And there is a number of people, if you would be willing to listen, who would give you further detail on the history of this tavern and its importance and I think it is really worthwhile considering. I hope you don't just say this is a done deal, because there is a lot of us that feel very passionately about this, and as our representatives, we hope that you would take that into consideration because, yes, we want -- we want more jobs locally, this and that, but there is a way to do it where everybody can be happy and satisfied, and it can all work out. So hopefully you will give everybody enough time to really give you the full information on this.

CAROLE THOMS - 122 Stryker Road

MS. THOMS: I will try to read fast so some other people -- Carol Thoms, 122 Stryker Road. I will look at this from a little bit different perspective. Everybody knows how important the Stagecoach Inn is and everybody will say the same thing. We want it to stay. But I want to talk about some other things that we need to look at, too, in regards to the Stagecoach Inn and Walgreens' intention to build.

Most of the world scientists agree that greenhouse gasses in the atmosphere as a result of human activity are playing a major role in changing the earth's climate. That human activity is driven in great part by sprawl. The population of Monroe County is not growing by any means. It is just shifting and sprawling. It is time we stopped thinking about the convenience-for-me

factor. When I consider those who want more and more development, but don't take the time to understand the impacts -- with 2005 being the warmest year on record, their dramatic effects on polar caps melting are becoming evident. The sea coasts will succumb to rising water and drastic weather changes will accelerate. The year of Katrina will become commonplace. Many experts are saying -- too many lately that sprawl and mankind have contributed to global warming.

Changes at federal and state government are imperative. We have to address this at the smallest level in terms of our town and our own behavior. This is not someone else's concern. From Elizabeth Kolbert's, *The Climate of Man*. It may seem impalpable to imagine that a technology-advanced society could choose in essence to destroy itself, but that's exactly what we're doing. We don't need one big box drugstore next to another in Chili. We don't need a Target store in Chili when they're within such a short drive. Chili residences are a 10 to 15 minutes' drive to many stores and you can reach the other side of the city in 20 minutes.

What this is all about is that Walgreens wants to put Eckerds out of business. We can see what big box stores have done to Henrietta. Listen to the experts and consider the facts. The following are quotations.

Choosing our community's future by David Goldberg of Smart Growth America. The impacts of big box retail centers, although they're popular places to shop, their impacts on a community can be huge. As National Trust For Historic Preservation puts it, big box stores impose hidden costs that they -- that don't appear on the products they sell. Traffic congestion, loss of trees, open space and farmland, displaced small businesses, substitution of jobs that support families with low paying jobs. Air and water pollution, dying downtowns with vacant buildings, abandoned shopping centers and a degraded sense of community.

Many communities accept these impacts based on assumptions that don't always hold true. First, local officials are often seduced by a prospect of a tax revenue when it doesn't materialize. A study conducted for the City of Barnstable, Massachusetts found that big box retail, shopping centers and fast food restaurants actually cost more in road maintenance, security and other services than they bring in.

Second, communities often settled for only cosmetics to big box design. Lipstick on the pig as some call it. Because developers insist retailers can't adapt their formats to fit with local architecture or to reuse older buildings. But a growing number of communities have found that is not the case. When Gaithersburg, Maryland set a maximum footprint of 80,000 square feet, big box retailers set up shop in two-stories buildings. And finally, communities failed to protect themselves against the inevitable abandonment of big box stores and -- excuse me, I lost my place. But places like Buckingham Township have required developers to post bonds to cover demolition costs should the building sit empty to help make the site attractive for redevelopment in a more sustainable form.

It has been reported that a number of people have called the Town concerning saving the inn only to be told it's a done deal and the call was then abruptly terminated. The Town must listen to what the people are saying. One only has to remember what the people of Chili went through to prevent a Thruway exit. At that time the people were saying they didn't want to look like Henrietta. They wanted to keep sprawl out of Chili. I am asking you to save the historic Chili Stagecoach Inn.

I am asking that the Master Plan updates include limiting footprint size of any box store. I am asking you to require companies building such as a building post bonds to cover possible demolition cost.

You can see by the number of people here tonight that the Stagecoach Inn is important to Chili and Monroe County. You have the chance here tonight to do the right thing. The right thing is to save the Stagecoach Inn. And in addition, the right thing is to say Chili will do its part to prevent sprawl and not contribute to the decline of our environment. It is not happening in the future and somewhere else. It is happening here and now. Thank you.

JAMES MARTIN: Public forum is now closed. That used up the remaining time.

MR. BRIXNER: Mr. Chair --

JAMES MARTIN: I'm sorry. I just closed the public comment, period, Mr. Brixner.

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

JASON ELLIOTT: Number one, thank you everybody who came out here tonight to voice your opinion. It does mean that you care about the community and we are listening to that.

As far as the law goes for -- you said the state law does not require that we -- or that we can mandate a percentage of workers?

KEITH O'TOOLE: It is not within the jurisdiction of the Planning Board.

JASON ELLIOTTO: So even if we wanted to, we could not legally?

KEITH O'TOOLE: Yes, that's correct.

JASON ELLIOTTO: It's a concern of mine that -- of what is going on at the other stores. It is a concern of what some of the union reps have commented about to me.

KAREN COX: I think the whole Board is concerned. I mean, you know, we have family members or we have friends who are in labor unions. I work in a job that deals with a lot of labor unions, but the fact of the matter is, there is not anything we can do about it at this point. Unfortunately.

JIM POWERS: I remember when it came up at the last meeting that this particular subject -- that Walgreens assured us that they would do everything in their power to look at the local labor market and that they would use as many local people as they possibly could.

A comment was made from the audience.

JAMES MARTIN: I'm sorry. Public comment period is closed.

DARIO MARCHIONI: I want to answer some of the questions -- I just want to -- like to bring up some of the questions that were asked tonight.

In the minutes of December the 3rd, 2005, we have testimony from the owner, Mr. Tulloch, which states as follows: "We the owner -- we owned that corner. We offered that building to the College, and they did not want it. Structurally it was not good enough for them to move or to take over. We offered it to the Genesee County Museum and they also did not want the building. They had no interest in it." I just want to express that.

MS. HENNEMAN: That's incorrect.

DARIO MARCHIONI: It's in the minutes.

MS. HENNEMAN: That is incorrect information.

JOHN NOWICKI: Can I just comment?

JAMES MARTIN: Certainly, John (Nowicki).

JOHN NOWICKI: We asked the question at the February 14th meeting in regard to the labor issue, and the question was put to the applicant: I will put it on the table. This is myself asking the question only because of what is happening in other towns, because the question was the other towns have a different type of developer; is that correct?

MR. MAUDE: That's correct.

JOHN NOWICKI: Not the same development company in other towns.

The question was, "Will you be using local help to build these projects?"

Okay? And the answer was from Mr. Maude. "Absolutely."

So that is on the record.

A comment was made from the audience.

JAMES MARTIN: A couple -- please. Order, please.

Going back to some of the comments I made earlier, this Board has to consider applications on the merits and on the law, and, you know, clearly, yes, many of you are very upset about the fact that that building may come down, or be demolished, but, you know, nobody has stepped forward with a huge pile of money to save it. We have read the architectural review that was conducted at the cost of the developer that assessed the condition of the existing building. It is in a very, very serious state of deterioration. It would cost hundreds of thousands of dollars to begin to refurbish it to put it in any kind of condition that would be usable.

You know, from that standpoint, as I said before, there appears to be no recourse available at this time that would allow preservation of that particular structure. And as I said before, you know, we have to review applications on their merits and on the law.

KAREN COX: I just had a thought. The applicant has been dealing with the State Historic Preservation Organization, which in this state is the premiere agency for making determinations about historic buildings, and as the applicant indicated at the last meeting, they received a letter that indicated short of -- or if they could not save the building, then the next step is to document the building in various ways, which they have offered -- or they have indicated they're going --

JAMES MARTIN: Okay. I want to move ahead with the SEQR process. We started the coordinated review on this project under SEQR rules on February 8th. The 30-day window for coordinated review closed on March 8th. There was no objection voiced to this Board to act -- to not act as lead agency, therefore, this Board has the authority to act as lead agency under SEQR. There were no negative comments from any agency solicited for input. Therefore, I am going to offer the following resolution:

"The Planning Board of the Town of Chili State Environmental Quality Review Act.

