

CHILI PLANNING BOARD
December 14, 2021

A meeting of the Chili Planning Board was held on December 14, 2021 at the Chili Town Hall, 3333 Chili Avenue, Rochester, New York 14624 at 7:00 p.m. The meeting was called to order by Chairperson Michael Nyhan.

PRESENT: Paul Bloser, David Cross, Joseph Defendis, Matt Emens, Glenn Hyde and Chairperson Michael Nyhan.

ALSO PRESENT: Michael Hanscom, Town Engineering Representative; Eric Stowe, Assistant Counsel for the Town; Paul Wanzenried, Building Department Manger.

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

PUBLIC HEARINGS:

1. Application of Chili Auto Repair 3501 Union Street, North Chili, New York 14514, Mark Walsh owner; for preliminary site plan approval to erect a 2,580 sq. ft. addition to the rear of the existing building at property located at 3501 Union Street in GI District.

Ed Martin and Mark Walsh were present to represent the application.

MR. MARTIN: Good evening, Mr. Chairman, members. My name is Ed Martin. I'm an engineer with LandTech and I am here tonight representing Mark Walsh in his application before you. In the event you have a question that's best answered by Mark, I will invite him forward. He is in attendance this evening.

As you stated, it's a rather straightforward application, a simple building addition to the rear of the existing Chili Auto. You will note that Mark has been there some 15 or 16 years and has experienced tremendous success and is in need of more space. This application does not require any new curb cuts or any new utility connections. We are well under the threshold for a DEC permit, so that will not be required. We have received comments from the Town Engineer and have responded in writing. The only comment that was raised that we could not address has to do with architectural renderings. Mark has not retained an architect. He prefers to wait until he gets site plan approval to do that. But he has committed to completing the addition in the same style and colors as the existing building.

So with that, I would be happy to answer any questions that you might have.

MICHAEL NYHAN: Could you give a little more detail what the building will look like? And what the existing business is and what the proposed addition will be used for?

MR. MARTIN: Mark owns Chili Auto. It's an auto repair and I think you also do sales out of there?

MR. WALSH: Correct.

MR. MARTIN: This addition at the rear of the building will be used primarily for warehouse sort of storage, completed in the same architectural style and materials as the existing building. It will blend in very nicely. From Union Street you won't even notice it for the most part. The existing parking lot is to be retained. We do have a new light pole going out front. So the operation is really -- the same thing. Just gives him a little more interior space to work with.

MICHAEL NYHAN: So with the addition, you will be able to remove -- the items currently stored outside in trailers will be inside the building. Trailers will be removed?

MR. WALSH: You mean the containers?

MICHAEL NYHAN: Yes.

MR. WALSH: Yes.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

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

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

MICHAEL NYHAN: Any other discussion on the application?

PAUL WANZENRIED: I have one. On the -- the overhang that he is proposing, on the Union Street side, is that open? Is that just an overhang off the building, like a lean-to, Mark (Walsh) or Ed (Martin)?

MR. MARTIN: This overhang here (indicating), will it be completely open?

MR. WALSH: Yes.

MICHAEL NYHAN: Sir, could you give your name for the record, please?

MR. WALSH: Mark Walsh, owner of Chili Automotive.

MICHAEL NYHAN: That overhang will be open? Is that your --

MR. WALSH: Yes. I think most of that would be blocked from the fence, but yes, it would be open there.

PAUL WANZENRIED: There is a fence there?

MR. WALSH: Correct. And a landscaped berm in front of that, as well.

PAUL WANZENRIED: That is what I'm getting at. I want to see some screening so anything behind that is screened off from Union Street.

MR. WALSH: Yes.

PAUL WANZENRIED: Fair enough. Thank you.

MICHAEL NYHAN: Any other discussion? Comments? Do you have a landscape plan or do you plan on doing any landscaping in this area?

MR. MARTIN: We did add some landscaping, which was included in the submission back to your Town Engineer. There is a berm and some plantings -- I will wander over to the plan here. Basically, to the roadside of the addition area. So we have some plantings right in there. And it's compliant with the Town requirement to have at least 1 percent of the overall cost.

MICHAEL NYHAN: So it will meet the 1 percent threshold?

MR. MARTIN: Yes, sir.

MICHAEL NYHAN: For conditions of approval then, if there is no other discussion, upon completion of the project, the applicant shall submit a Landscape Certificate of Compliance to the Building Department and a landscape architect certifying that all approved plantings have been furnished and installed in substantial conformance with the approved landscaping plan.

Approval is subject to final approval of the Town Engineer and the Commissioner of Public Works.

The Town Engineer and the Commissioner of Public Works shall be given copies of any correspondence with other approving agencies.

The applicant shall comply with all pertinent Monroe County Development Review Committee Comments.

All trailers and outdoor storage containers/buildings must be removed from the property.

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

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

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

Applicant to comply with all required life safety conditions and permits from the Town Fire Marshall.

And any signage change shall comply with Town Code including sign permits.

Any other conditions of approval?

MATT EMENS: He said he is removing the storage containers?

MICHAEL NYHAN: Correct.

MATT EMENS: Are those not allowed to begin with? Just out of curiosity.

PAUL WANZENRIED: Correct.

MICHAEL NYHAN: Correct.

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

MICHAEL NYHAN: With those stated conditions, the application of Chili Auto Repair 3501 Union Street, North Chili, New York 14514, Mark Walsh owner; for preliminary site plan -- is this with waiver of final, as well, you're seeking?

MR. MARTIN: We would request that also, yes.

MICHAEL NYHAN: -- preliminary site plan with waiver of final approval to erect a 2,580 sq. ft. addition to the rear of the existing building at property located at 3501 Union Street in GI District.

MATT EMENS: Second.

DECISION: Unanimously approved by a vote of 6 yes with the following conditions:

1. Upon completion of the project, the applicant shall submit a Landscape Certificate of Compliance to the Building Department from the Landscape Architect certifying that all approved plantings have been furnished and installed in substantial conformance with the approved landscape plan.
2. Approval is subject to final approval by the Town Engineer and Commissioner of Public Works.
3. The Town Engineer and Commissioner of Public Works shall be given copies of any correspondence with other approving agencies.
4. Applicant shall comply with all pertinent Monroe County Development Review Committee comments.

5. All trailers and outdoor storage containers/buildings must be removed from property.
 6. All previous conditions imposed by this Board that are still pertinent to the application remain in effect.
 7. Building permits shall not be issued prior to applicant complying with all conditions.
 8. Application is subject to all required permits, inspections, and code compliance regulations.
 9. Applicant to comply with all required life safety conditions and permits from the Town Fire Marshal.
 10. Any signage change shall comply with Town Code.
2. Application of Chili Country Club 760 Chili Scottsville Road, Scottsville, New York 14546, Barstool Golf Management LLC, 120 Mushroom Blvd. #105, Rochester, New York 14623 owner; for preliminary site plan approval to erect a 570 sq. ft. addition and patio and convert existing storage building to food and beverage dispensary at property located at 760 Chili Scottsville Road in AC, FPO District.

Ed Martin was present to represent the application.

MR. MARTIN: Good evening. Once again, Ed Martin with LandTech Engineers representing the applicant. I'm covering this project for my colleague who had a conflict, so you will forgive me if I don't have all of the specific details as -- as clear as I should.

Again, similar to the previous application, rather straightforward. It's the Country Club that has been operating out of an existing golf cart storage facility selling hot dogs, things of that nature. So they want to make that more formal. So they're going to convert that add-on patio area. We have submitted plans reflecting that, similar to the previous application, architectural, very similar to what is out there now.

The one request we do have of the Board is we would ask for a waiver of the landscaping certification. I think you can appreciate the staff that they have on -- that take care of the course day in and day out and we're confident that they -- that they possess the skills to give you the look that you're looking for and it will easily comply with that.

MICHAEL NYHAN: Have you submitted -- you submitted your architect -- or your landscaping plans, correct?

MR. MARTIN: Um --

MICHAEL NYHAN: I didn't see them.

MR. MARTIN: I believe there are some plantings shown there. Again, we would ask for some flexibility for the staff to -- to choose the correct plantings. If we chose something that is less desirable, it's something that certainly your Building Inspector could review and approve before C of O.

MICHAEL NYHAN: Okay. So we can't waive the 1 percent, but if you can show you will do 1 percent of the total build-out in landscaping --

MR. MARTIN: Happy to comply that.

MICHAEL NYHAN: -- and the Building Department will review that. Okay.

Anything else, Ed (Martin)?

MR. MARTIN: No, sir.

MATT EMENS: The only thing I see here, it looks like you confirmed in your letter on December 7th that the temp trailer will be removed --

MR. MARTIN: That's correct.

MATT EMENS: -- as part of this. Okay. I don't have anything else right now.

MICHAEL NYHAN: Side Table? Any questions on this discussion?

MICHAEL HANSCOM: No.

PAUL WANZENRIED: No. I will make it a condition.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

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

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

MICHAEL NYHAN: Any further discussion?

PAUL WANZENRIED: Just that -- you closed the Public Hearing?

MICHAEL NYHAN: Yes. The Public Hearing has been closed. I was going to do SEQR.

PAUL WANZENRIED: Okay. Just that the blue trailer that is there is gone, Mike (Nyhan)?

MICHAEL NYHAN: Okay. That is the storage trailer we had on the plans, the temporary storage trailer.

PAUL WANZENRIED: That's gone when this is erected, prior to C of O.

MICHAEL NYHAN: Okay.

ERIC STOWE: Mr. Chairman, was this not a SHPO application?

MICHAEL NYHAN: I don't -- I don't believe so. I think I believe that Michael had some additional information on --

ERIC STOWE: Okay. That had been received. Okay.

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

MICHAEL NYHAN: As far as conditions of approval, this application, the applicant to provide proof to the Town that the landscape plans will meet the required amount equal to 1 percent of the total project cost and provide evidence that the plantings have been completed.

Approval is subject to final approval of the Town Engineer and Commissioner of Public Works.

The Town Engineer and the Commissioner of Public Works shall be given copies of any correspondence with other approving agencies.

The applicant shall comply with all pertinent Monroe County Development Review Committee Comments.

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

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

The applicant to comply with all required life safety conditions and permits from the Town Fire Marshal.

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

Temporary trailer as shown on submitted site plan must be removed.

And -- have you provided the FEMA flood map for this area? I saw it.

MR. MARTIN: Um, honestly, I don't know, Mr. Chairman, but I can look into that.

MICHAEL NYHAN: So for -- per the engineer's comments, provide a FEMA flood map for this area and demonstrate whether or not the proposed project area is located within the 100-year flood plain.

Any other conditions for this application?

GLENN HYDE: Trailer.

MICHAEL NYHAN: Got it.

With those conditions after approval. Application of Chili Country Club 760 Chili Scottsville Road, Scottsville, New York 14546, Barstool Golf Management, LLC, 120 Mushroom Blvd. #105, Rochester, New York 14623, owner; for preliminary site plan approval with waiver of final to erect a 570 sq. ft. addition and patio and convert existing storage building to food and beverage dispensary at property located at 760 Chili Scottsville Road in AC, FPO District.

MATT EMENS: Second.

