

TOWNSHIP OF LOPATCONG
PLANNING BOARD MEEING

April 26, 2017

The meeting of the Planning Board of the Township of Lopatcong was called to order by Chairman Johnson at 7:00 pm.

A Prayer was offered followed by the Oath of Allegiance.

Chairman Johnson stated “adequate notice of this meeting has been provided indicating the time and place of the meeting in accordance with Chapter 231 of the Public Laws of 1975 by advertising a Notice in The Star Gazette and The Express Times and by posting a copy on the bulletin board in the Municipal Building.”

Present – Members Correa, Fitzsimmons (Arrived 7:08), Fox, Pryor, Schneider, Woolf, Mayor McKay, Vice-Chairman Olschewski, Chairman Johnson, Alternate Frank. Also present were Planner Ritter, Engineer Sterbenz and Attorney Sposaro.

Old Business:

Minutes - March 22, 2017 – Approved on motion by Vice- Chairman Olschewski, seconded by Mayor McKay. Roll call vote:

AYES: Members Pryor, Schneider, Woolf, Mayor McKay, Vice-Chairman Olschewski, Chairman Johnson, Alternate Frank

NAYS: None

ABSTAIN: - Members Correa, Fox

Resolution – Tabling discussions on the ROM Manufacturing Zone District until the court makes their decision.

Attorney Sposaro – I should indicate that the court has rendered a decision but this was the action of the Board taken at its last meeting so the resolution should still be adopted. Motion by Member Pryor to adopt, seconded by Member Fox.

Chairman Johnson – Any discussion on this?

Mayor McKay – I think it should be clear that this is just perfunctory because the court did give its decision. So, it would be confusing.

Chairman Johnson – Yeah, I did actually talk to Tony about that and this is gonna, commemorating what we voted on last meeting.

Member Pryor – This was the motion that was made and actually the Mayor made it, I seconded it. I was surprised at his hesitation. I didn't expect the decision to come down this fast. So, the motion in itself is harmless. I do note Tony gave a discussion of it's not over, till it's over. I'll

paraphrase with what Tony said which the court decision doesn't necessarily end, you know, the issue and then you have the conflicts hanging in the air and you run the risk if the conflicts are determined to be true, whatever action we take could be overturned. So, I just point that out, but this resolution in itself, is harmless.

Chairman Johnson – I agree with you. I think it commemorates the motion that happened in the previous meeting. Did we get a second?

Member Fox – Yes.

Chairman Johnson – Okay. So, any other points of discussion? I read through it. It looked to be accurate in my opinion.

Vice-Chairman Olschewski – Tony, is it your professional opinion that that is still beneficial and it has, it makes sense to do?

Attorney Sposaro – It makes sense to do because you need a resolution to memorialize the action that the Board took. That was the motion that the Board took and this reflects that. It is not terribly useful going forward because the court has rendered a decision. I don't, if there will be an appeal to the New Jersey Supreme Court or some other collateral attack but as things stand now, that's the decision of the court, but I see no harm, no foul in adopting the resolution.

Chairman Johnson – Okay, no other comments then we'll do a roll call on it or abstain if you need to.

Roll Call:

AYES: Members Fitzsimmons, Fox, Pryor, Woolf, Mayor McKay, Chairman Johnson, Alternate Frank

NAYS: Member Schneider, Vice-Chairman Olschewski

ABSTAIN: Member Correa

Chairman Johnson – Before we continue our application hearing, I believe we have some certifications to do because there were a few members present; the hearing was three meetings. If I remember correctly, I think it was three meetings. So, we need certifications from the people that missed a meeting to make sure that they saw the video or read the minutes. I don't know

Member Pryor – Minutes don't count. You need a transcript. So, it would have to be the video.

Chairman Johnson – Is that true, Tony?

Attorney Sposaro – I didn't hear you Joe, sorry.

Member Pryor – The law says transcripts, we didn't have a transcript of the meeting. The minutes are not a transcript.