Whereas, Maude Development, LLC, the applicant, has made application to construct a Walgreens drugstore at the corner of Buffalo Road and Union Street in a General Business District, (the Project); and,

Whereas, the project requires subdivision approval and site plan approval from the Planning Board, area variances from the Zoning Board of Appeals, as well as various other approvals and reviews from the State and local agencies; and,

Whereas, the project has undergone coordinated agency review for the purposes of the State Environmental Quality Review; and,

Whereas, the Planning Board is the lead agency under SEQRA; and,

Whereas, the Planning Board has reviewed the Project and the Applicant's November 10th, 2005 application materials, Applicant's January 12th, 2006, supplemental application materials, and the Full Environmental Assessment Form submitted with the January 12th supplement, an Engineer's Report prepared by Costich Engineering dated November 2005, and revised January, 2006, a State Historic Preservation Office submission prepared by Zaxis Architectural dated January 11th, 2006, and all other materials submitted in connection with the Project; and,

Whereas, the Planning Board has considered the Project at various of its public meetings and at its public hearing of December 13th, 2005, at which hearing the Planning Board received testimony from the applicant's Project team, as well as all comments received from the public; and,

Whereas, the Planning Board received input and comments from the Town Conservation Board.

Now, therefore, be it resolved by the Planning Board that:

Based upon the Planning Board's thorough and careful review of the Project, and Applicant's application materials, including the Full Environmental Assessment Form and all other materials submitted in connection with the Project, and all public comment on the Project, this Board hereby determines that the Project will not result in any significant environmental

impacts and hereby issues a negative declaration for the Project pursuant to SEQRA.

The reasons supporting the negative declaration:

Air, water, noise, waste, erosion, drainage, site disturbance effects: The Project will not create any adverse change in the existing air quality, water quality or noise levels, nor solid waste production, nor potential for erosion, nor promote flooding or drainage problems. The Project will produce a minimal disturbance of soil, including topsoil, and vegetation, with minimal storm run-off. These items were discussed at the December 13th hearing and are addressed in the various application materials, including the site plans prepared by Costich Engineering, dated November 10th, 2005, and last revised January 12th, 2006, and the Engineer's Report also prepared by Costich Engineering, dated November 2006, and revised January 2006.

Two, aesthetics, agriculture, archeology, history, natural or cultural resource, community or neighborhood character: The Project will not adversely affect significant or intact architectural, archeological, historical, natural or cultural resources. A report dated January 11th, 2006 was submitted to the State Historic Preservation Office, SHPO, by Zaxis Architectural. SHPO received the report on January 13th, 2006 and has not responded to the Board -- they did respond to the Board after February 14th, 2006.

Further, Applicant has offered to include a gable roof at the entrance, arched canopies at the windows, a mansard roof band and custom antique lights to enhance the aesthetics of the building. The Project will be consistent with recent construction in the immediate area. While the building formerly used as a stage coach stop is old and is associated with local history, it has been severely compromised in terms of its architectural integrity and is in very poor structural condition.

Moreover, neither governmental bodies nor area institutions have seemed desirous of obtaining the building or providing funds for its restoration, even assuming such activities were feasible.

In addition, Applicant proposes to erect a monument wall utilizing bricks from the building currently at 4370 Buffalo Road and describing that building's history and former use as a stage coach stop.

Vegetation, fish, wildlife, significant habitats, threatened or endangered species. The Project will not adversely affect plant or animal life.

Traffic and traffic circulation. Adequate internal traffic circulation is provided for customers, employees, use of the drive-through pharmacy window, delivery vehicles and trash removal. Regarding external traffic, four of the six existing driveways from the Project area will be closed, leaving one driveway on Union Street and one driveway on Buffalo Road. The New York State Department of Transportation has reviewed the site plan and agrees that this change will provide a safer traffic flow at the intersection of these two streets.

Community plans, use of land or natural resources. The Project is in keeping with official community plans and goals and will have no adverse effects on land-use or the use of natural resources by or in the community.

Growth, subsequent development, et cetera. The Project will not induce any significant or adverse growth or subsequent development.

Long term, short term, cumulative or other effects. The Project will not have any significant adverse long-term, short-term, cumulative or other environmental effects.

Critical Environmental Area. The Project will not have any -- will not have an impact on any critical environmental area.

Public health and safety. The Project will have no adverse impacts on the public health.

Notice of this determination of non-significance shall be filed to the extent required under SEQRA, and as the Board may deem advisable."

I offer that as a resolution under SEQR.

JOHN NOWICKI: I will second that.

JAMES MARTIN: On the resolution of SEQR, leading to a negative declaration, we'll go to a vote.

The Board was unanimously in favor of the motion.

JAMES MARTIN: On the application itself.

The Board reviewed the proposed conditions.

JAMES MARTIN: Town Engineer approval?

LARRY NISSEN: Yes, please.

JAMES MARTIN: I have no record they paid application for final. This came in under our old form. Do you know if they have paid for final at this point in time.

DENNIS SCIBETTA: It was under the old system, so that is why we were allowing that -- that is your judgment. You could request it.

JAMES MARTIN: We're not going to waive --

JOHN NOWICKI: We should waive final.

DENNIS SCIBETTA: It was suggested that because of the old -- the way we did it before, they should be allowed to -- if they would like to --

KAREN COX: Grandfathered in.

JAMES MARTIN: There is a fee associated with final that you will be expected to pay. So waiving final?

The Board all voted yes on waiving final.

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

- 1. Additional photographs of historic interest to the Town of Chili should be considered for display with the Walgreens store.
- 2. The applicant will coordinate with the Chili Historian on the following:
 - a. The documentation of the "Stagecoach Inn," both interior and exterior.
 - b. The text that will be displayed on the commemorative plaque that will appear on the site monument.
- 3. Pending all approvals from the Town Engineer.

Note: Final subdivision approvals from the Town Engineer.

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

- 1. Additional photographs of historic interest to the Town of Chili should be considered for display with the Walgreens store.
- 2. The applicant will coordinate with the Chili Historian on the following:

- a. The documentation of the "Stagecoach Inn," both interior and exterior.
 - b. The text that will be displayed on the commemorative plaque that will appear on the site monument.
3. Pending all approvals from the Town Engineer.

Note: Final subdivision approvals from the Town Engineer.

PUBLIC HEARINGS:

1. Application of Antonio Rosato, owner; 252 Ballantyne Road, Rochester, New York 14623 for preliminary subdivision approval of three lots to be known as Rosato Subdivision at property located at 252 Ballantyne Road in A.C. & FPO zone.

Antonio and Lorenzo Rosato were present to represent the application.

MR. ANTONIO ROSATO: Antonio Rosato. A request for three-lot subdivision. Purpose, for my daughter to buy one lot from the house, and the requirements, you have to have a three-lot subdivision to provide three tax accounts.

MR. LORENZO ROSATO: One of the properties is across the street. Apparently that is a new code, where if the one property is on the opposite side, that you have to have a separate tax deed. That is the only reason why he is asking for three instead of just the two.

JAMES MARTIN: Speak up so everybody can hear.

You're dividing it into three parcels and the reason is part of the property is across Ballantyne Road and that needs to have a separate tax identification parcel identification?

MR. LORENZO ROSATO: Correct.

JAMES MARTIN: And you also indicated your daughter is going to buy one of the lots?

MR. ANTONIO ROSATO: The house, yes.

MR. LORENZO ROSATO: The house is existing. The home is there. She is purchasing the existing house, and my father --

JIM POWERS: That is Parcel 1?

MR. ANTONIO ROSATO: Right.

JOHN NOWICKI: Can you run it by -- what is the request for Parcel 2?

DARIO MARCHIONI: It's across the street.

JOHN NOWICKI: Why is it not incorporated into Parcel 1?

JASON ELLIOTTO: New tax law.

JOHN NOWICKI: Is there a new tax law? Do you know anything about that?

KEITH O'TOOLE: No, there is no reason it has to be separated.

JOHN NOWICKI: I never heard of such a thing.

KAREN COX: Did somebody tell you you needed --

MR. ANTONIO ROSATO: The County did.

MR. LORENZO ROSATO: The County did.

KAREN COX: When did they tell you that?

JOHN NOWICKI: I'm not buying that.

JIM POWERS: What is that?

JOHN NOWICKI: Separating -- to have Parcel 2 separate and distinct. That should become part of one.

JIM POWERS: The County won't accept a map.

JOHN NOWICKI: I want to see something in writing. I will not accept that. I will go to legal counsel here, and he is not supporting that position at all.

MR. LORENZO ROSATO: Which one is -- you're saying --

JASON ELLIOTTO: Parcel 2.

JOHN NOWICKI: 2 and 1 should be together.

MR. LORENZO ROSATO: Parcel 2 and 1?

JOHN NOWICKI: What are you going to do with that piece of property there, with the barn on it?

JIM POWERS: As I understand it, they originally were going to file it with that as one parcel, and the County said no, they won't accept the map.

MR. LORENZO ROSATO: We're just trying to do whatever we're asked, honestly. My sister would like to purchase the home. My father would like to keep the balance -- the barn as well as the rest of the property. We're just trying to --

KAREN COX: So you spoke with an individual at the County Clerk's Office?

MR. ANTONIO ROSATO: Yes. They said -- the new law, they said you have to have a tax account across the street.

KAREN COX: Name of the individual?

MR. ANTONIO ROSATO: Kathy Reed. She spoke to somebody.

KAREN COX: Kathy Reed spoke to somebody.