DECISION: Unanimously approved by a vote of 6 with the following conditions:

1. Applicant to provide proof to the Town that the landscape planting will meet the required amount equal to 1% of the total project cost and provide evidence the planting have been completed.
2. Approval is subject to final approval by the Town Engineer and Commissioner of Public Works.
3. The Town Engineer and Commissioner of Public Works shall be given copies of any correspondence with approving agencies.
4. Applicant shall comply with all pertinent Monroe County Development Review Committee comments.
5. Building permits shall not be issued prior to applicant complying with all conditions.
6. Application is subject to all required permits, inspections, and code compliance regulations.
7. Applicant to comply with all required life safety conditions and permits from the Town Fire Marshal.
8. Any signage change shall comply with Town Code, including obtaining sign permits.

9. Temporary trailer as shown on submitted site plan must be removed.
 10. Provide FEMA flood map for this area to demonstrate whether or not the proposed project area is located within the 100- year flood plain.
3. Application of Heritage Christian Services Inc. 275 Kenneth Drive, Suite 100, Rochester, New York 14623 owner; for preliminary site plan approval of a 4,700 sq. ft. single-family residential home with group setting at property located at 11 Ballantyne Road in RAO-20 District.

Connor Kilmer and Dan Stewart were present to represent the application.

MR. KILMER: Hi, everyone. My name is Connor Kilmer with DDS Engineers representing Christian Heritage Service. With me is Dan Stewart from Christian Heritage.

We are here tonight seeking preliminary final approval on a 4700 square foot single-family residential-style home located at 11 Ballantyne.

The parcel is currently a vacant lot located in the southeast corner of Ballantyne and Names Road. It is 1.14 acres in size and zoned R-1-16. We are currently showing two connections onto Names Road. One to the west and one to the south.

For the site layout in general, there's access to the front porch from the west and to the east there is a concrete patio that will be screened in -- or I'm sorry -- fenced in.

We are providing two utility connections shown on the plan, sanitary and water to the south, both of them are.

We have gone to the Conservation Board. We -- we received approval from them last week. They requested that we do three street trees, so we will be providing those on the revised plan set to the Town. As well as landscape bed limits.

Currently there are three other Christian Heritage homes within the Town of Chili that are beautifully landscaped. We have examples of those. The Conservation Board just wished to see the limits of those beds shown on the plan that we'll be providing on the revised plan set.

MICHAEL NYHAN: Can you turn one of the plans out to the audience so they can see it?

MR. KILMER: Sure.

MICHAEL NYHAN: Thank you.

MR. KILMER: We have received comments from the Town Review Engineer and I would be happy to answer any of those questions or if the Board has any questions.

MICHAEL NYHAN: Do you see any issues with any of those questions or comments or being able to meet any of those?

MR. KILMER: No. We're able to answer them or revise the plans accordingly.

MICHAEL NYHAN: Okay. And on your SEQR form, I see this is an archaeological sensitive site.

MR. KILMER: Yes. We have received a letter of no impact from SHPO, which we will be providing.

MICHAEL NYHAN: Do you have it with you?

MR. KILMER: I do not have it with me right now. No, I do not. No. I can provide a copy to the Town first thing in the morning.

MICHAEL NYHAN: So you know before we proceed with SEQR, I need a copy of that. But we will proceed with your application and we will open the Public Hearing and we'll leave that open.

MR. KILMER: Sure.

MICHAEL NYHAN: All right. Anything else?

MR. KILMER: No.

MICHAEL NYHAN: What type of facility is this?

MR. STEWART: My name is Dan Stewart, Director of Facilities for Heritage Christian Services.

This will be a 6-bedroom home, 2 1/2 bathroom. It will have a laundry room, an office, a med room, two living areas, one kitchen, a garage and a fenced-in backyard.

We will be serving six people with developmental disabilities here. Typically we may have one -- up to maybe four staff -- depending on the needs of the individuals that will be supporting them in the home.

There will typically be two agency vehicles at the home for the use of the staff and the individuals of the home. We do have ten parking spaces designed into this.

The two curb cuts, as mentioned, are to eliminate or hopefully reduce the amount of back-up alarms that may be present from a vehicle that may be coming in to drop people off or pick people up for day programs or other activities. The house will have some enhancements to it, safety features designed into it under life safety code 101 Chapter 3233, which is Board and Care Facilities. So such things as a sprinkler system. It will have a fire alarm system that will be connected to a central station and monitored with it.

Different design features in there. For example, the hallway to the back that comes around to a sidewalk for egress routes. So, you know, to meet the safety needs of the individuals in these homes.

MICHAEL NYHAN: You will have residents and you will also have people that are dropped off during the day, as well?

MR. STEWART: No.

MICHAEL NYHAN: Just residents with visitors?

MR. STEWART: They may have visitors. Hopefully we'll have family involvement here. Typically with -- I say pickup and drop-off. A lot of people attend day programs throughout the County, and/or work. So it may be a private ride to bring them to other programs.

MICHAEL NYHAN: The residents?

MR. STEWART: The residents, yes. But no, there is nobody coming in -- this is a home for the six individuals.

MICHAEL NYHAN: All right. You're operating under New York State Law, I understand?

MR. STEWART: Correct.

MICHAEL NYHAN: Mental Hygiene Law, correct?

MR. STEWART: Yes.

MICHAEL NYHAN: Okay. Anything else?

JOSEPH DEFENDIS: Just the comments, this is a slab-on-grade, not a basement? There is no basement?

MR. KILMER: There is no basement, correct. We are above the flood elevation requirement.

JOSEPH DEFENDIS: Is there going to be natural gas service?

MR. KILMER: Natural gas.

JOSEPH DEFENDIS: That's all I have.

MATT EMENS: What is the flood elevation?

MR. KILMER: I have the letter right here. It was confirmed by the Town to be 520.20 and we are at a 524.3, which puts us at 2.3 feet higher. Town requirement is 2, as you know.

MATT EMENS: Okay. How about the comment under 4H, the extension of the pavement of Names Road?

MR. KILMER: So we were looking into options -- options for that, whether that means extending it to -- extending Names Road to an extent or coming to some sort of resolution with the Town Engineer.

MICHAEL NYHAN: What were you going to do other than meet with the Town Engineer? I missed the first part.

MR. KILMER: Option is to extend it as requested.

MICHAEL NYHAN: As requested. Okay.

MATT EMENS: So in other words, you're still thinking about it?

MR. KILMER: Yes. Correct. We're going to be running turning movement analysis on it for the snowplows to see what extent they would need.

PAUL WANZENRIED: That is the Commissioner of Public Works, not the Town Engineer.

MR. KILMER: Thank you.

MATT EMENS: You answered the question about fuel.

Where -- where are the HVAC units going?

MR. STEWART: I believe one will be on the north side of the building. We will have two units. Four here (indicating). One would be on the north side of the unit. One would be on the southeast side hidden behind the building.

MATT EMENS: So I think for the next round we want to make sure those are on the site plan and how you guys are going to screen them or if they're -- or if they're already screened. Just know where those are and getting them on here, which is what I think we asked for.

MR. KILMER: We are maintaining the existing vegetation to the north, but also based on Conservation Board comments, we're also extending the landscape bed limits to the northern foundation. So there will be additional screening for those HVAC units, as well.

MATT EMENS: That's all I got right now.

GLENN HYDE: No questions at this time.

DAVID CROSS: Connor (Kilmer), are you also maintaining the existing vegetation on -- what would be the west along the Names Road right-of-way?

MR. KILMER: That's correct. Excluding the curb cuts. We're trying to maintain the existing vegetation as best as possible.

DAVID CROSS: I think that is important particularly on that west side. So I have nothing further.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: I would like to see the ten parking spaces pointed out.

MR. KILMER: So the ten parking spaces will be along the southern side, as well as the -- the northern side of this drive aisle right here (indicating).

MS. BORGUS: The reason I ask is I have one of these homes very, very close to me and like so many of the other homes of this type, the -- the parking -- the cars, the number of cars is always more than is anticipated and I just want to be sure that there is -- it is understood that there can be no parking in the roads, because that has been -- it had been an issue at -- at the one near me.

Thank you.

MICHAEL NYHAN: You're welcome.

LAURIE FENBY, 29 Ballantyne Road

MS. FENBY: My name is Laurie Fenby. I live at 29 Ballantyne. First of all, we did not get any notification of this hearing mailed to us. And many of my neighbors did not get any notification. The only way we learned about it was a sandwich board put up on the lot.

MICHAEL NYHAN: Okay.

MS. FENBY: I -- I know it's the law for a single-family home, but in my mind, a single-family home means like a single-family, not 10, 15 residents. You know, ten cars. Dumpster. So I -- so I know like law-wise or classification-wise -- it's just this particular building is not going to fit this neighborhood. These houses are 700 square foot, 900 square foot, 1,000 square foot. You know 1500 is sort of a bigger house in our neighborhood. Anything bigger than 1500 is really big. So to have a 4700 square foot single-family home among bungalows and old style, it just sort of doesn't fit the neighborhood.

My biggest concern is the sound barrier to my house, my mother-in-law's who is 96 -- we own four properties between my husband and us. And the sound barrier is that woods that block Scottsville Road. How much of the woods is going to remain? I have never seen the plan.

MR. KILMER: Understood. Yes.

We're going to be maintaining the vegetation as best as possible. So I mean the -- I know you can't see from there, but we're maintaining the tree line from here to here (indicating).

MS. FENBY: Is that Scottsville Road?

MR. KILMER: This is Scottsville Road (indicating). This is Ballantyne (indicating). So this will still be vegetation (indicating). There will be vegetation, in your case, in the front, correct? You're over here (indicating)?

MS. FENBY: We're on Ballantyne. It is noisy enough since they widened it. So taking all that woods out, it is going to be like just a highway.

MR. KILMER: Well, we are maintaining the vegetation to the best extent possible. We're not clearing the entire parcel.

MS. FENBY: Where are your entrances? Are you having more than one?

MR. KILMER: One entrance here (indicating) off Names Road and then an additional one to the south of Names Road.

MS. FENBY: Both entrances will be on Names?

MR. KILMER: Correct.

MS. FENBY: So you will not come in off Ballantyne or Scottsville or anything?

MR. KILMER: That's correct. Address is 11 Ballantyne, but the entrances off -- are off Names Road, not Ballantyne.

MS. FENBY: And then you did answer -- there is only -- will 6 beds or 2 1/2 baths, will that change so it will end up being 15 people living in there?

MR. KILMER: No.

MS. FENBY: Will there be buses coming and going or just transport vehicles? Will we have buses coming and going?

MR. STEWART: There will not be full-size busses. There may be a wheelchair-accessible van, a single-axle vehicle.

MS. FENBY: Because we live across from ARC, too, and you know, there is buses all day long and littering from the drivers of that, so just wondering if there is going to be buses coming and going, you know, 8 a.m., 4 p.m., coming and going every day.

MR. STEWART: There may be, yes. Depending on the needs. We don't have everyone identified in here, but depending on the needs of the individuals in this home, there may be a wheelchair-accessible vehicle. Maybe similar to what the ARC across the street does have currently.

