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This memorandum is uncorrected and subject to revision before
publication in the New York Reports.

No. 173 SSM 17
In the Matter of Thomas Anderson,
et al.,

Appellants,

v.

Town of Chili Planning Board and
Metalico Rochester, Inc.,
Respondents.

Submitted by Janet D. Callahan, for appellants.
Submitted by Keith E. O'Toole, for respondent Town of
Chili Planning Board.
Submitted by Jeffrey J. Harridine, for respondent
Metalico Rochester, Inc.

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On review of submissions pursuant to section 500.11 of the Rules,
order reversed, with costs, respondent Planning Board's
determinations issuing a conditional use permit and a negative
declaration annulled and matter remitted to Supreme Court, Monroe
County, with directions to remand to the Planning Board for
further proceedings for the reasons stated in the dissenting
memorandum at the Appellate Division (59 AD3d 1017, 1019-1020 [2009]).
Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Smith,
Pigott and Jones concur.

Decided June 30, 2009