MR. ANTONIO ROSATO: I called the County, and the County said yes. About three years ago, they changed the law to have a three -- any property that crosses a road, they got to have new tax account.

KAREN COX: I guess I would want to see --

Out of our area of expertise.

KEITH O'TOOLE: If you listen to what he said closely. You get a new tax account number when you subdivide. What Mr. Nowicki was suggesting is there is no reason to subdivide 2 from 1, so there is no requirement for a tax account number. If the County itself has -- passed its own local law that requires something, I would be happy to take a look at it, but I have yet to hear it.

JAMES MARTIN: Can we make this conditional upon your approval?

KAREN COX: Let's just table it.

JOHN NOWICKI: Let's table it. I don't want to touch this until --

KAREN COX: It seems rather --

All right. If -- we're going to box ourselves into a corner if we don't table it.

JOHN HELLAB Y: I have other issues, too. Just looking at this thing, have you talked to the County Health Department on this? I'm not so sure that 15-foot on a leech line are going to meet the required setback either.

MR. ANTONIO ROSATO: We did last year. We came over last year once. We moved the lot bigger because we find the septic tank and leech field. We have made it bigger. I already came last year.

JOHN HELLAB Y: I don't know what type of system is down there.

MR. ANTONIO ROSATO: It's a good system.

JOHN HELLAB Y: There is a 100-foot minimum to the next property line, and you can't put this thing in jeopardy like that. I just -- there are a lot of unanswered questions here.

JOHN NOWICKI: Yes, there are.

JAMES MARTIN: There was nothing that came through from the DRC review, though.

DARIO MARCHIONI: The Zoning Board reviewed this. They did not make any comments.

KAREN COX: But Zoning doesn't -- maybe doesn't have the expertise about the septic -- the leech fields and all of that.

DARIO MARCHIONI: It is a preexisting situation.

JOHN NOWICKI: We have federal flood insurance programs to look at.

KAREN COX: Once you resub, doesn't the preexisting condition go away, as far as some items?

KEITH O'TOOLE: Not in terms of zoning.

DARIO MARCHIONI: We're just subdividing this. We're not giving them a site plan.

JAMES MARTIN: This is not a site plan.

KAREN COX: I just can't understand the reason for this, I guess.

JOHN NOWICKI: I can't either.

JOHN HELLAB Y: Not with the way it is prone to flooding down there. You would be hard-pressed to get another house down there.

JOHN NOWICKI: What can you put on Parcel 3 in the flood zone? More, important it doesn't show --

JOHN HELLAB Y: That can lead -- I mean you open a door, basically.

KAREN COX: Until we get some good information, like I say, we're going to box ourself into a corner if we approve this resub, for what reason. I don't have -- I have no good idea of why this is going on.

JOHN NOWICKI: Exactly right. I agree with you. There is supposed to be an agricultural statement because it is in an Ag District. We don't have it. There is too much missing.

JAMES MARTIN: That was in my notes.

JOHN NOWICKI: This is not even close.

JAMES MARTIN: What -- we need to see a letter of clarification, whatever law the County cited, for our Assistant Town Counsel to review.

JOHN NOWICKI: Letters from some official.

JAMES MARTIN: You need an agricultural statement because you're in an agricultural zone, and so that -- the Building Department can help you with that. It is a form statement, as far as agricultural goes.

Clarification of the septic issue is the third thing. Are you writing all of this down?

The DRC reviewed it, but Al (Hellaby) is bringing up an issue that he doesn't understand. So I think, just, you know, again, revisit the Health Department to be sure that the following agencies reviewed the project and had no comments. The Health Department reviewed it and said they had no comments. So I just -- we just want to dot that "i" one more time. So -- okay. So you will get clarification of subdivision -- all right. I am writing this down. Help me if I miss something. Subdivision purpose and need.

JOHN NOWICKI: Evidence of some kind of existing law that the County is saying that --

The Board discussed the proposed conditions.

JIM POWERS: The plat map doesn't show where the flood zone and creek is on the property.

JOHN NOWICKI: Flood zone is not on there.

JIM POWERS: The flood plain.

JOHN NOWICKI: Dennis (Scibetta), what is the minimum lot size required in this zone?

DENNIS SCIBETTA: 5 acres.

JOHN NOWICKI: They're close on one.

DARIO MARCHIONI: They already got a variance.

JOHN NOWICKI: They got a variance?

JAMES MARTIN: Yes.

The Board further discussed the proposed conditions.

MR. LORENZO ROSATO: The whole area is flood plain. Are you looking for a definition of like a line where the flood plain starts and begins?

MR. ANTONIO ROSATO: The whole area is a flood plain.

KAREN COX: Whoever did your site plan should know --

DARIO MARCHIONI: There is flood way and flood plain.

KAREN COX: You have to show it on the map. If the whole area is a flood plain, it has to be noted.

JAMES MARTIN: Flood way and flood plain.

MR. BRIXNER: Is this a public hearing?

JAMES MARTIN: We have not opened it up for public comment.

DARIO MARCHIONI: The subdivision on Union and Chili Avenue, when that center road was dedicated, he had two tax account numbers. Remember the problem we had with he had two different --

KAREN COX: That -- he said that was a business decision. As I recall, they did that for business purposes.

DARIO MARCHIONI: But what is -- once he dedicated that road cutting through, we had the retention ponds and we had question about incorporating those with the senior -- the assisted living, so we had the same situation there, too. We have a road dividing two properties here. So automatically the Assessor -- because I asked the question from the Assessor, she gives two tax numbers -- when it crosses a road, a piece of property automatically gets a new tax account number.

KAREN COX: That is easiest enough for new subdivisions and it keeps the records clear, but we're talking about an old property. I run into this all of the time with people owning land on each side under the same tax account number.

JIM POWERS: You're talking Town road versus County road.

KAREN COX: We need clarification as to what this rule or law is.

JAMES MARTIN: So I think at this point in time, a decision by the Board would be to table this so you can answer those questions that we have come up with tonight. Since we tabled it, Mr. Brixner, there will be no public comment. That will be the next time around.

MR. BRIXNER: You didn't offer the public an input in the public hearing. That means that I have to come back next time to make any comment?

JAMES MARTIN: If we table this tonight, it will be held as a public hearing.

MR. BRIXNER: Why don't you allow the public comment before you table it, because there may be something the public wants to bring to your attention, or don't you wish that?

JAMES MARTIN: I wish that, but you will have an opportunity when we have the public hearing on it.

MR. BRIXNER: You're having a public hearing tonight.

KAREN COX: We tabled it.

MR. BRIXNER: I came for this public hearing.

JAMES MARTIN: Mr. Brixner, if we table this application, there will be no public hearing tonight.

JOHN NOWICKI: Mr. Chairman, I make a motion that we table this application.

JAMES MARTIN: Do I have a second --

KAREN COX: Second.

JAMES MARTIN: -- on the motion to table?

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

DECISION: Unanimously tabled by a vote of 7 yes to table until the April 11, 2006 meeting pending clarification and completion of the following items:

1. The purpose of the subdivision.
 2. What County Law prompted the need for filing this subdivision.
 3. Provide a copy of said law to the Assistant Town Counsel.
 4. Provide a statement from the Monroe County Health Department that the leach field location meets Health Department standards.
 5. Provide a plat map with delineation of the floodway and flood plain.
2. Application of Joe Benson's Towing Service, owner; 1421 Scottsville Road, Rochester, New York 14624 for renewal of conditional use permit to allow the temporary storage of towed and/or unlicensed vehicles at property located at 1421 Scottsville Road in G.I. zone.

Joe Benson was present to represent the application.

MR. BENSON: Owner, Joe Benson Service. I'm looking to renew my conditional use permit to continue to store unlicensed and unregistered cars, temporary storage of unlicensed and unregistered cars at my shop on Scottsville Road.

JAMES MARTIN: This is as a result of towing in wrecks?

MR. BENSON: Yes, wrecks and police towing.

JAMES MARTIN: I think the Board probably has copies. But just for edification purposes, this originally was granted on May 16th, 1994. Conditional use permit was granted for 150 by 150-foot property owned by the applicant. No stacking of automobiles on the premises.

MR. BENSON: No.

JAMES MARTIN: No dismantling automobiles on the premise.

MR. BENSON: No.

JAMES MARTIN: Continue to improve cleanliness and beautification of the area. Storage of unlicensed vehicles, parts or merchandise to be confined to the present enclosed area.

MR. BENSON: Uh-huh.

JAMES MARTIN: That is behind --

MR. BENSON: The only thing I keep on the outside is my tow trucks and my employees' cars.

JAMES MARTIN: Maximum number of vehicles which will be allowed to park at front of the building shall not exceed the number obtained by striping the parking area with 9 1/2 foot stalls.

No sales of any vehicles shall be allowed on the premises.

MR. BENSON: No.