MS. FENBY: Not a steady trail of these people --

MICHAEL NYHAN: If could you address your questions to the Board and we'll follow up.

MS. FENBY: Not a steady trail of buses? Is -- am I getting an answer to that?

MICHAEL NYHAN: You can continue on with all your questions and then we'll address them.

MS. FENBY: Oh, okay. So there will be a parking lot. There will be industrial lighting? And I'm assuming there will be dumpsters? Will -- will this facility be paying school taxes, property taxes like we all have to pay, since it's a single-family residence? Or are -- my taxes go up all of the time. Are these -- Christian Heritage going to be responsible for paying taxes?

And I guess that was it. I had other questions, but they did answer them. How many people, parking lot -- how much of the woods will remain? I'm just concerned about the noise and the wood -- our green space is just decreasing all of the time. So my biggest concern is the traffic and the noise from tearing woods down.

MICHAEL NYHAN: Okay. Any other items?

MS. FENBY: No.

MICHAEL NYHAN: Thank you.

MS. FENBY: Thank you.

MICHAEL NYHAN: You're welcome.

MS. FENBY: Thank you for listening.

MICHAEL NYHAN: You're welcome.

CAROL SMITH, 31 Names Road

MS. SMITH: My name is Carol Smith. I live at 31 Names Road.

My question is, Mr. Nyhan, in regards to the mention of extending Names Road, would that be extended out to Scottsville Road, or I guess I'm just curious as to what the purpose for possible extension would be?

MICHAEL NYHAN: Sure.

MS. SMITH: And to what extent that would have a -- an impact on the environment.

MICHAEL NYHAN: Sure. The -- the extension would be just for the Town to be able to push the snow on Names Road. It would not connect with Scottsville Road. I think the --

MS. SMITH: It --

MICHAEL NYHAN: The Department of Highways has requested a 15-foot stub, I believe, so that's where their driveway is. From their driveway beyond that would be 15-foot, so there is a space to store the snow from Names Road.

MS. SMITH: They will widen the road?

MICHAEL NYHAN: No. It would just be the same road. They would just extend it out 15 feet.

MS. SMITH: Okay. And that would be extended onto the property that it is being built on?

MICHAEL NYHAN: It would extend to the end, outside past Names Road. Wherever Names Road is right now, just extend straight out of Names Road. So Names Road would be extended by 15 feet is what they would do.

MS. SMITH: Well, Names Road bears to the left. It also goes straight and at one time --

PAUL WANZENRIED: Stub, Mike (Nyhan). She is referring to the stub.

MR. KILMER: Extend like this (indicating).

MS. SMITH: There is a house across the street from where the proposed second entrance/exit is. And -- and my question would be, in regards to how that would impact that corner lot. And that corner house.

MICHAEL NYHAN: Okay.

MS. SMITH: Especially if they're pushing snow down at the end of the road. Because I know -- I know currently the snowplows have great difficulty going down and turning around there and the school bus and that. Because it's not -- it's not very wide.

MICHAEL NYHAN: Right. Okay. So that is why we're working with the Superintendent to make sure that they do have a place to put the snow and it doesn't block the current residents.

MS. SMITH: My other question would be on the flood elevation.

MICHAEL NYHAN: Yes.

MS. SMITH: I do know that when we purchased our home and held a mortgage, we had to pay flood insurance and we were told we were on the flood plain. I don't believe that the elevation of my home currently is any different than that corner lot. And that would be my question, as to how there is a differential there and whether or not there would be any fill to bring that lot up to a higher elevation or -- or what would be happening before they built -- especially if they're maybe on a slab versus having a -- having a basement.

MICHAEL NYHAN: So they are proposing to build it on a slab, not having a basement and they will be required to meet the current elevation requirements.

And I think, Paul (Wanzenried), are they 2 1/2 feet above the requirements?

PAUL WANZENRIED: 2 feet.

MICHAEL NYHAN: So they will be 2 feet above the current requirements so it would won't flood.

MS. SMITH: Because Names Road, right now when it goes around to the side and that particular portion on the corner, it goes down into a ditch where the wooded area and everything is. And that was just my question, as to how that would impact the road and the -- the maintenance of the road. And right now, I mean we have -- there -- it's not -- it's just like a cinder asphalt -- you know, it's not paved in any way.

MICHAEL NYHAN: So part of the requirements from the Town Engineer and Highway Superintendent will be to make sure they are above the flood plain and any drainage as a result of the elevation does not flow onto other properties in the area or the roadway. Before the approval will be made, they will be certain.

MS. FENBY: Our yards flood.

MICHAEL NYHAN: Okay. Any other questions?

SIMON SMITH, 31 Names Road

MR. SMITH: Simon Smith. Also at 31 Names Road.

Is there going to be any consideration given to putting lighting at the corner of Names Road and Ballantyne Road for safety sake? I mean there -- we -- we kind of wanted one there for a long time and it's -- it's a very dark turn at night. There is really no indication there and I was thinking, you know, for the safety of the -- the residents there and the rest of the neighborhood -- because our neighborhood is transient. We have got RIT students all through the neighborhood. Which we don't have any problem with. Nor with the Heritage Christian people.

But they're -- but it -- the people are not -- just not familiar with the area. So it is like, you know, we have a -- seems like an average of one RIT student every couple years gets killed on a road out here just because they're not familiar with the area.

MICHAEL NYHAN: Okay. Thank you. Any other comments?

MS. FENBY: May I ask one other question?

MICHAEL NYHAN: Certainly.

MS. FENBY: How long is the construction going to be? Like what --

MICHAEL NYHAN: I will get that for you.

MS. FENBY: Is it two years' worth of construction?

MICHAEL NYHAN: Okay. Any other questions or comments? At this time, we'll leave the Public Hearing open because we have some additional SEQR work that needs to be submitted. So is there any other presentation? Other comments you would like to make? We did have a few questions.

Construction period, what is this, about -- from the day you start the construction to the day you finish, how long will that be?

MR. STEWART: We're going to assume nine months based on material challenges we have today.

MICHAEL NYHAN: Okay. The other items, you have heard the comments. You will be coming back again next month, so you have heard the comments. Working with the Town Engineer and our Highway Superintendent for those comments and the questions that came up.

MR. KILMER: Yep.

MR. STEWART: Did you want us to address any of the questions such as the garbage?

MICHAEL NYHAN: Oh. I think we had that on the plan. Individual garbage can pickup.

MR. STEWART: Yes. In the garage.

MICHAEL NYHAN: No dumpsters?

MR. STEWART: No dumpsters.

MICHAEL NYHAN: The types of vehicles, is there a certain period of time that everybody is back or needs to be back or are they free to come and go?

MR. STEWART: Yes. They're free to come and go. It depends on their programs, what their -- they do for every day. Some people may not leave the program -- leave the house. Some people do attend different programs and some people do work and it may be different hours of the day.

MICHAEL NYHAN: Are they mostly passenger-type vehicles or are they those small vans?

MR. STEWART: It's typically -- if there is a wheelchair-accessible van that Heritage owns, typically it is a single-axle, dual rear wheel, small wheelchair accessible with a lift on it.

MICHAEL NYHAN: All right. And would you be -- you would be coming in front of the facility to drop the person off. You would not be backing out the same way. You would go out the other exit, correct, the second means?

MR. STEWART: Correct.

Lighting also, everything would be residential in nature. There may be a couple of lamps around the parking fields just for security of staff going to and from their vehicles.

MICHAEL NYHAN: All dark-sky compliant? So it doesn't flood off the property?

MR. KILMER: No light spill. No -- it would be a minimal photometrics that wouldn't even go that far.

MICHAEL NYHAN: You have that on your plans already, correct?

MR. KILMER: Do we have those?

MR. STEWART: I don't know if we showed them on the plan yet or not.

MICHAEL NYHAN: We'll need a lighting package. The landscape plan, lighting package, we'll need all of that for review by our Town Engineer.

You have already been to Conservation?

MR. STEWART: Correct.

MICHAEL NYHAN: We'll wait for their comments.

When were you in front of them?

MR. KILMER: Last week.

MICHAEL NYHAN: Okay. Any other comments from the Board, Side Table or feedback to the applicant?

ERIC STOWE: There was a question in the Public Hearing about family.

MICHAEL NYHAN: Yes.

ERIC STOWE: For the purposes of this use, New York State Law preempts any definition in our zoning code and deems this to be a single-family residence. So 4314 -- 4134 subdivision F of the Mental Hygiene Law, this is a single-family residence under New York State Law and our zoning code has no authority to do anything with that.

MICHAEL NYHAN: Thank you. Appreciate the clarification.

MR. STEWART: Mr. Chairman, this will be certified for six individuals, so therefore, there will not be an opportunity to bring more than the six people for this home.

MICHAEL NYHAN: Okay. Thank you.

Any other comments?

MATT EMENS: They did show up at AAC?

MICHAEL NYHAN: You were on the agenda to be at AAC to look at elevations of your building to see what it will look like.

MR. KILMER: Sure.

MICHAEL NYHAN: No. AAC was before this meeting. So you will need to be on their agenda for next month.

MR. KILMER: Okay.

MICHAEL NYHAN: Before you come in front of us. They start at 6 p.m. You were on the agenda today. I'm not sure if you just didn't get word of that.

MR. KILMER: I didn't.

MICHAEL NYHAN: Complete building elevations and samples of the materials you will

be using for the exterior of the building. Roofing, siding, colors, any brick or stone.

MR. STEWART: There was no comment. We were completely unaware.

MICHAEL NYHAN: Okay. Could you just contact the Building Department and tell them you would like to get on the AAC calendar for the month of January? And it is the same night as Planning Board. 6 p.m. instead of 7 p.m. All right.

MR. KILMER: With regards to SEQR, we will be providing that information for SHPO. Will we be able to get preliminary and final at our next meeting here?

MICHAEL NYHAN: If everything is done to the Engineer's and Board's -- I mean -- requirements.

MR. KILMER: Understood.

MICHAEL NYHAN: But the -- before we can move forward at all, we will need that SHPO report.

MR. KILMER: Sure.

MICHAEL NYHAN: All right. We'll leave the Public Hearing open. At this time I'm entertaining a motion, if you would like, to table this until our next meeting.

MR. KILMER: That's fine.

MICHAEL NYHAN: Motion to table.

MATT EMENS: Second.

DECISION: Unanimously tabled by a vote of 6 yes to table the above application. Application has been moved to the January 11th, 2022 meeting. Public hearing has been left open.

4. Application of Chili Plaza Properties, LLC., 349 West Commercial Street, Suite 3300, East Rochester, New York 14445 owner; for preliminary subdivision approval of one lot into two lots to be known as Chili Properties Subdivision at property located at 3240 Chili Avenue in GB District.

Stephanie Albright was present to represent the application.

MS. ALBRIGHT: Hi. I'm Stephanie Albright with APD Engineering here on behalf of Chili Plaza properties today.

So this project involves the subdivision to take the roughly 19-acre parcel at Chili Plaza and subdivide out the existing Taco Bell leased lot which is roughly one acre. Taco Bell desires to own their properties where they can and it wasn't feasible early on, so now we're looking to go subdivide it at this point.