Attorney Sposaro – The minutes are not a transcript. Is there, what was reviewed?

Member Fox – It's irrelevant, we both watched the video of the appropriate dates.

Chairman Johnson – Okay, so we have. We need this; we need a certification from Jon, from Donna. Anybody else?

Attorney Sposaro – And, I think watching the video is sufficient and looking at the exhibits because often times there's no transcript and people just listen to the tape. I think it's easier to figure out what's going on and watching a video and seeing who said what and trying to listen to a tape and discern what was said by whom. I think that satisfies the requirement of the statute.

Chairman Johnson – Was there anybody else that needs to do the certificate as well? Carlos did you?

Member Correa- I will abstain from the vote.

Chairman Johnson – Okay.

Member Correa – Correct.

Secretary Dilts – So, they need to sign their certifications and let Tony notarize them.

Chairman Johnson – All right, let's take care of that.

Member Schneider – Can I just make a note for the record Eric, if you don't mind?

Chairman Johnson- Sure.

Member Schneider – I just want to make a note that Member Pryor had said that I missed expert testimony that night in the last 14 minutes that I left the meeting. I did review the video and I would like to just go over minute by minute what I missed; 9:21 started with the Board questions, 9:32 started with Public questions, 9:43 discussion was done. At 9:42 Vice-Chairman Olschewski waived goodbye to me and I was in the back of the room and I spoke to Mr. Ferruggia and Mr. Snyder and let them know why I was leaving and I left the room at 9:44. So I actually missed nothing, but I will sign it because I did miss, but I did not miss any expert testimony is what Member Pryor had said. So, for the record, thank you.

Chairman Johnson – So, to be safe, you'll still do the

Member Schneider – Yeah, I'll still sign it because I missed a meeting; I missed 14 minutes of the meeting but it was not expert testimony as Member Pryor had suggested.

Member Pryor – Well, I do remember you leaving earlier for about two to three minutes.

Member Schneider – I did not leave earlier Mr. Pryor.

Member Pryor – Excuse me. I got an email from a resident who Opra'd the tape. We have two tapes; one from the front, one from the back. She sent me an email. Beth, do you remember her leaving?

Secretary Dilts – Yeah, Donna I don't know if you remember, but you got up from your table and you went over and picked something up on the floor and then you walked out of the meeting room why Mr. Peck was addressing one of the witnesses. I don't recall who it was exactly.

Member Pryor – So, that's what I feel, but I'll accept your certification. I'm not going to argue.

Member Schneider -I wasn't asking you to accept my certification. I was just pointing out that I did not miss expert testimony.

Mayor McKay- We have two tapes of this?

Attorney Sposaro – If you can sign those and hand them up; let's move on.

Mayor McKay – I would like clarification that there's two tapes of this meeting. I thought there was one.

Member Pryor – There's a tape from the front and a tape from the back and you can see things from the front that you can't see from the back.

Member Schneider – Are they both on line?

Mayor McKay – Well, why is only one on line?

Secretary Dilts – It's the same tape. If you look over here, this is what appears on the monitor. When I do the minutes, that's what appears to me; both of those screens. I think that's what Mr. Pryor's referring to.

Member Pryor – That's right and the one that's posted you can see the Board. You can see the witnesses. You can see all the transactions.

Vice-Chairman Olschewski – No.

Mayor McKay- Well, why don't we post both?

Member Pryor – Because no one's interested in the audience or who walks out the door.

Member Schneider – Apparently they are.

Member Pryor – No, I saw her walk out so, I'm saying somebody got that

Member Schneider – Mmmhmm, all right.

Member Pryor – tape and told me that they recorded the time. I didn't bring the email.

Member Schneider -All right. Okay. Well

Member Pryor – Not worth arguing about.

Member Schneider – Yeah, we should post both tapes though.

Member Pryor – So, we're going to listen to the same thing from the front of the room and the back of the room?