JAMES MARTIN: This conditional use permit was granted for a period of three years at that time. It has been renewed several times. Basically, all previous conditions continue to be in force. Okay?

MR. BENSON: Yes.

JAMES MARTIN: That goes back to the --

MR. BENSON: Absolutely.

DARIO MARCHIONI: Keep up a nice, clean operation.

MR. BENSON: I'm trying.

JASON ELLIOTTO: Two quick things. I went by there the other day, and I noticed a car for sale out front, a blue Ford. It has a "for sale" sign in the front.

MR. BENSON: It did, but it is not for sale. It is the -- the gentleman who rents my building, he does mechanical work for Northcoast Auto Brokers. They brought it over to have it inspected and it had a "for sale" sign on it.

JASON ELLIOTTO: Because it was there today again.

MR. BENSON: He is doing work on it, but it is not -- it is in on my property, but it is not mine. The gentleman who rents my building.

JASON ELLIOTTO: Well, okay.

MR. BENSON: I can make sure it doesn't happen. I didn't think about it. I wasn't selling it.

JASON ELLIOTTO: It is a condition.

MR. BENSON: I will make sure it doesn't happen.

JAMES MARTIN: Take the sign out of the window.

MR. BENSON: Absolutely. Never thought about it.

JASON ELLIOTTO: There was another vehicle. I apologize, I don't have the information. Maybe a Probe with no plates on it. Maybe unregistered.

MR. BENSON: Once again, he is working on cars from a dealership. They have probably a dealer plate on them. But that again is not mine, but I can -- if it helps, I can put it off to the side.

JASON ELLIOTTO: If it is unregistered or unlicensed, it has to be in the enclosed area.

MR. BENSON: Okay. All right.

JAMES MARTIN: That is the condition.

MR. BENSON: No problem.

JASON ELLIOTTO: Those are the two concerns.

JOHN NOWICKI: So you're not in the building itself?

MR. BENSON: No, no. I have the back part, the offices and the towing yard. But I rent the two bays out front.

JAMES MARTIN: It has been that way for a while.

MR. BENSON: Yes. About 10 years now.

JOHN NOWICKI: I would hope you would understand the conditions that you're under.

MR. BENSON: He does, but I didn't bring them to his attention because it was my conditional use permit for towing.

JAMES MARTIN: You're in control.

JOHN NOWICKI: You have to make him aware of the conditions.

MR. BENSON: It will be taken care of tomorrow morning.

DARIO MARCHIONI: You should add that to the lease so he knows what the conditions are.

MR. BENSON: It will be taken care of tomorrow morning.

JIM POWERS: The cars in the front of the building, there were four cars in the south -- where the gate is to the south end of the property. There were three parked right up against the -- Scottsville Road, facing the bays. Are those employees, or are those cars that are supposed to be elsewhere, or what?

MR. BENSON: Those are cars that the -- that the person who rents my building are working on. All of my stuff is up behind the arborvitae trees planted or out back in my fence.

KAREN COX: But they were in the parking spaces shown on the plan?

JIM POWERS: Yes.

JAMES MARTIN: Okay. It just sounds like you better, you know --

MR. BENSON: I will take care of it tomorrow morning.

JOHN HELLABY: You never built a garage for that tow truck?

MR. BENSON: No. But I -- I have the plans and I'm all set. Business has slowed down and I just can't afford it right now. I would love to be able to put my truck inside a building, but right now I can't.

DENNIS SCIBETTA: The only question is, is the site plan that you were approved for, that is part of that garage and you have not done anything with that?

MR. BENSON: No. No.

DENNIS SCIBETTA: We were just wondering.

MR. BENSON: Doesn't mean I don't want to.

DENNIS SCIBETTA: Just a question. We did not receive --

MR. BENSON: No. As of right now, I have done nothing with it.

PAT TINDALE: I have a couple of questions. The fencing that you indicated on the drawing, does that enclose the whole back where you store the vehicle?

MR. BENSON: Yes, ma'am.

PAT TINDALE: The other thing, what do you define as "temporary storage"? I mean what is the --

MR. BENSON: I have had them leave the same day I have towed them in, and I have had them stay a couple weeks. Usually they don't stay more than a couple weeks.

PAT TINDALE: Not like a year or something?

MR. BENSON: No, no.

JAMES MARTIN: Usually not, although I think there -- if I remember, there was a semi trailer that was involved in a fatal accident that was in the back of your place that sat there for a long time.

MR. BENSON: There is an occasion where there is something that is involved in a serious accident or is impounded by DOT or whatever. They're there more than two weeks. That particular one you're talking about was about four months because it was involved in a fatal accident. But I try to turn them over just as fast as I can to get them out of there.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

JERRY BRIXNER - 14 Hartom Road

MR.. BRIXNER: Because I was back here, I didn't hear all of it. But I think he has a good proposition and I'm in favor of it. Thank you very much.

JAMES MARTIN: Thank you, Mr. Brixner.

Make a motion to close the public hearing.

JOHN NOWICKI: Second it.

James Martin made a motion close the Public Hearing, and John Nowicki seconded the motion. The Board all voted in favor of the motion to close the Public Hearing.

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

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

The Board discussed keeping the same conditions. The Board discussed the length of time of the conditional use permit. The Board agreed to a five-year term.

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

- 1. Conditional Use Permit is approved for a period of five years.
- 2. All previous conditions imposed by the Planning Board remain in effect.

JAMES MARTIN: I will declare a recess.

JOHN HELLABY: Before you declare a recess, I would like to step down for Item 3. I'm a leaseholder with Sprint in this town. And Item Number 4 for Wegmans Food Markets because I'm employed by them.

JAMES MARTIN: You're so recused.

JOHN NOWICKI: You're going home?

JOHN HELLABY: Bye.

There was a recess in the meeting.

- 3. Application of Omni Point Communications, 103 Monarch Drive, Liverpool, New York 13058, property owner: C. Moran, Inc.; for renewal of conditional use permit for co-location of telecommunications system on existing tower at property located at 60 Golden Road in R-10-20 zone.

Jeffrey Davis was present to represent the application.

MR. DAVIS: Thank you. My name is Jeff Davis, an attorney with Hiscock & Barclay in Syracuse, New York, here representing Omnipoint Communications, doing business as T Mobile. They collocated on this tower at 118 feet. It is 130-foot monopole tower utilizing obviously an existing infrastructure in the Town. Instead of being something new, they collocated on there.

We're back for the conditional use permit. They are just a lessee of the tower owner, so they lease a space inside the fence compound big enough for equipment cabinets. They have three there. They lease 118 feet center line of the antennas on the tower.

I can answer any further questions, but it is kind of renewal to continue operating at the existing site.

JAMES MARTIN: Okay. Understand.

We were having some discussions, Keith (O'Toole), about the fact that Sprint owns the site. We have been up and down this flagpole many, many times about maintenance of the site and all of that, and, you know, for Omnipoint just having an antenna on there, they're not responsible for the site maintenance, but Sprint is. Certainly it would be nice if when we go through an approval process, not on this particular application, but for the original site or something like that, if there was a way to put teeth in the maintenance issue of the property.

KEITH O'TOOLE: In terms of code enforcement, we have the right to sue tenants and property owners alike. So we can sue everybody and let them sort it out amongst themselves, if there is an ongoing code compliance issue, rather than issue in two-, three-, four-, five-year permits. Perhaps we should start issuing 6-month permits or one-year permits or something like that. There have been compliance issues with Sprint on the property, and certainly we don't want to have to revisit those.

MR. DAVIS: I can speak to that a little bit. Sprint actually is getting out of the tower-owning business. They have sold all their towers to Global Signal, a tower-owning company. That will help, and is helping, in the maintenance of these facilities. Sprint is more in the business of wanting to sell you wireless minutes on your phone. And as traditionally with

many wireless companies, once their stuff is up in the air, some of the tower maintenance stuff went by the wayside. They have actually sold -- their towers used to be owned by a division of Sprint called Sprint Sites U.S.A. and they have recently, within the last three or four months have completed a transaction to send everything over to Global Signal. I think this tower actually is owned by Global Signal. I can provide you with their contact information, as T Mobile has new contact information for Global Signal in dealing with that type of information at least to provide a new source to address maybe some of the code compliance concerns on this site, and they are, like I said, a tower owner. Sprint is now basically leasing space from them, and T Mobile -- they assumed the T Mobile lease on this site, as well. It has all happened very recently, and I can confirm that, but they bought pretty much every tower in Sprint's network.

JOHN NOWICKI: Where is Global located? Dubai?

MR. DAVIS: No.

JOHN NOWICKI: Are they from out of the country?

MR. DAVIS: No. They're a U.S. company.

JOHN NOWICKI: So you are still recognizing Sprint Spectrum as the owner of the property and the tower, right?

MR. DAVIS: And that is correct. What -- it is very -- they have assumed our lease. There has been no -- between T Mobile and between Global Signal there has not been a signing of a new agreement. There has not been a letter saying, hey, we're now doing this. It is -- when one company is purchasing another, it is -- just in the wireless industry, these companies change names constantly, as you know, and they have assumed the lease of the people on the tower.