The project involves no construction, no changes to the site at all. It is literally just subdividing that lease lot so that they can change hands from Chili Plaza Properties over to the Taco Bell ownership group.

The property is zoned General Business and we had also submitted for a variance for the lot depth, so we'll be back in front of the ZBA next week. Where 250 is required, we're proposing roughly 119 feet. It's kind of an odd shape that follows the existing drive lane out there and due to the remaining parking with the plaza, it's not feasible to make it 250 feet deep.

There was a front yard setback back in 2019 for that Taco Bell parcel, so I will leave that up to the legal counsel, but I would assume that that would just carry over with this subdivision.

One -- we did receive the Town Engineer comments and one comment was to potentially shift the western lot line by about 5 feet so it would include a small portion of the Taco Bell parking into the parcel. And we would prefer to leave it where it is. If we do make that shift, it would actually go through the middle of that plaza monument sign that was relocated as part of that project. So we would rather have a little bit of that asphalt that would straddle the two properties and have that monument sign stay completely on the remaining plaza property.

One of the comments was regarding easements for access and utilities and there will be reciprocal easements between the two owners that would cover all of that. There are a lot of easements out there that would just automatically get carried over and then to cover any of the additional would be this reciprocal easement to, like I said, address the cross access and utilities.

I believe we addressed all of the other comments. There was kind of a comment summarizing the parking and I did resubmit what we had summarized back to the original Taco Bell project that went and looked at the plaza as a whole and broke everything down by uses and showed that everything meets the Town parking requirement out there.

So I am certainly happy to answer any questions and we would ask that the Board consider voting on preliminary and final subdivision tonight contingent upon the ZBA next week and addressing any final comments from Engineering and Public Works.

MICHAEL NYHAN: Okay. You said you had multiple easements. Utility easements, cross access easements to the -- what would be the new property and existing for both entrances to adjoin the properties; is that right?

MS. ALBRIGHT: Existing or proposed for both?

MICHAEL NYHAN: No. The easements would be for the Chili Plaza that owns the property now and then the new owner of Taco Bell, their property -- there will be cross access easements for both of the entrances that --

MS. ALBRIGHT: Correct.

MICHAEL NYHAN: -- as well as all of the utilities that run through the property?

MS. ALBRIGHT: Yes.

MICHAEL NYHAN: Okay. Thank you.

MATT EMENS: You said it wasn't feasible to subdivide during the project approval process. Can you elaborate on that?

MS. ALBRIGHT: Just logistically with the Chili Plaza preferences at the time, they preferred to lease. Taco Bell wanted to buy and they weren't entertaining that option.

Now I couldn't tell you what exactly happened over the couple of years, but now Taco Bell pushed again and said, "Hey, is there any chance now?"

And Chili Plaza has agreed to move forward with the subdivision.

MATT EMENS: Okay. I guess some general questions. I'm not really sure who would -- will be able to answer.

MS. ALBRIGHT: I can certainly get you answers.

MATT EMENS: It may be something the Side Table - I will try you and if you can't answer, maybe someone else on the team can.

You guys did not make the original application?

MS. ALBRIGHT: We did the Taco Bell, yes.

MATT EMENS: So the last round of Taco Bell was all you guys?

MS. ALBRIGHT: Yep.

MATT EMENS: The next one is, I -- I remember this conversation. We have had multiple conversations about this plaza, the parking calculations and uses and all of that stuff. You just mentioned that that was ironed out as a part of your -- your project.

MS. ALBRIGHT: Right. Back a couple years ago for the original Taco Bell.

MATT EMENS: I guess I don't have concerns about that because we have looked at that in a lot of different ways and I think we're covered from the number of parking spots.

The concern I have was we ran into this issue, Paul (Wanzenried) -- Paul (Wanzenried) -- we ran into this issue -- Eric (Stowe), maybe you recall or, Mike Hanscom, you will recall, I think it was the Tim Horton's up in West Chili. There wasn't an out parcel that got divided off. I think that was -- I don't know how many years ago. Maybe when I started -- that there was an issue that that happened and I was done without looking at the whole picture.

So I guess just from a scheming standpoint, like, Mike (Nyhan), I don't know if we have any -- you know, or from a code standpoint if there is a concern here with this, that we're just not thinking about the big picture. I guess I'm a little bothered by the fact that we're doing it post project because there was a lot of back and forth about how much space was needed and layout of this, the parking, what did it look like, how much space did it take up on the frontage.

I don't -- I guess my point is, I don't know that this is an issue or causing an issue, but -- but I guess you already had variances granted so that we could build the project in the first place.

MS. ALBRIGHT: Right.

MATT EMENS: And now it looks like the Zoning Board has to grant only one variance to get you to this subdivision, so that is not terrible. But once again, I'm not sure that -- I'm not sure why we would do this, I guess, is my point.

If it is just because they would like to do it, you know, I guess that's -- that's good. Right? That is their choice to apply for it.

I guess I'm just worried about I don't want to create a condition here that we're not aware of. Something going on here. So you have addressed the parking thing, which I think is the big one. But now we have got a lot that is substandard, right? So hopefully we'll get a variance for that and it's a non-issue.

MS. ALBRIGHT: Correct. And I think in this case, being in a plaza with the existing cross access points and that reciprocal easement, that sort of addresses how this lot is able to function at a lower depth than what the Town Code indicates.

MATT EMENS: Because it's part of the larger lot?

MS. ALBRIGHT: Correct.

MATT EMENS: Understood. Okay. I guess I will just leave it at that for now.

MICHAEL NYHAN: Relative to the parking, I think what I remember, as well, is -- either number of parking spaces for the entire plaza -- now we'll be removing this entire parcel of land from their parking count, so both parcels will need to maintain parking for their respective parcels, correct?

And there is also a distance from the tenants, or I believe some of the parking spaces need to be, which would also be removed from the parking count for the plaza; is that correct?

So for instance, before when you counted spaces, it was all one parcel. So you can count the spaces.

PAUL WANZENRIED: It's 250 feet from door of tenant to furthest parking space, if you want.

MICHAEL NYHAN: So I don't know if that calculation was done or if that was looked at for this application where we recalculated the parking spaces that will be left for Chili Plaza and that those parking spaces are within the 200 foot requirement of each of the tenants they have there. Because before we could use all of the Taco Bell parking spaces and now we won't be able to for that calculation.

PAUL WANZENRIED: True.

MICHAEL NYHAN: So I think to Matt (Emen)'s point, we want to be sure we're not approving this and leaving this plaza without enough parking spaces.

MS. ALBRIGHT: I guess I haven't looked into that 250 foot requirement, so I can't answer that right now. But as far as the existing study that we did back with the original Taco Bell, there is -- 539 spaces were required and total on the site, including the Taco Bell is 788. So it -- so it

is significantly above what the Town is required to have.

And then looking at just the Taco Bell parcel, they're required to have 16 spaces and there is 23 out there for that parcel. So total number definitely meets code, but I would need to double-check distances on the 250 feet. But there would only be a couple of those spaces that would even be applicable to the nearest tenants.

MICHAEL NYHAN: Okay.

ERIC STOWE: I guess my chief concern is the easement for cross access and what you're covering in the plaza, right, and what they're covering in yours in that no future development will be allowed. So a blanket -- this whole parcel -- the plaza parcel is encumbered by an easement for access and ingress and egress -- would prevent any future development on that parcel. So, too, on yours and wouldn't allow for any growth, expansion. You're in pretty tight. I can't imagine that there is a lot of room for expansion on your parcel, but I -- but I would want to get an idea of that easement that is encumbering the larger parcel and how that will affect any future development on them.

MS. ALBRIGHT: I would certainly be agreeable to that being a contingency that we can provide a copy of that document before this is finalized.

MICHAEL NYHAN: Anything else?

ERIC STOWE: No. Thank you.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: With regards to this easement issue, it sounds like that could be a major problem if something is missed here in these discussions. That would be a real mess. I'm also thinking that if Taco Bell wants to buy the land that they built upon and use, how many future developments could go in there that will want to do the same thing. And then what do we end up with? You know, a checkerboard of individual lots that kind of -- like a jigsaw puzzle?

And frankly, I agree with Matt Emens. He is right on target. Going forward you just don't know what -- what you're missing here and it seems as though this is the kind of thing that could bite in the future. I don't really see what the benefit of the Town in going -- passing this and okaying this. I may be missing something there, but I don't see what's -- what any benefit would be to the Town in passing this proposal.

Thank you.

MICHAEL NYHAN: Any other comments on this application?

Seeing none, I will close the Public Hearing portion.

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

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

MICHAEL NYHAN: Any other items other than this parking that was brought up? For discussion? Concerns for this subdivision?

MATT EMENS: The distances.

MICHAEL NYHAN: The one variance. So I -- so I have a question for the Side Table.

Is that -- could we grant preliminary and hold off on final until we have that final count to determine we're not shorting parking spaces -- what I'm really concerned about is the particular area of the plaza that has always been tight with the businesses there to have enough parking spaces within 250 feet of those doors. Until a calculation can be done by our Town Engineer.

PAUL WANZENRIED: We --

MICHAEL NYHAN: Or just --

PAUL WANZENRIED: Mike (Nyhan), you do know that it's a distance. It's not that Suite A gets five in front next to it in the plaza and Suite B gets the same thing. It's just the fact that you can draw an arc of 250 feet and be able to touch the number of spots, so to speak.

MICHAEL NYHAN: Yes. I do.

MS. ALBRIGHT: Could I ask one question on that?

MICHAEL NYHAN: Sure.

MS. ALBRIGHT: Would it be possible to handle that as a -- an easement agreement for parking, that -- you know, that, therefore, that number of parking spaces would always have to exist on the Taco Bell parcel?

MICHAEL NYHAN: I think the Taco Bell parcel has enough parking. We're not concerned about that.

MS. ALBRIGHT: But to keep that parking accessible to those tenants. So that another project couldn't come in and wipe out that parking and --

MICHAEL NYHAN: I see what you're saying.

MS. ALBRIGHT: And not have parking.

PAUL WANZENRIED: You want a cross parking easement, so to speak?

MS. ALBRIGHT: Right. That would allow the plaza to park on Taco Bell and vice versa. I don't know if that would --

ERIC STOWE: I thought we had a provision it had to be provided on parcel. I don't have that provision committed to memory, though.

PAUL WANZENRIED: Give me a minute.

ERIC STOWE: Procedurally, Mr. Chairman, the -- the preliminary -- what's -- what's your condition? Right? If they can't satisfy that or it's not provided, then they don't get final? The condition would have to be worded, I guess, as subject to demonstration that the 18 acres remaining parcel has adequate parking pursuant to existing Town Code requirements.

MICHAEL NYHAN: Right. So that analysis could be done to show that it is sufficient and then once that is met, then the Town Engineer could approve the -- moving forward. It's the distance we're talking about. You get 200 on one side of the plaza and nobody can park on the other side of the plaza.

(Indiscernible comments from Side Table)

MICHAEL NYHAN: I think -- I think what I would be comfortable with and maybe the rest of the Board can chime in on, we put a condition that that analysis be done to be certain we have sufficient parking, and if they didn't, I suppose they could go ask for a variance. But we would want to know one way or the other that they had sufficient parking so we don't run into the problem where we have other locations where we grant the out parcels because they have enough parking, but when they remove the parking spaces closest to the other tenants, the other tenants don't have enough parking. However that needs be worded.