Member Schneider – Sure. If you're going to question people and leaving and dropping a piece of paper then, yes.

Member Pryor – Are you going to put that to a vote Eric?

Chairman Johnson – Are we suggesting that we post both cameras on line or that you don't need an Opra Request to do the camera from the back; you just come in and ask for it.

Member Pryor – No, it was an Opra Request.

Chairman Johnson – So, do we want to post both on line is that

Member Pryor – I think it's silly, but

Vice-Chairman Olschewski – Eric, Donna signed the paper. Donna signed the paper.

Member Pryor – I said I'm done, you know, so.

Attorney Sposaro – Let's move on.

Chairman Johnson – We can talk about this later. If you want to make a motion now to post both, but maybe we can think about it too. We can talk about this next meeting if we want to.

Member Schneider – Sure. Sure fine.

Chairman Johnson – I think the important thing is that everybody saw the video they needed to. We can move on and Donna has stated her case on the timing which appears to be accurate based on the video, in my opinion, of the video looking at us. I guess that's the back camera. I personally haven't seen the front camera but I don't plan it. So, I guess we'll get the certs done and then we can move on.

Attorney Sposaro – Why we're waiting for the other certification to be passed up, I want to address an email that I received concerning the Ferruggia Self-Storage application. I received more than one but the first one, that I want to deal with is an email that I received from Board

Member Pryor and I'd like to read it into the record and tell you what my opinion is concerning this.

“Tony I received direct reports from Bill Wright, Gary VanVliet, and Beth Dilts that Eric Johnson has approached them outside of the hearing and asked for their opinions on the Ferruggia application. It is my understanding that all discussions, presentations of evidence, questions and comments with regard to a pending application must be done on the record and at the public hearing. Each case is to be decided strictly on the basis of facts produced at the hearing, viewed in light of the statutory and ordinance requirements. Further, the applicant, the Board and the Board's Professionals have a right to hear all comments and cross-examine all witnesses. If the reports are true, and I have no reason to believe they are not, Mr. Johnson's ex parte communications could jeopardize whatever decision the Board makes. I am sure his discussions were the result of his inexperience. None the less, it has been explained to the Board that their function is analogous to a jury. As Chair, Mr. Johnson should know better. To be on the safe side, it is my opinion that Mr. Johnson should acknowledge his actions and recuse himself. My suggestion is you talk to him and ascertain the facts. I would hope we could solve this offline rather than at Wednesday's meeting. Please advise. Joe Pryor”.

Attorney Sposaro – When I received this I forwarded this on to Eric to get his response and reaction and in what Eric indicated to me was that he did indeed have discussions with various individuals regarding the application and he asked my opinion as to whether that would disqualify him from considering, continuing to consider and vote on this application which I hope, God willing, this thing is brought to a vote this evening. My reaction, I asked him two questions. I said first “if you do take action on this application will you consider not what individuals said outside the four corners of the meeting room, but only the record as it was created within this building, meaning the testimony, the exhibits and all the evidence that was placed into the record here”. The answer to that was he would consider only that. I also asked him “if he remained objective and kept an open mind regarding the application”. His response was yes. Based upon that and those responses, I do not see a legal basis for disqualification here. I can find no authority that prohibits a Board Member or Board Professional from discussing an application with members of the public, with other members of the Board, provided there is no violation of the Open Public Meetings Act or with Board Professionals. I think it's something that happens on a regular basis and I don't think it goes so far as to create an appearance of impropriety and I just don't, I don't have any issue with it. I'll also say that, I said to Eric “maybe you're surprised that I'm offering an opinion here as opposed to the other issues that have been raised regarding conflicts of interest and the ROM Zone where I refused to offer an opinion and I did that for this reason because I think it's pretty clear here. On the other matters, reasonable minds could differ as to whether any members have a conflict and I'm not going to sit up here like Solomon and make a decision one way or another. I think that goes beyond the scope of what I am authorized and responsible for doing. So, I offer my opinion regarding Mr. Johnson's alleged conflict on this application. I don't think one exists. If anybody else has anything to say, I'm more than happy to listen to what they have to say.