Global Signal basically purchased thousands of towers across the northeast. They have been, unfortunately, as a result of that, dealing with them on some of these smaller issues, on a leasing side -- there was a lag when they initially took over and now they have gotten much better. I deal with them on several sites for T Mobile, Sprint sites that show as if they're owned by Sprint, and then when you do a little research, two weeks ago the closing just happened and now it is owned by Global Signal, and they need to update some of that paperwork. This has all happened very quickly in the last little bit here. But I can certainly provide that, the contract contact information for the Town for Global Signal.

JOHN NOWICKI: Keith (O'Toole), a question for you. On this -- it says here, in the paperwork here, that the tower is owned by Sprint and is located on lands owned by Robert Graham (phonetic) and Wehle somebody.

JIM POWERS: They're the landlord.

JOHN NOWICKI: My question is: The property is not in a drainage district, and I'm saying why, after all this time, we have been screwing around with this, why are they not in a drainage and -- who do we go after, Graham and Wehle, or do you go after Sprint, or the new owner?

KEITH O'TOOLE: A drainage district was a condition of approval of the towers. So certainly we can attach it as a condition to this permit, and hold up the permit until such time as that is satisfied, but only the property owner can sign the petition to go into the drainage district. Should there be a failure to comply with the condition, we can then commence code enforcement actions against both the tower tenants as well as the property owners.

JOHN NOWICKI: Why don't we do that?

KAREN COX: I have another question. If this site, this tower is now owned by a new entity, can we ask them to come back in? Does the -- or does the approval that went with the Sprint tower transfer over to the new owner? Or can we ask them to come in to see us?

KEITH O'TOOLE: The permits remain the same, whoever owns the tower.

MR. DAVIS: Do they -- I assume that they have a -- similar to us, a permit that is on a five-year expiration, correct?

KEITH O'TOOLE: I don't know the dates.

MR. DAVIS: A lot of the questions that come up seem to be related to obviously the tower, and -- to the extent that, you know, T Mobile is there, they're just leasing space there. So I don't know if it is appropriate to -- if the issue is really with the tower company, and -- I don't know when their permit renewal is up, but perhaps they need to come back in like T Mobile has, and these are issues that could be attached to their approval.

I can -- as far as dealing with Sprint/Global Signal, we'll just call it that for right now, as they are -- as they're finalizing these transactions throughout the area -- it -- the best way, perhaps, I think, to handle that is I can provide the information to the Town, and certainly I -- I do speak with the Global Signal rep frequently, and so we can kind of relay the issues that they're having, that the Town is having, and tell them to get in touch with them.

As far as the T Mobile permit, this is kind of like, I said -- I think you said it again, Mr. Chairman, it is just we're kind of there trying to utilize the existing space in the town instead of building a new tower.

JIM POWERS: How long do these leases run?

KEITH O'TOOLE: The classic leases were running 25 years and in 5-year renewal options.

JIM POWERS: In the case of this particular tower, both the landlords, Mr. Graham and Mrs. Wehle, have passed away.

MR. DAVIS: Correct.

JIM POWERS: Would not somebody have to come in and -- I think the daughter of Bev Wehle has probably taken over the estate. I'm not sure.

DENNIS SCIBETTA: It is in the estate, and she is the Executor of that parcel, I believe.

JIM POWERS: Cindy is?

DENNIS SCIBETTA: Yes.

JIM POWERS: Wouldn't she or somebody -- or Sprint have to come in with a new contract?

KEITH O'TOOLE: No. It would run to the estate, assuming -- and the -- at least in terms of the property owner having obligations as a property owner, those flow to the new owner, which would presumably go through the estate.

The lease has other issues that relate to who gets the rent, which may or may not pass on. They may have assigned it out, but that is neither here nor there for our purposes.

JOHN NOWICKI: Who would have to apply to go in the drainage district?

KEITH O'TOOLE: The property owner.

JOHN NOWICKI: That is the estate then. The estate should be back in here making application to get in a drainage district.

KEITH O'TOOLE: If you made it a condition of this permit --

JOHN NOWICKI: I think we should.

KEITH O'TOOLE: -- then presumably this applicant would go back to the master tenant, who would then go to the property owner, who would then instruct them to apply for the drainage district.

JOHN NOWICKI: That is what we should do.

JAMES MARTIN: I have already written it in as a condition of approval. The drainage district application has to be filed.

MR. DAVIS: I --

JAMES MARTIN: Do you understand what has to happen?

MR. DAVIS: I understand what has got to happen. Unfortunately, like I said, it could be a long time until that happens.

JAMES MARTIN: Unfortunately, you know, when T Mobile originally came in -- they got held up for a fair period of time because we had all of these issues with the site and Sprint and land -- you know, the landlords and all of that. We held it up for a long time before they

could put that array on the antenna, and a lot of things got cleaned up. We hate to punish you because you don't physically own the site.

MR. DAVIS: T Mobile's perspective, if their permit were terminated, they would be in before you saying they need a new tower. Unfortunately, that is the situation.

DENNIS SCIBETTA: Mr. Chairman, even as a co-locator, they assume that that site is to be maintained. I don't know -- when I go out there to check the conditions, I don't know it is T Mobile, Sprint or who is in violation of that, and what the maintenance agreements are. There are -- there is too loose of a condition there. So if you want to make it a condition to tighten that up, I suggest we do something along those lines so we have something and shorten the length of those terms so we have some kind of control over this. This has been an ongoing issue, as you know, for five years that I know of.

JAMES MARTIN: I guess what I would like to you to do is to provide information to the Town of Chili Building Department as to Global Signal, who they are, where they are. Okay?

MR. DAVIS: Yep.

JAMES MARTIN: Dennis (Scibetta), I would like the Building Department to contact Global Signal and request, on a courtesy basis, they come before this Board with a plan on how they're going to upgrade and maintain the sites that they are basically taking over from the Sprint corporation so that this Board at least understands where that is headed, from the perspective of, you know, the things that are wrong at this point in time. It is a courtesy -- ask them on a courtesy basis, we would like to have that happen. If they refuse to do it, when they come back in for their conditional use permit, all right, then we have got some leverage to say -- you know, at that point. The last thing we want to do is have them tear the tower down and do something like that.

Does that sound reasonable to everybody?

JOHN NOWICKI: They have --

DARIO MARCHIONI: I have a question. My question is, you have a property owner, just like -- let's say I rent a piece of property to somebody. When notices of violations, they come to me, they don't go to the person who is renting. Okay. The renter. In other words -- I don't understand why are we going to Sprint and all of these people. We should go directly to the property owner. It is his responsibility --

MR. DAVIS: We're doing that through --

DARIO MARCHIONI: But you're here representing the property owner?

MR. DAVIS: No.

KAREN COX: The property owner is the estate of --

JOHN NOWICKI: Graham and Wehle.

DARIO MARCHIONI: But when it comes to conditions of the site, this site is on somebody's property. The property owner is responsible.

JOHN NOWICKI: They're getting paid for it.

DARIO MARCHIONI: I think we should go directly to the property owner instead of Sprint and these people are renting from the property owner. Right? You're renting that site?

MR. DAVIS: Yes --

DARIO MARCHIONI: It is the property owner's site. He is responsible. In other words, why are we going --

JOHN NOWICKI: Yes.

DARIO MARCHIONI: -- to different avenues.

JOHN NOWICKI: He is making the money. He is getting the benefit out of it. They should be before this Board.

DARIO MARCHIONI: He should be before The Board and it is his responsibility to go to Sprint or anybody else to get them -- listen, you're violating your lease here. You know what I mean -- or Town requirements and I'm on the hot seat for it.

JOHN NOWICKI: Let's get them in here.

DARIO MARCHIONI: That is my opinion.

KAREN COX: Are we then going after every property owner, all of the sites in town?

JOHN NOWICKI: That is what this -- enforcement is all about. That is not what we're not doing.

KEITH O'TOOLE: If I may.

JAMES MARTIN: Certainly.

KEITH O'TOOLE: If the concern is to bring in the property owner, for the most part, there is no point in doing that. The drainage district petition, that is one thing. That would be a reason to have a property owner do something. We don't need them here for that. Under the terms of the easements, the property owner doesn't have a right to go into the facility anyway. Shouldn't be going in there. So if you want property maintenance to occur, you're better off going after the tenants, and preferably the master tenant, which would be Global or whoever happens to own them.

And I would assume most of these cell tower sites have the name of the master tenant and phone number and address on a sign on the fence. That is usually the way it is done.

MR. DAVIS: It is required to have a sign on the fence who owns the site for emergency purposes.

JOHN NOWICKI: Have they been responsive to you in the past?

DENNIS SCIBETTA: No. This is an ongoing problem.