MATT EMENS: If we're making something up, just table it. Just table it and come back. Because I mean -- I guess I would ask Eric (Stowe), do we really want to do SEQR on that then?

MICHAEL NYHAN: This is -- they could always get a variance. If we do SEQR, they have to have plenty of parking spaces. It would be from the distance from the -- however they want to handle it. As long as it was handled, it wouldn't matter really to me how it was handled.

ERIC STOWE: If it is demonstrated to your satisfaction that the remaining large parcel has adequate parking and this subdivision does not remove that, and I -- I think I would ask, as well, for the proposed location of easement language so that you can -- I mean -- I -- it's going to be an interesting draft for whomever is drafting the easement to say we can cross any portion of your parcel. I'm thinking it would say undeveloped or, you know, just paved. But how does that go forward so that your parcel has specific routes that they can use for your customers to get on, into your lot and off of it.

But I think -- I think that's okay when you say -- show us the remaining parcel will have -- that this will not negatively impact parking or put them in a nonconforming status as to parking.

MICHAEL NYHAN: So what I -- what I wrote down -- let me see if this is sufficient -- just as a condition is that the parking analysis must be completed to determine the required parking spaces will be sufficient for the remaining Chili properties after subdivision is completed.

ERIC STOWE: Remaining Chili Plaza Properties, LLC parcel.

MICHAEL NYHAN: Yes.

So that makes it a condition that we can give approval and that if that condition isn't met, it just wouldn't be able to move forward or they have to come up with another way. So it is between the Engineer and the Building Department at that point.

Does that work?

PAUL WANZENRIED: Yes.

ERIC STOWE: Yes.

PAUL WANZENRIED: Mike (Nyhan), was snow storage brought up?

MICHAEL NYHAN: Sorry?

PAUL WANZENRIED: Snow storage.

MICHAEL NYHAN: Snow storage, was that on the drawing? Thank you.

The new parcel. I didn't see that in the comments.

Do you have sufficient snow storage or did you mark where the snow storage would be for the Taco Bell parcel?

MS. ALBRIGHT: I did not mark it on the subdivision map. But there are a couple of islands out there they can use for snow storage.

MICHAEL NYHAN: Are you talking about the parking islands?

MS. ALBRIGHT: The landscape islands.

And then there is that -- around the drive-thrus area, too, there is the -- the -- between the dumpster and the drive-thrus there is an area that they can store and there is a -- the island.

MICHAEL NYHAN: If I recall, Michael (Hanscom), wasn't that part of the drainage or -- or retention area? Could they move snow into that area? They were going to use the plaza property, I believe, for snow storage, not on Taco Bell property.

MS. ALBRIGHT: I would have to go back and look at our original site plan. I'm sure we called out snow storage on that plan.

MICHAEL NYHAN: You did. I believe it was in the parking area of the Chili Plaza Properties, not on the Taco Bell property itself. I didn't think they had their own snow storage.

MS. ALBRIGHT: Okay.

MICHAEL NYHAN: Because the islands there are very small. You would not be able to put all of the parking lot snow there.

You would have to move it somewhere else, is my guess. And I -- I thought that area outside of the -- the green area was part of some bio retention, but I can't be certain.

MS. ALBRIGHT: I think you're correct. I forgot about that. I can reach out and I will check if they -- how the two owners intend on handling that. If they're going -- if the plaza is going to continue to allow any piles within the parking lot or if Taco Bell needs to handle it completely on their own. I'm not sure if they have a shared plow driver out there. But I can get those answers.

MICHAEL NYHAN: That is kind of the details we would need for that.

Anything else, Paul (Wanzenried), that you can recall that --

PAUL WANZENRIED: No.

MICHAEL NYHAN: Okay. Any other comments from the Planning Board or questions?

MATT EMENS: So we're going to go with that condition --

MICHAEL NYHAN: Well, I will ask the question.

Do we want to go with all these conditions or just want to ask the applicant to come back next month to be able to address them with the Town Engineer, these cross access items, as well, to have definitive answers of do you need one for parking or you don't? Or the parking is sufficient so we're okay. And that you do have a place to store the snow and if you don't, you're going to get an easement to be able to do that, as well. And what that would look like. I'm sure that could be just as complicated as the parking one.

MS. ALBRIGHT: Right.

MICHAEL NYHAN: So I think at this point, getting feedback from the Board, if you feel confident to move forward or rather have these things answered before we move forward?

JOSEPH DEFENDIS: I'd rather have them answered.

MATT EMENS: I think so, too. I think just tabling it at this point. Asking them to table it.

MS. ALBRIGHT: Would you guys be agreeable to like preliminary approval versus tabling or would you prefer to table and then do preliminary/final at next meeting?

MATT EMENS: I think we're just making up something to try to do one little thing here. No matter what happens, you're coming back next month. If you have all of the questions answered, we'll give you preliminary and final next month either way.

MICHAEL NYHAN: I'm hearing we want to have all these things answered. Everything -- everything that that parcel did, it did in conjunction with the plaza, so there is a lot of support from the plaza it is getting for these types of things.

MS. ALBRIGHT: Right.

MICHAEL NYHAN: So we want to make sure those are ironed out before we even do preliminary, because like Matt (Emens) said, you're coming back either way. We would rather have you ask to table this instead of us taking a vote and maybe not have it turn out the way --

MS. ALBRIGHT: I think can get answers to -- the only one I can't speak to is the status of that easement language and I don't know if they prepared that yet or waiting for the approval and then they were going to. So I don't know how long that could take for them to get it to your Town Attorney's hands and for that review to happen.

MICHAEL NYHAN: So we can give an approval without the -- without the approval of that easement, I believe. You just can't get -- just can't move forward until the Town --

MS. ALBRIGHT: Final contingency.

MICHAEL NYHAN: Right.

So you could get everything else answered before you come back to the next meeting and like Matt (Emens) said, we could look at preliminary and final there.

MS. ALBRIGHT: Okay.

MICHAEL NYHAN: Up to you if you want to move forward or table it. It's really your --

MS. ALBRIGHT: I'm okay tabling it and we'll get you the answers and be back next month.

MICHAEL NYHAN: You made a request to table this.

I make a motion that the applicant requested to table this.

MATT EMENS: Second.

DECISION: Unanimously tabled by a vote of 6 yes to table per the applicant's request for the following reasons:

1. Parking analysis for Chili Plaza Properties, LLC. to show they meet parking requirements relative to distance from tenants door after the subdivision.
2. Location of snow storage for Taco Bell?
3. Determine number and type of easements and outline each for the Planning Board and Town Attorney. Easements are needed to ensure the Taco Bell parcel will have cross access to the plaza for traffic movement and all services.
4. Will current storm drainage work for separate property owners and meet current codes?
5. Are utilities separate or shared? What will be the arrangement post subdivision?

Note: The Public hearing regarding this application has been left open and the application has been moved to the January 11th, 2022 meeting.

MICHAEL NYHAN: The Town Engineer has already provided comments. You have

already heard additional comments here tonight. If you have any questions, by all means, reach out to the Town Building Department and you can work with our Town Engineer to help you with any questions you may have.

MS. ALBRIGHT: Thank you very much.

5. Application of American Fleet Maintenance Inc. (David Connors) 275 International Blvd., Rochester, New York 14624 owner; for preliminary site plan approval of an addition to the existing building at property located at 275 International Blvd. in LI w/ ADATOD District.

Mike Ritchie, Max Heagney and David Connors were present to represent the application.

MR. RITCHIE: Good evening. Mike Ritchie from Costich Engineering. Due to a miscommunication in our office, the Public Hearing signs were not properly posted so because of that, we were notified that this can't be a Public Hearing and, therefore, you can't take action.

So knowing that we have to come back next month, I thought this was an opportunity to at least show you the project, answer any questions the Board may have and then hopefully come back for preliminary/final next month.

So the proposed project is a 10,000 square foot addition to the existing roughly 19,000 square foot building at 275 International Boulevard. Associated with this is some slight asphalt pavement addition and gravel parking addition.

Again, this is an existing lot, all infrastructures in place. The plan is to install a new sanitary lateral and water lateral for the addition to avoid having to route water and sewer through the existing building. So proposing a 2-inch domestic service and a small E1 pump and force main for sewer.

We did receive comments from the Town Engineer at the beginning of December and we responded to those comments late last week. We look forward to any other comments the Town Engineer may have. We have also started the process with the Water Authority on Pure Waters.

With that, I would be happy to answer any questions that the Board may have.

MICHAEL NYHAN: Joe (Defendis), any questions or comments?

JOSEPH DEFENDIS: No. There was -- there was a response letter, but those will come up when you address them. So I didn't see anything major in there. I'm fine.

MATT EMENS: The materials of the existing building, I guess there was a count in there. I don't know how you guys addressed that at all. It is just if you could talk a little bit about the materials of the addition.

MR. RITCHIE: I'm sorry. I should have introduced Max Heagney from LeFrois Builders and David Connors. I know the intent is to match the existing coloring and material.

MR. HEAGNEY: It will be the same. Metal panel --

MICHAEL NYHAN: Your name?

MR. HEAGNEY: -- building.

MICHAEL NYHAN: So have you provided elevations?

MR. RITCHIE: I believe they were in the package and I have them here, as well, tonight on this board. I mean it's a -- it's a pretty straightforward building. There is already existing base we're going to be proposing to add onto the south side of the building, so it won't even really be visible from the street.

MICHAEL NYHAN: I don't think I saw those. Did -- could you send those to the Town --

MR. RITCHIE: Yes.

MICHAEL NYHAN: -- so we can review them?

MR. RITCHIE: Yes. I will send it to Dave tomorrow.

MICHAEL NYHAN: Paul (Wanzenried) you mean?

MR. RITCHIE: Dave or Paul (Wanzenried).

MATT EMENS: I don't have anything else.

GLENN HYDE: Nothing at this time.

DAVID CROSS: Nothing.

MICHAEL NYHAN: Any additional comments from the Side Table?

ERIC STOWE: Just that there was a SHPO -- there was an archeologically sensitive area marked, but there is time to get a letter from SHPO for next month that would be helpful.

MR. RITCHIE: Was that within circles and squares for SHPO? Either way we'll look into it further and provide proper documentation.

ERIC STOWE: Mike (Ritchie), all I see is the 12B. It's located in or adjacent to.

MR. RITCHIE: We'll confirm that. I know sometimes the SHPO -- the SEQR -- the short form EAF, it was -- in a certain distance it triggers it. We'll do a little more research and confirm. If a letter from SHPO is required, we'll provide that and if not, we'll provide the proper documentation, as well.

MICHAEL NYHAN: Okay. Thank you.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

MICHAEL NYHAN: Seeing this will be tabled, I will leave the Public Hearing open. And any other comments or requirements for the applicant before our next meeting that you would like to see addressed?

Okay.

MR. RITCHIE: We'll look into SHPO and make sure we respond to the Town. I know we have revised plans that we'll also provide for everyone's review, as well.

MICHAEL NYHAN: As well as elevations.