Member Pryor – Well, I'll just say I accept your decision. That's what I asked for. I still think it is bad practice and not in accordance with Municipal Land Use Law to walk around outside this meeting and ask for opinions. It's clear; witnesses have a right to cross-examine people. You're to

make your decision on the record based on what's on the record and what's in accordance with the law. So, that's my feeling, but you did what I asked you to do. I accept it and it's over as far as I'm concerned.

Attorney Sposaro – I do with agree with one thing; I do agree with a lot of what Mr. Pryor's said but I would urge the Board to just curtail your activities outside the meeting room with members of the public or the applicant regarding an application while it's pending. I just don't think it is a good practice. Nothing really good can come of it. If there's a member of the public that wishes to make a statement, express their views, there'll be ample opportunity for public comment after the applicant is concluded with its presentation of the case and I think that's probably the most appropriate time to hear from the public.

Chairman Johnson – Do you have any comment on discussions that a Board member or a Board Chair would have with their Secretary? To me those conversations have always existed – you have to communicate.

Attorney Sposaro – I think they've always existed. The professionals certainly speak amongst themselves at various times regarding applications but does that run afoul of the Land Use Act. I don't think it does. I don't think it does as long as your decision is based upon the record that's created here and you keep an open mind during the course of the entire preceding, I think that's what you're obligated to do and you've represented to me that you've done and you're doing just that and with that I'm satisfied.

Member Pryor – And, I'll accept that representation.

Attorney Sposaro – Thank you.

Chairman Johnson – I accept it too and again, I think it is diligent for all of us to be aware of what happens outside the room. Even if you are approached by somebody not to be rude to them but, you know, watch the conversations because you can be led you know for the which could come back and something like this could happen but with that being said, we just , I think we're ready to move on. So, we have the applicant here and I believe that we have the last cert.

Attorney Sposaro – I should indicate, and Mr. Peck you are free to step up but I did receive a call today from David Gardner who advised me and confirmed and I also received correspondence from his attorney that he would not be appearing this evening that the, for lack of a better description, the parties met, they have modified the plans. Those modified plans have been submitted and it is my understanding that based upon those plan modifications, that Mr. Gardner or Larken, whatever you want to call it, has withdrawn his objection to the application. He acknowledges that it is still up to the Board to make a final determination but he wanted to go on the record indicating that he has no objection to the application that has been submitted as revised. I think that makes our job infinitely easier and I also think that the revisions to the plans result in a better design esthetically, functionally, and I think we all benefit from that, so.

Chairman Johnson – Did everybody get a chance to pick up, I think it was five sheets of plans that would have the revisions on them? Okay, good.

Attorney Sposaro – Mr. Peck, in light of this, I don't, what I would suggest perhaps is that someone briefly go through the plan modifications. I would, to the extent of any of the professionals testimony, changes as a result of the plan revisions, other than your architect, we'll hear from them, but I think we just need to see what those plan changes are and we'll see if the public has any questions and comments and we can get to the finish line.

Chairman Johnson – And particularly, if you can emphasize what variances may no longer be required or how they have, how your new plans have affected the variances that you're asking for. I don't believe we have that yet, but I'm curious on how the changes affected everything.

Attorney Peck – Thank you, Mr. Chairman and members of the Board, so that (inaudible) Mr. Sposaro's summary my intention tonight, my client's intention tonight is not to belabor the point. We're not going to present any new testimony. We have Mr. Doug Coleman here, our architect. He'll explain to you the changes to the design. We'll do those with Tom Decker our Engineer. We made some minor changes and additions to the landscaping and that's it. We'd like to, any other questions? As far as the variances we're seeking, I don't think they're changed. I have questioned in my mind whether or not height variance was going to be affected and we still need a height variance; it's just I don't know offhand, maybe Doug later on, can explain whether it is still 44.6 feet versus 44.3 feet or 44.9 feet. That I don't know but everything else remains unchanged. Same building box, same layout, same everything.