JAMES MARTIN: We can't hang all of this stuff on T Mobile.

KAREN COX: We're not.

JAMES MARTIN: Let's get that straight.

MR. DAVIS: I -- I can be -- I can tell you, it is not uncommon for me to go into a Board for renewal and have there be issues. It is not uncommon anywhere. I do this from Buffalo to Poughkeepsie, and this is all I do. And it is not Global, and -- it -- there is usually a tower owner there, and what I have found has been the most helpful is to say, okay, go back to them and say, there is an issue that needs to be addressed and I can call it out and say what the issue is. T Mobile can hammer on them and say there is an issue with the site. We don't want to lose our permit.

The Town typically then, if it wants to, can go to the property owner who is the -- the rent is flowing down and say there is an issue. The leases have a clause in them that says the tower owner must abide by local rules and regulations. So if there is a violation of local rules and regulations that the Town wants to enforce, it -- that -- that is a good way to do it. It is very difficult, in my experience, to try to say to a collocator, go fix it, because as I shook my head before, the result is 18 months later, it just hasn't flown up because T Mobile, if they say they're going to stop paying their rent to Sprint because the site is not cleaned, Sprint will say, "See ya." They don't care. You know, so that -- that's -- that's the result.

DENNIS SCIBETTA: That leaves us in a precarious position. We're not able to enforce it.

DARIO MARCHIONI: If we go after the property owner, we are.

KEITH O'TOOLE: My advice to you, as it has always been, is don't get involved in the applicant's business. We don't care about their business. All we can do is sue the people we can sue, and those would be the tenants and the property owners. Now, if you want to hold them up for 60 days or 90 days, you know, adjourn this until the July meeting, or whatever, on the expectation that the drainage district petition will be filed by then, then great. Or make it a condition of the permit. However you want to do it.

JOHN NOWICKI: Make it a condition of the permit.

JAMES MARTIN: I have listed it as a condition. Our expectation is that a drainage district application will be filed with the Town Clerk.

MR. DAVIS: By the property owner?

JAMES MARTIN: By the property owner.

MR. DAVIS: And I'm just not clear, what is -- I will be asked this question, so what is a drainage district petition? Are they establishing a drainage district in that area?

JAMES MARTIN: Basically the Town, when something comes in for review, site plan or something like that, if it is not in a drainage district, which basically says you're getting taxed, because you're in a drainage district --

MR. DAVIS: Yep.

JAMES MARTIN: -- the request of the Board, you will file an application to become a part of the Chili drainage district, the overall plan. They file the application with the Town Clerk. The Town Board then approves the application, and then they become part of the drainage district.

JOHN NOWICKI: And pay taxes.

JAMES MARTIN: And pay taxes. So that is essentially what happens, and obviously, you know, the block is checked no, but Dennis (Scibetta) says that is the correct check, right?

DENNIS SCIBETTA: Yes.

So that has to happen. The other thing I have listed here, so far, and we'll open this up to the public hearing in a second, I would like you to provide the information to the Building Department regarding Global Signal, and with the intent to request a courtesy review on future site plans for maintenance.

KAREN COX: That is all we can ask.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS - 31 Stuart Road

MS. BORGUS: When does this conditional use permit expire?

KAREN COX: Which one?

MS. BORGUS: The one you're looking at now.

KEITH O'TOOLE: Today.

JAMES MARTIN: I'm looking to see when the initial one was granted.

MR. DAVIS: The letter we received from the Town said that it expired March 11th, 2005.

JAMES MARTIN: March 11, 2005?

MR. DAVIS: 2005. Yes. There was a letter sent to T Mobile in January of this year, saying that the permit had expired, and they needed to make an application to renew the permit.

JAMES MARTIN: So you're a year late.

MR. DAVIS: I believe so, yes.

JAMES MARTIN: That answers your question.

MS. BORGUS: Again, this makes me shake my head. How many times have I stood up here and asked these same questions and every time it was a problem in the Building Department before, but it is, quote, under control.

Well, I don't think that this is under control when these things are a year late before anybody looks alive and wakes up.

Now, my next question was, wasn't this drainage district application a requirement of the former conditional use permit? And that didn't get enforced either?

JOHN NOWICKI: Obviously not.

JAMES MARTIN: Obviously not.

MS. BORGUS: Well, maybe I'm -- our representative from the Building Department would explain that.

DENNIS SCIBETTA: I didn't have anything to do with it. This is the first that I am hearing of it. The chosen leaders have -- whatever they did before this, Dorothy (Borgus), I don't

know what it was.

JOHN NOWICKI: He is not guilty.

DENNIS SCIBETTA: I can't speak to that.

MS. BORGUS: It is kind of like nobody did it then, right?

JAMES MARTIN: You might come to that conclusion, that it didn't happen properly, yes.

MS. BORGUS: All I can hope is when we get this new man in this office, which is to happen next week, he begins to tighten up some of this stuff, and this kind of nonsense stops.

JAMES MARTIN: Well, I don't believe he has code enforcement --

KEITH O'TOOLE: Mr. Chairman, please. We are not here -- and, frankly, it is not within your jurisdiction to argue about code enforcement issues or --

MS. BORGUS: I understand that. I want it in the minutes. Thank you.

JAMES MARTIN: Thank you.

JOHN NOWICKI: Wait a minute. I have a problem with that statement you just made.

We do have -- we do have concerns over code enforcement.

KEITH O'TOOLE: As do --

JOHN NOWICKI: Why wouldn't he?

KEITH O'TOOLE: As do all of the citizens in the community. And we welcome their comments. However, this forum, frankly, legally, is not within your jurisdiction, and practically speaking, it is not fair to call someone on the carpet when, frankly, they don't necessarily personally know the history. In a court of law we give people due process. We give them an opportunity to defend themselves and we do it in front of an impartial judge.

JOHN NOWICKI: I don't think it was calling somebody personally on the carpet. I think it was being directed at the department. As I said, you're not responsible for it.

JAMES MARTIN: I would -- I concur with Mr. O'Toole's comments. I think, end of discussion.

JOHN NOWICKI: Enforcement, I will still question it in the future.

JAMES MARTIN: End of discussion on that issue.

MR. DAVIS: I just have a copy of the condition of approval from the first permit, I believe. And there wasn't anything in T Mobile's original approval to get into the drainage district. I think it must have been with the tower. So I just wanted to point out, I'm representing T Mobile. One of our conditions originally -- it is not something that we dropped the ball on. Just wanted to point that out.

That would have been part of the original --

DENNIS SCIBETTA: Mr. Chairman, if we go back to the minutes from when they received their approval to co-locate on the tower, I think you will find commentary as to getting those sites in compliance and they were bonding the site to make sure that this was taken care of, to insure that the bulletproof tanks were put into place that we had been chasing for five years now. And I think that that -- if you read the minutes from those things, I think more light will be shed on that, and I think we can put that to rest, but I don't think this is a place for this at this time.

FRED TROTT - 101 Golden Road

MR. TROTT: Like he was saying, when they, Sprint -- not Sprint, T Mobile came, they did make -- it was made part of their conditions, I believe, that they do certain things, because you couldn't get Sprint in here.

And one of them was the landscaping. And I'm not sure -- I think Sprint also came in at one time. Now, my question is, what is their renewal rate? Is it a five-year, even for Sprint? Or is it a two-year?

MR. DAVIS: This permit was a 2-year permit.

JAMES MARTIN: 2-year permit.

MR. TROTT: Sprint is a five-year?

JAMES MARTIN: I don't know the answer to that.

DARIO MARCHIONI: Should we put them all together so they all come at one time?

JAMES MARTIN: I don't think we can do that, because they have been given out at various times, Dario (Marchioni). You can't just -- you know, nullify an existing permit and say we'll change your date.

MR. TROTT: The lawn has not been cut there since I can't tell you when. Um, there are still dead trees there. I got my fence. That was an issue that took five, six years to get in. And I think that that was only because of Sprint -- I mean T Mobile --

JAMES MARTIN: We leveraged T Mobile to make that happen.

MR. TROTT: Yes. They brought in a person from -- I want to say a person from Batavia that was supposed to be taking care of the landscaping. I think that was Sprint we brought in at that time. I want to say it was Sprint, because they were from Kansas.

MR. DAVIS: Yes.

MR. TROTT: They came in and they were with the Deloitte & Touche, maybe, law firm was with them, or Nixon. One of the big law firms. They brought in somebody. Yes, we're taking care of the lawn. No problem. The trees will be taken care of. They made all of the promises, and nothing has happened. They can't even plow the driveway when they have to do their services.

JOHN NOWICKI: I will ask you a question on that. Mr. O'Toole and Dennis (Scibetta), if that is the case, why can't this Board put a condition on these approvals that they post a cash bond to have it cover the expenses if they don't perform?

DARIO MARCHIONI: We should go after the property owner.

KEITH O'TOOLE: No.

KAREN COX: That's pushing it.