MR. RITCHIE: As well as elevations.

MICHAEL NYHAN: I will accept the table. I make a motion to accept the table of this application.

MATT EMENS: Second.

DECISION: Unanimously tabled by a vote of 6 yes to table. Application has been moved to the January 11th, 2022 meeting. Public hearing has been left open.

MICHAEL NYHAN: You want to be on for next month, correct?

MR. RITCHIE: Yes. We'll work with Town staff.

MICHAEL NYHAN: Brief 5-minute recess.

There was a recess in the meeting.

6. Application of Quick Services RealCo. LLC (Ken Shaw) 10950 Grandview Drive, Overland Park, Kansas 66210 owner; for preliminary site plan approval for the renovation of the existing 2450 sq. ft. restaurant into a 2370 sq. ft. restaurant with a drive-thru at property located at 3208 Chili Avenue in GB District.

Adam Fishel and Ken Shaw were present to represent the application.

MR. FISHEL: Good evening. My name is Adam Fishel with Marathon Engineering, civil engineer of record for the project. Our office is located at 840 Hansaw Road, Suite 6 in Ithaca.

With me tonight is Ken Shaw, a representative from Quick Service RealCo, the developer of the project. As proposed, we are looking to renovate the existing plus-or-minus-2400 square foot former Pizza Hut into an approximately 2300-or-so square foot KFC restaurant with a drive-thru. Essentially the existing building would be gutted down to the studs. We won't be completely demolishing the facility, but take it down to the studs and reconstructing the restaurant as shown here.

Currently the site has access off of Chili Avenue. We are preliminarily proposing to reconstruct that driveway access to accommodate the tractor-trailer truck delivery. We are proposing to have 18 on-site parking spaces and build a new dumpster enclosure as shown on the plan. Drive-thru stacking is also shown on the plan as well with the drive-thru's menu board located at the rear of the building.

Just for context, this is located at the corner of Chili Avenue and Paul Road. The existing facility, we have pictures of that shown here. I don't believe that Pizza Hut has been occupied for some years. We're looking to go demolish that down to the studs and rebuild what you see here on our architectural renderings.

We did meet with the Architectural Advisory Committee informally tonight. There was a snafu on getting us scheduled for the official meeting, but we were here and they were gracious to give us informal comments. We'll make sure that we work with Mr. Wanzenried to get the information back so that we are here before the Committee next month.

Some of the comments generally surrounded, you know, toning down the facade, cutting back on some of the materials -- and, Mr. Emens, feel free to correct me if I'm speaking out of turn here -- cutting back on the materials, simplifying the facade and trying to make it look more in line and harmonious with the other buildings of this style along the Chili Avenue corridor.

Is that fair to say, pretty good summary there?

MATT EMENS: Uh-huh. Yep.

MR. FISHEL: So Mr. Shaw and I are going to go back to the architect, take those notes and revise the facade and get that back in front you folks and the Architectural Advisory Committee for discussion next month.

We also recognize there was a snafu in the posting of the Public Hearing sign on the lot, so we recognize there is no formal action that can be taken by this Board tonight. We'll work with the Town's office to get that sign posted for next month's meeting.

We did receive the Monroe County Department of Planning comments. I don't see anything in there that -- of particular major concern. We did receive also the Town Engineer's comments. There was a comment that surrounded cross access to the plaza to the north. We have -- we, the applicant, has attempted to reach out to that plaza owner without no real success in coordinating a cross-access easement with that landowner.

So nonetheless, we are looking to keep the Chili Avenue full access driveway with DOT and we have been in conversation with DOT about the configuration changes for the driveway. They initially asked that we pursue that cross access. We said we have tried with no success and they acknowledge that they cannot require us to eliminate the current existing curb cut on Chili Avenue. So that reconstruction of the driveway to Chili Avenue will be up to their review and approval.

Once we get through that process and get that permit, we'll certainly provide a copy of that to the Town.

MICHAEL NYHAN: When you say plaza -- when you say "plaza," who did you attempt to -- where was the cross access easement going to be? Through the back of the driveway to

Paul Road? Is that what you were attempting to --

MR. FISHEL: Back -- back here (indicating). As far as who, I can't speak to.

MR. SHAW: We were dealing directly with the Real Estate Department of the plaza. Our Real Estate Department.

MICHAEL NYHAN: I don't believe the plaza owns that. But -- but -- if you have been -- tried to get in contact with the owner of that property, if you could just let us know so we have that, that you were not able to --

PAUL WANZENRIED: He's right there (indicating).

MICHAEL NYHAN: All right. So we'll get to that. But we'll need something that says that you have not been able -- if you're trying to get in touch with the plaza, the plaza doesn't own that.

We would like you to try to work that out. If you can't, then just showed you tried to work it out and give us some documentation, who you spoke with, that you tried to work it out and you can't work out an agreement right now and we can make that part of our record because that is the recommendation from both the State and the Town, as well, that we would like to see you be able to do that to help eliminate some of the heavy traffic straight on Chili Avenue. Not looking to close Chili but to have both.

MR. FISHEL: Understood. I will add that the plan set we submitted did not include any landscaping. We were trying to open up the front facade and clean it up. There is overgrown trees on there. But if it is an issue with the Board and the Town, we would certainly be willing to put that 1 percent of landscaping on. Not a problem.

MICHAEL NYHAN: On the property you mean?

MR. FISHEL: On the property, correct.

MICHAEL NYHAN: There are some pretty old trees. You can see there is damage now with the most recent storm. A lot of dead wood in those trees. I know some of them are nice, old trees, but maybe they have -- have somebody look at them to see if they can be saved or if it's even safe to keep there because they are showing some signs of easily being damaged. Wouldn't want them to fall on the building, the parking lot or out on the roadway.

We ask you submit a landscape plan to our architect -- or the Conservation Committee so they can provide some recommendations. So the AAC you would be coming in front of. And at the end of this month is when the Conservation Committee meets or the end of next month. So if you can get them a set of landscape plans to show what you will do around the building and the roadway. There is a lot of ways you can do it to make it look nice without covering up your building or hiding your building.

MR. FISHEL: Understood.

MICHAEL NYHAN: Because it is something we're definitely going to need. It is right on the main street, if you will, of -- the middle of our Town.

MR. FISHEL: Sure.

MICHAEL NYHAN: And you're right. What is there now is horrible. Been horrible. So we're going to want to see a building that will look nice but also want to see some landscaping that will also fit the area and look nice, as well.

MR. FISHEL: Understood.

MICHAEL NYHAN: You can see some of the landscaping even across the street with the types they have done. I'm not saying that is what you should do, but submit something.

MR. FISHEL: To get a feel for it.

MICHAEL NYHAN: So we can provide a determination and make that part of your plan. The landscape plan will be part of your preliminary site plan. Okay. Thank you.

Were you finished?

MR. FISHEL: I have nothing further.

JOSEPH DEFENDIS: How much higher is this building than the existing one?

MR. FISHEL: That's a good question. The top of the parapet, which is -- let me back up. The top of the tower that you see out front -- which was part of our conversation earlier. We didn't get into the height -- but this element here was the topic of discussion. That is 22 feet above. So to answer your question, I don't have the ridge height on Pizza Hut, but it will be taller.

MICHAEL NYHAN: Okay.

JOSEPH DEFENDIS: Okay.

PAUL WANZENRIED: Can Joe (Defendis) speak into his mike? Thanks.

MICHAEL NYHAN: Okay.

PAUL WANZENRIED: Thank you.

JOSEPH DEFENDIS: You're welcome.

MATT EMENS: Adam (Fishel), one of the other things that I guess I made a note on here, but I didn't mention at 6 o'clock was the -- the freestanding drive-up order board that's in the engineer's letter. So just kind of -- what is that going to look like, so we're looking at that, too.

MR. FISHEL: A lot of the comments are pretty standard. Our -- our site plan package was admittedly ahead of mechanical, electrical and plumbing and even the sign package. We can certainly see about getting that in. Would that be needed for the site plan review portion or just as part of the sign package permit process?

MATT EMENS: I know that in the past we have seen it at AAC and I think we also have been provided that at the Planning Board because it was -- I believe it was an element that was seen on the drawings and it was -- the information was requested.

MR. FISHEL: Okay. Just want to make sure I'm conveying the right marching orders to

the right folks.

PAUL WANZENRIED: If you have a monument sign, the AAC will see the monument sign. All other signage is reviewed by the Building Department.

MR. FISHEL: Okay.

MATT EMENS: So I guess in regards to County Comments, you mentioned those. And I know we have already talked about the cross-access easement, the concern with having only one access to a lot with a drive-thru; right? Because previous use is a Pizza Hut, a restaurant, but it was a sit-down. They didn't do well. They closed. But Pizza Hut's business, when they were, I guess, in their heyday here, was probably 90 percent sit-down, I would guess. I'm making that up, but it sounds right.

And the second comment on here, they talk about a drive-thru lane and just special attention to it.

I know we looked at a lot of the cueing and how many cars actually fit and what is the actual flow and that Taco Bell version that you saw tonight on that subdivision drawing was -- I don't know how many different versions we saw of that.

MICHAEL NYHAN: Several.

MATT EMENS: Right.

So that's obviously a little different, because you enter that larger site and there was a lot of safety concerns about how it flows through the site and making sure that it was separate from the rest of the traffic in that plaza. But obviously this is a bigger concern with how close it is to the light, how close it is to the right-hand turn into the liquor store.

And then also the left-hand turn going into the Kwik Fill. So that -- that intersection, you know, I watched it tonight when I had dinner at Wegmans before I came to see you guys at 6, just so you know. And when I was coming through the light, you know, you -- there is people trying to turn left out of Wendy's, right? The light is turning green. People are stopping trying to let them through. So I just -- and all I'm saying right now is all anecdotal and I guess all I'm trying to do is -- is reinforce this comment from the County that, you know, I'm -- I'm concerned with the flow of the drive-thrus and the amount of cars that could be coming out of there. Not saying the road can't handle it. I'm just saying from a safety standpoint. They pointed it out. It is probably my single biggest concern and it goes right back to that second means of ingress or egress even to have a second place to go in or out on this property. And I think that that -- that is without a doubt my biggest concern right now.

MR. FISHEL: Okay.

MATT EMENS: Good for now.

MICHAEL NYHAN: What would the normal hours of operation be?

MR. SHAW: 10:30 we open up in the morning.

MICHAEL NYHAN: Your name, sir?

MR. SHAW: I'm sorry. Ken Shaw from Quick Service brands. We open up at 10:30 in the morning and our normal hours are probably around 10 o'clock at night, depending on, you know, the customers that would come in. But normally around 10 o'clock.

MICHAEL NYHAN: How do you accept your deliveries or where? What time of the day, I guess I should say? I can't imagine there is enough room for a truck in there when the business is open.

MR. SHAW: Our normal trucks come in like before opening. Obviously they parallel park right in the drive-thru lane. We don't want them in the drive-thru lane.

The trash is picked up in off hours also because we control the deliveries into the facility.

MICHAEL NYHAN: You control the trucks, your equipment?

MR. SHAW: Yes. All right. Thank you.

MICHAEL NYHAN: I'm sorry. I did get all of the Engineer's comments. You don't see any issues?

MR. FISHEL: No, I didn't see anything in there.

MICHAEL NYHAN: Okay. That is all I have for now.

MR. HYDE: I would like to just echo Matt (Emens)'s concern on the traffic flow. It is already a gauntlet there and the egress in the back or to the north as it would allow flow onto Paul Road is intriguing and I would be interested in you pursuing that or exploring that as best you can.

MR. FISHEL: Sure. It sounds like we have a different person to talk to about that, so we'll certainly look into that further. We'll also -- we have on other projects, too, restricted turning movements coming out of the development. So based on DOT's review and support, we could consider putting a right-turn-only exit on the -- the driveway exit lane to sort of discourage left turns out that would be going across and trying to fight the traffic stacked at that signal.

MICHAEL NYHAN: We can tell you from experience on that, we have had developments put in the curbing so you can't possibly make a left-hand turn and people will drive over it and make a left-hand turn. It will be a nightmare trying to get out of there. I would say the customers would want the cross access easements more than anything because if you're going to come out of there and turn left, you will wait a really long time. Most people would probably have to turn right, go down and turn around and come back. It's that close. Curbing wouldn't work. It doesn't. You have to get your delivery trucks in there and now they're driving over curbing and your plows and everything else.

MR. SHAW: Just some statistics for the record. Is -- is our -- we operate 600 Kentucky Fried Chickens and 300 Taco Bells in 26 states. We would love to have the drive-thru as we do in our Taco Bells. It's a totally different animal that we're used to. So our drive-thrus

percentages are substantially lower as is our traffic because our ticket counts are -- are -- our receipt counts are substantially higher. Like triple the amount than our drive-thru customers.

So the flow of drive-thru is substantially slow and also not one that you would tear through, grab a chicken sandwich, eat and take off for lunch.

Our peak -- our peak time is around dinnertime when people come in and it could be 60, \$70 worth of drive-thru pick-ups. That is kind of -- we're a little different because we do operate a lot of the Taco Bells and I know seeing this Taco Bell here, it is nothing unusual. The kids go through, they spend \$5 and you have 20 cars, but they go through fast because it's very easy to prepare a Taco Bell menu and get them out the window.

Our average time is not that quick when you're putting together two or three buckets at a time. You could sit in the drive-thru for a while. But that's our customer's expectations. They're not going for a quick meal through a KFC. So that helps a little bit with that.

And as Adam (Fishel) said, we have a lot them where again, it's a right-hand turn during peak hours, no left-hand turns. So we're all, you know -- we're all about that, because we're more of a destination. We are not an impulse business where it is like, make a left-hand turn, because you're there. You're coming to get something. So if that helps with the design of it.

GLENN HYDE: Even the right-hand turn, in this case, you would be turning in front of the liquor store and it is very busy liquor store.

MR. SHAW: I was more or less saying to get out. I mean the concern would be people trying to wait there to get the left out against the traffic. When the light is red, you can easily make a right out.

GLENN HYDE: I'm just saying there is a gauntlet there. There's a congestion problem --

MR. SHAW: Yes.

MR. HYDE: -- of large proportions. So that's all.

DAVID CROSS: Same concern. Particularly that left out, that heading eastbound down Chili Avenue, that is impossible. This does not work without a cross access easement to the north and I will leave it at that.

PAUL BLOSER: I guess I won't be an echo. It's -- we have got four corners there and businesses at each of those corners. This is the only one not active right now. But those other three are just horrible traffic getting in and out of those parking lots. So I -- I'm going to echo what they say, something to the north side is almost imperative.

MICHAEL NYHAN: Okay. Anything from the Side Table to add before I open the public comment?

MICHAEL HANSCOM: No.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: All I can say is that that design has not -- I'm assuming at least has never been to the Architectural Review Committee? Has it?

MICHAEL NYHAN: It went tonight. They gave them feedback and they have to come back next month.

MS. BORGUS: Had I been there, I would assume there was a lot of feedback because that is not the design or the type of look that we want in Chili Center. We have gone to great lengths here to get brick buildings, more of a traditional style. That does not fit.

I would love to see that building developed, but without another access there, I just don't know how you're going to get deliveries in. Tractor-trailers trying to pull in that tight space. Customers trying to get out.

And obviously there is a longer prep time in the type of meal that Kentucky Fried Chicken will serve compared to what Taco Bell does and that means you will have people sitting in that line on-site for quite a while. So you're going to have to have a lot of room to cue and then when people try to get out, they're held up. I just think you're going to have a lot of frustrated customers that will take a chance and pull out in front of anybody to get out on Chili Avenue because they're tired of waiting.

As far as right-hand turns go, you know, we have tried that before. You know -- they will do anything to make the turn that they're not supposed to. If they get tired of waiting, they just do it. So you can forget that.

I don't know. It just seems like without another way out of that site, it's -- it's really not doable. It is just so many things against it. As much as I would like to see the property developed, and these people have good intentions, it -- I don't know. There is a lot of obstacles here to be overcome and they're not easy ones. So the Board I'm sure sees all this.

Thank you.

TIM LEPORE

MR. LEPORE: Tim Lepore. Chili Liquor, Chili/Paul complex, both neighbors.

First of all, I just want to address the delivery that I have seen, the Taco Bell 18-wheeler 6, 7 o'clock on Chili Avenue. Forget the plaza. But on Chili Avenue. So I can't even imagine a KFC truck on Chili Avenue trying to unload over there when everybody wants to make a right in the plaza, my place and Dr. Callahan's.

My second point is the drive-thru, McDonald's, Taco Bell, it's never less than 6, almost as many as 20. There is no freaking way 20 cars can fit in that KFC. Maybe even 10 or 12. And without -- people being there, how will they get into my place? How will they get into doc's

office and, of course, the plaza, as well? And kind of going down to the -- you know, from two lanes to one. I get it, but it is still almost impossible. I think that is a major question.

We also need to go back to Taco Bell as a Town and say they can't be doing that either. It is just not safe for the deliveries over there on Chili Avenue. But the same thing can happen there.

And I'm not going to let them come on the north side. That is the end of discussion. There is no discussion. So -- I don't want to see a truck there either on that side, making a drop-off of goods. At this time, I have no intention for a north -- north access.

So the business is owned by both myself and my sister. She feels the same way. I have sent a letter to the Town to that effect.

MICHAEL NYHAN: Thank you.

Any other comments? We'll leave the Public Hearing open at this time. We'll wait on SEQR for the proper notification and then we'll continue on next month.

Any other comments to the applicant?

MATT EMENS: Adam (Fishel), the C7.0 for the truck turning, I guess the lanes are shown on there. I -- I just don't know where he is turning out of. It look like it works, but --

MR. FISHEL: To clarify, there will be no loading or unloading on Chili Avenue. DOT would never fly for that. You would have to get a permit from DOT to modify the curb cut.

The truck will cycle in and proceed -- let me just -- they will come in -- I have it modeled as coming in from the east on Chili Avenue, making a right turn in, cycling around in a clockwise manner. And again, this is outside of business hours, so there will be no cars parking in those parking spaces. So the tractor-trailer can swing in those spaces and make that movement around and out without any problem.

MATT EMENS: That's the only way it is going to approach from?

MR. FISHEL: I find the right-hand turns are the more difficult ones to make. I can certainly model it both ways.

MATT EMENS: You're probably right. I'm just...

MR. FISHEL: That's WB-55, so it's not a big semi -- it's a semi tractor-trailer but not one of the bigger 70 foot ones.

MICHAEL NYHAN: I think we heard that we're not going to get a north, but if you could, just send the formal request. He can deny that and send it back so the Town has that on record. We would appreciate that and the statement, as well.

MR. FISHEL: Sure.

MICHAEL NYHAN: Any other feedback?

You want to entertain a motion to request to table this until next month?

MR. FISHEL: Request to table it.

Michael Nyhan made a motion to table the application, and Matt Emens seconded the motion.

DECISION: Unanimously tabled by a vote of 6 yes to table. Application has been moved to the January 11th, 2022 meeting. Public hearing has been left open.

OLD BUSINESS:

1. Application of Fallone Properties, Ltd., 70 Quail Lane, Rochester, NY 14624, owner; for A) preliminary subdivision approval of 23 lots to be known as 93 King Road Subdivision and B) preliminary site plan approval to erect 10 duplex and 3 single units at property located at 93 King Road in R-1-15 District.

MICHAEL NYHAN: This will be for a final subdivision approval. Preliminary was received in October of this year, 2021.

Mike Ritchie was present to represent the application.

MR. RITCHIE: Mike Ritchie, Costich Engineering. Thank you again, Mr. Chairman, and members of the Board.

Here tonight requesting final approval for 93 King Road. It's 23-lot subdivision. As you stated, we granted preliminary approval in October. And due to some unforeseen conditions, we had requested to be tabled last month so we're here in front of you requesting final.

We did receive a comment letter from the Town Engineer. They're mostly housekeeping items, items that need to be addressed prior to plan sign-off. We don't see any issue with those and we'll respond to those accordingly. One item I think was -- the outstanding item was addressing the Homeowners' Association. I know the developer has been working with his attorney and I received word that they should have sent something to the Town today. I haven't confirmed that with Paul (Wanzenried) or the Town Attorney yet, but I would say we would be willing -- if the Board were willing to approve this tonight, you know, any conditions the Town Attorney may have to that, we would be willing to address to his satisfaction.

So with that, I would be happy to answer any questions.

MICHAEL NYHAN: You were able to address all of the items that we had been requesting before, correct? There was a landscaping issue. You were going to --

MR. RITCHIE: This doesn't show it. I know the updated plans do, but there were some -- I think there were White Spruce pine trees that one of the members of the audience who lives

across the street had requested. We added those to the updated plans. I don't think there were anything that required plan changes besides that. More clarifications to the audience at that time. So I -- so we feel we have addressed the comments from the preliminary.

MICHAEL NYHAN: Okay. Just double checking my notes to make sure that that was -- the HOA. We'll go ahead with questions or any comments while I'm looking that up.

There are no changes to the plan itself, for the three homes on King Road as well as the town homes; is that correct?

MR. RITCHIE: That's correct. There is no change.

MICHAEL NYHAN: Just addressing the technical items with the engineer and landscaping.

MR. RITCHIE: We also reached out to Pure Waters and the County DOT. We're well underway -- actually on the second round of comments more or less, the final tweaks in order for them to be able to sign off on the plan.

MICHAEL NYHAN: Anything from the Side Table for final on this? Any other issues or items or anything of -- of concern? Everything has been addressed that needed to be addressed?

ERIC STOWE: With the outstanding HOA stuff, right?

MICHAEL NYHAN: With the outstand -- correct. And, of course, our Town Engineer approval to move forward to make sure all of the -- his comments are satisfactorily addressed.

MICHAEL HANSCOM: My comments in the comment letter I provided to the Planning Board have been satisfactorily addressed. I'm still doing some review of the SWPPP. That is what I have reviewed so far. I haven't seen any issues -- any significant issues. I will get a letter out to them by the end of the week I would anticipate.

MR. RITCHIE: We're happy to work with Mr. Hanscom and address any comments he has.

MICHAEL NYHAN: Okay.