KEITH O'TOOLE: In the absence of a local law to do that, it would be a mistake.

JOHN NOWICKI: You're saying we need a local law?

KEITH O'TOOLE: I would say at bare minimum you would need a local law and before we adopted such a local law, we would have to take a hard look at it and see if it was both legal and feasible.

JOHN NOWICKI: I would like to see one of our Town Council members propose a law for a public hearing so we get something established to bring the supposed big corporations down here and have some humility and take care of the properties.

KEITH O'TOOLE: Part of the problem -- I don't want to beat this to death, but the reason we have an issue with the cell tower companies is it is an unusual situation. You have a ground lease where the tenant is not even around. Most ground leases you can walk inside the building and say, "Hi, how are you?" It is also different from a code enforcement point of view on the State law to prosecute corporations, particularly the corporations out of state, because they are out of state. It becomes quite an expense.

So rather than getting involved in all of these mechanics, we have property maintenance codes already in place under State law which allow us to go in, and under our Town Code, which allow us to relevel the cost of cleaning it up to the property owner. Then it is the property owner, pursuant to the cell tower lease, who can invoke the lease and say according to the lease, Mr. Cell Tower Company, you guaranteed that you would do A, B, C, D and if my taxes go up because of your tower, you said you would hold me harmless and reimburse me. That is the way it goes. We already have these things in place.

JOHN NOWICKI: So you're saying the Town can take their forces, go in there, do the work, plant the trees, cut the trees, plant the grass and bill them?

DARIO MARCHIONI: We should notify the property owner first.

KEITH O'TOOLE: There is a procedure for that.

JOHN NOWICKI: We should do that.

JAMES MARTIN: But that has nothing to do with Omni's application.

JOHN NOWICKI: I realize that, because they come up all of the time and nothing is ever done on these particular issues.

JAMES MARTIN: I think we're dealing with -- you know, a Town Board issue at this point. We have our liaison here.

MR. TROTT: Can I just --
Yes, Fred (Trott).

MR. TROTT: One more question. Speaking of a local law, there is a local law or I want to call it a cell tower law, that was developed after the cell tower was built, which made ground rules such as 200-foot drop zone, and I believe they had in it, as far as landscaping, as far as trees and stuff.

KEITH O'TOOLE: It is actually simpler than that. They have a site plan. If there is a site plan that calls for trees and if the trees are dead or missing, we tell them to put them in or else. If they don't put them in, we yank the permit. Or if they don't put them in, we prosecute them or if they don't put them in, we go after the landlord and drag his back side into Town Court. Of course, after politely noticing him of the problem and giving him an opportunity to fix the problem.

MR. TROTT: I guess I am kind of digressing back to the point. My point being, the 200-drop zone, 200-foot drop zone that was in this cell tower law, which was developed after, would that apply if the property around the cell tower would become developed, a/k/a, the family is deceased, the property would most likely be going up for development.

KEITH O'TOOLE: That's a construction issue since the tower is already up. They're already in compliance in that regard.

MR. TROTT: If somebody wants to build a house next to it --

KEITH O'TOOLE: They can.

FRED TROTT: But the law says that they can't have property -- have a building within 200 feet of that cell tower.

KAREN COX: We're digressing.

MR. TROTT: I don't know the exact wording of it.

JAMES MARTIN: I think we're digressing.

MR. TROTT: Yes. I apologize.

JAMES MARTIN: They're really not pertinent to this application.

I move that we close the public hearing.

KAREN COX: Second.

James Martin made a motion close the Public Hearing, and Karen Cox seconded the motion. The Board was all in favor of the motion to close the Public Hearing.

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

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

The Board discussed the proposed conditions.

JAMES MARTIN: What is the pleasure of the Board on the amount of time? 2-year grant the last time. We're a year late. They have had three years. I mean what is physically going to

change, you know?

KAREN COX: What advantage is it to not lengthen it?

JOHN NOWICKI: Keep it two years.

JAMES MARTIN: Well, what is rationale for that, John (Nowicki)?

JOHN NOWICKI: Because they're going out three years anyway. They will ignore it anyway like they did before until we find a mechanism to enforce things around here. You make it six months, what is that going to do?

KEITH O'TOOLE: If you're not going to hold this applicant to these issues -- I believe Sprint is still a tenant on the tower, correct?

MR. DAVIS: Yes, they are.

KEITH O'TOOLE: If you want to hold them to it, you can do it to them, but either way, there is -- you got to do it to somebody. So I think I would, as I said earlier, either make it a condition such that it gets done and we can prioritize it and prosecute them in 90 days, if it doesn't happen, or hold them off until such period of time like a July meeting.

JOHN NOWICKI: Table it?

KEITH O'TOOLE: That I think would probably work. And table it for old business. We have already -- we'll have our public hearing today and be done with it.

JOHN NOWICKI: So it will be under old business and table it?

MR. DAVIS: With the intent of -- tabling being that what would happen between now and July?

KEITH O'TOOLE: Because the Planning Board will now give you your punch list, which you can then hand to the powers that be, presumably the master tenant, and the issues will get addressed or we'll yank the permit as of July.

MR. DAVIS: Yank T Mobile's permit?

KEITH O'TOOLE: Yes.

MR. DAVIS: It is kind of holding up a company that really doesn't have a whole lot to do with the issues, but --

KEITH O'TOOLE: We're all in this together.

KAREN COX: Wait a minute. Now, we talked about 25 minutes ago about not holding this applicant up except for proof they would enter the drainage district. When did we decide to switch? Not that I don't disagree that work needs to be done, but who made the decision all of the sudden to hold the applicant responsible for the infractions --

KEITH O'TOOLE: You can obviously do what you want to do, but backtrack and recall the conversation.

The tenants on the towers are all subtenants now.

KAREN COX: Correct.

KEITH O'TOOLE: So every time they walk in here, they will be making the same argument and they made it before, "I'm just the tenant on the tower, I have no control. I'm only a subtenant. I can't do anything."

And the real tenant, whether it be Global or Crown or whatever outfit owns the lease this week, will never be around here. We'll never see them. They will be out in Kansas or Sheboygan or wherever it is, so you have to use the leverage you got.

KAREN COX: It has not helped up until now. Why can't we not use the leverage you just talked about with the Town Board issue?

KEITH O'TOOLE: Either you do it or don't. We have talked about it before, and, in fact, the last time Sprint was through with Harris Beach, we did get much of what we wanted. But if there are any outstanding issues, and, frankly, I don't know that the drainage district petition is the biggest in the world, but if there are outstanding issues, get them done so the next tenant that comes in we don't have to have the same discussion.

KAREN COX: We'll do this piecemeal for the next 10 years unless somebody at the Town

decides to take Global -- or whoever owns these poles on every site -- decides to go after who owns the poles on the sites.

KEITH O'TOOLE: Suing an out-of-state corporation is difficult.

DARIO MARCHIONI: You have to sue the property owner.

KEITH O'TOOLE: You have to sue the people you have leverage over, which would be the property owners or the guys who are asking for the permit. That is my advice to you.

JOHN NOWICKI: Let's try it. So you're saying just put it on the table for 90 days?

KEITH O'TOOLE: That would be one way to go.

JOHN NOWICKI: I make a motion we table it for 90 days.

JAMES MARTIN: Do I have a second on that?

JOHN NOWICKI: No second?

JAMES MARTIN: Hang on.

DARIO MARCHIONI: I think if they're in violation, we should notify the property owner, bring him here or sue him or whatever it is so he makes sure these violations are addressed.

JAMES MARTIN: They wouldn't be here, Dario (Marchioni). We have a motion on the table. Is there a second?

(No response.)

JAMES MARTIN: Hearing no second --

JOHN NOWICKI: It's all right.

JAMES MARTIN: Okay.

Do I have a motion -- well, we either move ahead with the application --

DARIO MARCHIONI: Let's give them a year.

JAMES MARTIN: No. I think we should to give them a short period of time, Dario (Marchioni).

KAREN COX: I would be in favor of that.

JAMES MARTIN: I think I would like to see some action.

JOHN NOWICKI: Six months.

JAMES MARTIN: April, May, June, July -- I will go four months, okay?

JOHN NOWICKI: All right.

DARIO MARCHIONI: I second it.

KAREN COX: Can I make a statement?

JAMES MARTIN: Go ahead.

KAREN COX: Seems like, especially with the cell towers, the Planning Board is being used somewhat as an enforcement arm of site plan approvals that we submit -- you know, maybe not all of us, but that the Planning Board has approved in the past. Especially with these site plan approvals.

And I kind of resent the fact that we're up here coming across as -- as the enforcement arm for issues that are out of our control. And really --

JOHN NOWICKI: I agree with that.

KAREN COX: -- with the cell towers, that is what we're being used for. This is why I am -- I am not -- you know, in favor of holding lease owners hostage. I think the four-month is a good idea.

JOHN NOWICKI: I like what he said before. I like you having the Town forces go out there, do the work, send them a bill and go after them.

KEITH O'TOOLE: That works up to a point, though.

JOHN NOWICKI: Try it.

KAREN COX: How long does it take to get the bills paid?

KEITH O'TOOLE: There are certain things we can do and certain things we can't. Cutting grass that is too tall, removing trash, that is something we can readily do. But we're not going in there and doing landscaping for them.

KAREN COX: I'm just going on record, we should not be used as an enforcement arm for code infractions.

MR. DAVIS: I need a list. I have heard landscaping. I have heard dead trees.

JOHN NOWICKI: Grass cutting.

DENNIS SCIBETTA: On-site debris.

MR. DAVIS: Debris.

JOHN NOWICKI: Garbage on the site.

MR. DAVIS: Okay. I can just -- from a -- for most of those, very easy to take care of except for landscaping, this time of year. So planting landscaping right now wouldn't -- may or may not be the right thing to do, but hopefully it can be done within the four-month period.

JAMES MARTIN: That is why we picked four months. It gets you into the summer period.

We're testing waters here tonight, obviously. You understand that. We have been dealing with these issues, and we're really getting tired of it.

MR. DAVIS: I understand, and like I said, I deal with this on a nightly basis, so I will -- hopefully we can work together and get this resolved.

JAMES MARTIN: So where we're at, on the application for a period of time of four months, given the two conditions that I have read.

DECISION: Approved by a vote of 6 yes with 1 abstention (John Hellaby). The application for renewal was approved with an extension of four months. This will allow the applicant time to insure imposed conditions are met:

1. Property owner to petition the Town Board, through the Town Clerk's Office to include this parcel in the Chili Consolidated Drainage District if this has not already been done.
2. Omni Point Communications to provide information to the Building Department regarding Global Signal with the intent to request a courtesy review on future plans for site maintenance by the tower owners.
4. Application of Wegmans Food Markets, owner; P.O. Box 30844, Rochester, New York 14603 for preliminary site plan to erect an 18' x 36' electrical switchgear building and four emergency generators at property located at 249 Fisher Road in G.I. zone.

Art Pires was present to represent the application.

JAMES MARTIN: Thank you for your patience.

MR. PIRES: My pleasure. I have learned a lot.

Good evening, Art Pires with Wegmans Food Markets for basic application at our Market Street complex. Switch gear building. I will refer to it as the south end of our office complex. Currently two emergency generators, with one future, and then at the north end one emergency generator. What I would like to do, firstly, because it is hard to see the exhibit I will be referring to, I will distribute to the Board and Town staff a site plan, and within the site plan you will see some photographs, which we'll talk about.

For the sake of the Board, I will try to be brief, as well as the residents. Any questions, I will be glad to address along the way.

Looking at our site plan here, the red outline designates the entire Market Street complex. You can see right here (indicating), at the northern end, if you will, the office complex. You can see a very small area at the south end of the building. That's where we're proposing the switch

gear, and then the generators.

And then at the north end, there is simply one generator at the north.

On the right (indicating) you have enlarged exhibits. The lower exhibit reflecting the south end of the building. The existing. These are the two generators with one future and a switch gear building. At the north end of the building, once again, one emergency generator. As you look through the photographs there, the first one is a vantage point from Market Street and Chili Avenue intersection up at the northwest portion of the exhibit.

The yellow arrow indicates in a distance where the switch gear building, in fact, is today, and there is a little apology on -- on the behalf of Wegmans, if you will. Our development group, we got a little ahead of ourselves. The thought was by some people that it was a switch gear and emergency generators and they didn't realize it would require site plan approval, so I'm in here before The Board apologizing for that. I have had conversations with the staff about the same.

What we'll do, though, as seen on this photograph, which is approximately 1800 lineal feet from the intersection over to the switch gear building, the photograph is very evident, you cannot even see it. That is up today.

The second photograph, once again, with the yellow arrow, indicates what it does look like today, and because of its architectural metal sheeting on the exterior of the building, of the bronze color, dark brown color, it blends in very well with the existing facade of the office building itself. So the point is, you can barely tell it is there, even when you're a couple hundred feet away from it. And certainly you cannot see it from the intersection of Market Street and Chili Avenue, which once again, is approximately 1800 lineal foot.

The third photograph shows a typical emergency generator which we have at a store in the Buffalo area. There are actually two units side by side. They're approximately 7-foot wide, 20-foot long, and 10-foot in height. The key point here -- and we can talk more in detail later on, they're self-enclosed units, sound-attenuating units. They have what is called a critical exhaust system, which is comparable to what they use outside hospitals. So the sound attenuation is very good on these units. The engines themselves are enclosed within the sheathing of the unit themselves so you can see that the two examples right there in that picture.

The last photo shows the location of the existing transformer at the north end of the building. Once again, in the larger exhibit here (indicating) and then the proposed emergency generator next to it. So they have yet to arrive on site, whereas the switch gear building is up. It has not yet been inspected, but we have arrangements with the Engineering Department to inspect that in the very near future, the switch gear building itself.

The key purpose of both the switch gear and the emergency generators is to guarantee and insure continuous, uninterrupted power to the marketplace complex, in which is housed our telecommunications and computer systems which basically are the heart and sole of the entire Wegmans business, all 70 stores, all warehouse, security buildings, and offices.

In the event of a brown-out, in the electrical grid, or a downed outage on the electrical grid because of say an ice storm, we would be able to be up and running and independent, which once again supplies food to 70 stores, and beyond that, we service -- it services our bank systems, our pharmacy systems, all very critical for the communities certainly here as well as beyond, not to mention the health and safety facilities that go along with that.

We feel that it is a pretty basic application. Certainly not an impact on any part of the community, either Chili Avenue, Fisher Road. We're approximately 1100 -- excuse me, 1,000 feet from Fisher Road, that being the northern one, and certainly the southern one is a little further. There is a barrier, if you will, between us and Fisher Road with the building itself. I would be glad to address any questions the Board may have regarding this matter.

JIM POWERS: How far from Lexington?

MR. PIRES: If this is 1800, I will say we're probably around -- well, this is a 1,000 -- I will say at least a thousand again to Lexington.

JAMES MARTIN: Natural gas?

MR. PIRES: Diesel. And it is within the unit itself. At the base of the unit. Not underground. It is right at the base of the unit itself.

JAMES MARTIN: All right. You have copies of the DRC from the County and Mr. Nissen's comments?

MR. PIRES: I have Mr. Nissen's comments. Very briefly on that, certainly we'll show the proposed -- the grading adjacent to the existing drainage channel. The key point there is that -- seen on this larger exhibit here, there are these two large green areas. Those are existing berms, if you will, and we'll be draining between them into an existing swale that runs from the north to the south. So we're not changing any grades beyond that. We have done a little grading of the earth berm itself, only because of the construction of the building and the pad for the switch gear, but certainly we can show proposed grades. We're not changing the grading, the drainage beyond the base of the berms there.

Number two, certainly we'll install the erosion control device. Surface disturbance greater than 1 acre. My calculations were approximately point 2 acres, certainly well below the 1-acre threshold that would trigger a Phase II SPDES permit.

As far as landscaping, we had conversation with Ms. Tindale in regards to landscaping, and we're looking at either placing a little landscaping on the berms themselves or some evergreens at the base for the toe of slope, if you will, of the berm itself. A key point, it is in the center of the property, again, 1800 lineal feet foot, you can't see it as evidenced by the first photo. And I think we have addressed any other comments.

JOHN NOWICKI: This is the type of project that keeps the world flat.

MR. PIRES: Mr. Freemond would be very pleased to hear you talk about that.

DARIO MARCHIONI: On that alternative exit to Chili Avenue, is there progress -- if I may ask that question.

MR. PIRES: I certainly don't mind and -- if the Chair doesn't.

JAMES MARTIN: Go ahead.

MR. PIRES: Very simply, Dario (Marchioni) is referring to the approved -- we're working through the final engineering stages. Actually we have a permit from the DOT. It would be the fourth leg of the existing three legs, 204 ramp and Chili Avenue. It would be the fourth leg coming down into our site, tying into the existing road network. Should all things go well, because we're doing the final details, it would be a early, late spring construction this year, with the intent on finishing this year.

DARIO MARCHIONI: Thank you.

JAMES MARTIN: Town engineer's approval?

LARRY NISSEN: Please.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

JAMES MARTIN: Move that we close the public hearing.

JOHN NOWICKI: Second.

James Martin made a motion close the Public Hearing, and John Nowicki seconded the motion. The Board was all in favor of the motion to close the Public Hearing.

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

MR. PIRES: May I ask one thing? This may happen automatically, but I would ask the Board to waive final.

JAMES MARTIN: I have noted that.

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

DECISION: Approved by a vote of 6 yes with 1 abstention (John Hellaby) and the following condition:

1. Pending approval of the Town Engineer.

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

The meeting ended at 9:45 p.m.