ERIC STOWE: We still good with the condition that no occupancy or dedication or anything -- excuse me. Not dedicated. But no occupancy until the HOA is in place?

MICHAEL NYHAN: We are -- you're asking the applicant that?

ERIC STOWE: Well, we had a condition on that and that he is -- regarding no C of Os or building permits, I believe, or anything until --

MICHAEL NYHAN: I was going to carry over all previous conditions set by this Board will be in effect.

ERIC STOWE: I'm fine with that, but I just want to make sure that we're clear the HOA to be in place because we're not maintaining the roads or anything else.

MR. RITCHIE: Right. Understood. Absolutely.

MICHAEL NYHAN: And also SEQR was completed for the preliminary and there is no thresholds exceeded on this, so we won't be doing SEQR for final.

And I will double-check my conditions from October for the Homeowners' Association because I have trouble -- Homeowners shall be formed to manage maintenance of the proposed private road, storm sewers and storm water management areas.

HOA must be submitted to the Town prior to final site plan approval and in place.

Approved by the Attorney General prior to C of O issuance.

So it has a -- an HOA has been submitted to the Town?

ERIC STOWE: Not to my knowledge.

MR. RITCHIE: I can't attest to that. I spoke with the developer who said he was talking with his attorney who was going to send it to the Town, specifically Dave Lindsay, which I know he is not here. So however the Board wishes to proceed not knowing, I understand fully. I would say, though, that -- if the Board were to approve it, obviously if you want to add a contingency to it that even plan sign-off couldn't occur until the HOA has been reviewed by the Town Attorney, that way we're not -- not -- we're not -- the developer can't proceed or do any construction and then have this big red flag or big issue occur.

That way we can address everything tonight and dot every "I" and cross every "T" with the Town staff after this.

ERIC STOWE: I defer to the Board, but in talking with Paul (Wanzenried), just no mylars to be signed prior to these -- those items being submitted.

MICHAEL NYHAN: How do we deal with the previous condition? Can we just create a condition on this one stating that no mylars and proceed with final? Are you okay with that?

ERIC STOWE: You would be revising that condition to say no signatures on the mylars, nor building permits issued until Homeowners' Association has been approved by the Town. And submitted to the Attorney General.

Well, I guess in talking -- in hearing Paul (Wanzenried), the question will become do you want it approved by the Attorney General prior to the signing of mylars? I think that is what would protect the Town more sufficiently in that you're not worried about the back-and-forth with the State agency.

MATT EMENS: That could still throw up that big red flag.

ERIC STOWE: Right.

MICHAEL NYHAN: So before we had it that we could not have a C of O until it was approved by the Attorney General. Once we sign -- once we sign the mylars, that would give the ability for them to -- to start, but they just wouldn't be able to have a C of O; is that correct?

ERIC STOWE: A C of O, right. Which if it is going -- if there is going to be shared access or -- or shared improvements among the various parcels, they're in big trouble with the Attorney General's Office if they don't have an HOA in place.

And again, if there are three single-family homes that will not be a part of this, I don't know that we would need to apply for those, as they wouldn't be part of the HOA.

MICHAEL NYHAN: Right.

MATT EMENS: So we can just say excluding the three planned single-family home lots? I mean they're designated as Lots 1, 2 and 3, correct?

MR. RITCHIE: Correct. I guess my question with that -- and it's probably in the best interest of the developer -- to ensure that an HOA will be approved by the Attorney General prior to commencing with construction, because obviously if the State doesn't approve it, he -- he -- he is in some trouble.

So would it be possible for our office to prepare, I guess, an amended subdivision plat map and that the Town would sign for just the three single-family lots? Again, if that is a possibility, you know, we can talk about it. I don't know if the developer would just want to wait to get it all sorted out entirely knowing that those three single lots on King Road aren't part of the HOA? I guess I don't -- I would probably want some sort of determination at tonight's meeting whether or not -- what your resolution states.

ERIC STOWE: I think the only way you could do that is an amended subdivision because the plat that is approved has the three lots plus the HOA.

MR. RITCHIE: Correct. So it would be a subdivision map of just the three lots and then the remaining lands and then you have to file a subsequent map, almost like a phased subdivision where the remaining 20 lots would then get subdivided.

Essentially it is the same design from the final plan. It is just what individual lots get filed when, if that makes sense. Again, it may all be a moot point. If he has to go to the -- to the State and he isn't going to start construction until the spring anyway, this may all be addressed and it may not matter. But I think he would appreciate some flexibility.

Again, I'm not an attorney and I don't deal with the HOA process. I don't know if this is typically a three-month, six-month process with the State. If it is, then obviously it could be an issue.

MICHAEL NYHAN: Sorry.

ERIC STOWE: My guess is -- whatever it was, it's a lot longer now.

MR. RITCHIE: Right.

MICHAEL NYHAN: So I agree, I wouldn't want to prevent the three homes from being developed on King Road.

PAUL WANZENRIED: Right.

MICHAEL NYHAN: But before we -- once the road is built, before we would take any dedication --

ERIC STOWE: We're not --

MICHAEL NYHAN: Oh, that's right. It's a private road. Right. So that is why we made it before the first C of O. Got it. All right.

So if we modified condition number 11, which was the HOA, we could approve final site plan. However, no mylars or building permits would be issued until the HOA agreements had been submitted to the Attorney General or approval by the Attorney General.

ERIC STOWE: I would say "approved." We have had similar issues where roads are not done.

I guess if -- if that condition -- could also be will not prevent the applicant from a revised -- a revised subdivision pertaining to the three single-family homes on King Road.

Right?

MR. RITCHIE: Right. I guess my question would be, whether that revised subdivision map would require additional approval from this Board or if it would be -- just need to be created to the satisfaction of the Town Engineer and the Commissioner of Public Works.

ERIC STOWE: I would think it would have to be a revised subdivision.

MR. RITCHIE: Approved by this Board.

ERIC STOWE: For this Board.

MR. RITCHIE: Okay. I guess if -- if the developer wishes to go that route, could we reapply just for the three lots to be approved separate from -- from the rest and not impact this resolution?

ERIC STOWE: I think that is why if we put in that condition that the -- the -- it would not prevent the subdivision -- the resubdivision of the three single-family homes, but that condition would apply to the HOA parcel -- the HOA parcel only.

MR. RITCHIE: Understood.

So we have to make application back to the Board to get three lots -- subdivision map approved for those three lots so we can build those if for whatever reason the State was dragging their feet on the HOA approval.

ERIC STOWE: Mike (Hanscom), would that change your drainage or anything? That is my only concern. Do you have -- that was one of the chief comments at the Public Hearing, was drainage and --

MR. RITCHIE: They're fairly independent, because you have that ditch that runs through the site. There are two separate storm water management practices for the 20 lots and then for the 3. So it's my -- it's my feeling that they could be constructed independently of each other.

MICHAEL HANSCOM: I would have to look at the SWPPP again about that. The SWPPP he has covers the entire -- all of the parcels together, so the -- so the way he did it -- the drainage analysis, you have storm water quantity control is -- is taken up by the -- by the pond where the HOA parcels are, not so much on the other three parcels.

MR. RITCHIE: Correct. Correct. If after speaking to the developer, if he wishes to pursue with just three lots right now, we could work on an amended SWPPP that just addresses just the three homes. You know, because not to get into the weeds too much, but when you look at storm water for three single-family residential lots versus a 23-lot subdivision, the -- the different DEC rules come into play. Where I think -- I believe it is less than five acres technically doesn't require peak rate mitigation. And I may be misquoting that, so correct me if I am wrong.

But essentially -- and maybe this muddies the water too much because now you're pulling SEQR into effect and you're looking at them as two separate projects as though they're actually one overall project, so I guess I'll shut up.

MICHAEL HANSCOM: Since they're separate applications, we have to condition as -- consider them separately regarding the storm water.

MR. RITCHIE: Correct. Correct. At that point we would have to provide storm water management as if it were its own project, which we maybe need to do more than we want to considering we're detaining additional runoff to the south side of the creek.

MICHAEL HANSCOM: That pond would get smaller, but you have to do something on the other side.

MR. RITCHIE: Understood. Understood.

Well, I guess if it's possible, leave it open in the resolution. I could speak with the developer and get his attorney in gear and get this into the Town and then into the State and get this process moving as quick as possible so hopefully they can be in a position to have mylars signed off and move earth in the spring.

MICHAEL NYHAN: This is the condition that I have written.

Modification of Condition Number 11 on the preliminary site plan conditions. Permit approval of the final site plan prior to submission of HOA to the Town.

No mylars to be signed or building permits issued until the HOA agreements have been approved by the Attorney General.

This condition will not prevent the applicant to provide a revised site plan with the three single-family lots on King Road to be separated from the ten duplex family units.

So that leaves you the option either way based on what happens with your process.

MR. RITCHIE: Understood. Thank you.

MICHAEL NYHAN: Your progress, I should say.

MR. RITCHIE: Understood.

MICHAEL NYHAN: Did that meet --

ERIC STOWE: Revise site plan and subdivision.

MICHAEL NYHAN: Say that again.

ERIC STOWE: Revised site plan and subdivision for those three single-family homes. It was all part of the same subdivision application.

MICHAEL NYHAN: Okay. This condition will not prevent the applicant to provide a revised site plan and subdivision for the three single-family lots on King Road. Right?

ERIC STOWE: Good.

MICHAEL NYHAN: Okay. So the conditions for approval are all -- all previous conditions imposed by this Board that are still pertinent to the applicant remain in effect.

Modification of Condition Number 11 on the preliminary site plan. Permit approval of final site plan prior to the submission of HOA to the Town. No mylars to be signed or building permits issued until the HOA agreements have been approved by the Attorney General. This condition will not prevent the applicant to provide a revised site plan and subdivision for the three single-family lots on King Road to be separated from the ten duplex family units.

Any other conditions for this application? No?

With those conditions, the application of application of Fallone Properties, Ltd., 70 Quail Lane, Rochester, NY 14624, owner; for final subdivision approval -- there was a mistake on this application -- 23 lots to be known as 93 King Road Subdivision and to erect 10 duplex and 3 single units at property located at 93 King Road in R-1-15 district.

MATT EMENS: Second.

DECISION: Unanimously approved by a vote of 6 yes with the following conditions:

1. All previous conditions imposed by this Board that are still pertinent to the application remain in effect.
2. Modification of the condition number 11 on the preliminary site plan condition: Permit approval of final site plan prior to submission of HOA to the Town. No mylars to be signed nor building permits issued until the HOA agreements have been and approved by the attorney general. This condition will not prevent the applicant to provide a revised site plan and subdivision for the 3 single-family lots on King Rd. To be separated from the 10 duplex family units.

MR. RITCHIE: Thank you very much for your time.

MICHAEL NYHAN: Those are all of the applications. The only other business we have are the minutes.

Matt Emens made a motion to accept and adopt the 11/9/21 Planning Board meeting minutes, and Michael Nyhan seconded the motion. All Board members were in favor of the motion.

Michael Nyhan and the Board members acknowledged that this was Eric Stowe's last meeting with the Planning Board and thanked him for all his contributions made over the years.

The meeting ended at 9:15 p.m.