Chairman Johnson – A quick question for you or professionals, I'm sorry to interrupt, but your variance for the number of stories would no longer be required if I understand it correctly because the basement level does not count as a story?

Attorney Peck – That's actually, that's actually true. I'll defer, of course, to the Board's Planner. Either the height isn't changed, but yeah, the stories three above ground one below ground.

Attorney Sposaro – If I remember correctly, you didn't exceed the height but you exceed the stories.

Attorney Peck – So, the height hasn't changed but the story issue has.

Members talking over each other.

Chairman Johnson – George, do you agree with that assessment on that variance no longer being

Planner Ritter – Correct. I believe, I agree with Mr. Peck that the other variances that we put together still are ones that the Board would have to consider but the height variance for the number of stories is gone as a result of the changes they've made.

Chairman Johnson – And your square footage remains the same?

Attorney Peck – I believe the square footage is still 31,200 feet. There have been, you know, a couple of revisions

Engineer Sterbenz – We still need the variance for the four stories because of the definition of a building (inaudible) if a basement is used the purpose is considered a story even though it is below ground level.

Attorney Peck – So, we seek a variance for a four story building, three of which are above ground, one of which would be (inaudible).

Chairman Johnson – And now, the variance is back for the loading dock as well cause you are over the 30,000 square feet. I'm asking, it's a question.

Attorney Peck – I'm, I'm not disputing that

Chairman Johnson – Okay.

Attorney Sposaro – Call your first witness.

Attorney Peck – Call Mr. Doug Coleman who I believe is previously sworn so, Mr. Coleman if you can educate the Board about the revised plans.

Doug Coleman – Sure, as Mr. Peck had said, after last meeting, we had an opportunity, myself and Mr. Ferruggia had an opportunity to go and meet with Mr. Gardner. Some of the concerns that Mr. Gardner had said at that meeting as well as some of the concerns the Board members would say were taken to heart. One of the things that Paul had asked us is whether or not we could move this one story into the basement and my answer at the particular time was when we did our original geotechnical reports, we determined that it would be we said infeasible from a dollars and sense standpoint. But realizing where things were going with the Board, the Ferruggia's hired their engineer to go back out to the property to do some additional test holes to determine where, you know, whether there's going to be a problem or not be a problem. Although it's going to cost more money to do it, it is feasible to do it so; we made the decision to do it. And, in doing so, we also went back as Mr. Gardner was saying the last time that he wouldn't object if this thing was three stories and had a regular pitched roof on it. So, by pushing that floor under subsurface and below the ground, it allowed us to come back and put a regular full pitched roof on the building where as before we had more of a mansard type roof. And, we were also allowed to go to more residential character materials. I'll show you in a minute that we've gone to asphalt shingled roof; we've gone to clapboard siding, shutters and more windows. But I'll marked these exhibits based upon our, where we left off the last time. The first exhibit I'm showing you which is our Sheet A-1 which is Exhibit A-15 with today's date on it if you look to the bottom right, it now shows what that first floor plan is going to be and it shows what the lower level basement or subsurface plan is going to be. Basically, we were able to drop it back down. We discontinued the staircase. But that was not the difficult part. Obviously, the next exhibit which is Exhibit A-16 which is our Sheet A-2 that shows the third and fourth floor the way it was. One of the new Exhibits will be A-17 which is basically, our

Sheet A-3 which now shows the new front elevation and the new rear elevation. If you'll notice from the last time, we changed to a pitched roof on the front of the elevation. We changed to an additional siding; we're using brick, cut-faced block as well as clap board. We added more windows and more shutters to it and then we repeated that across the back of the property to try to make it more, so it didn't appear to be that, that box of a building. The question was asked in terms of what the building height is; right now we are at 44.4 feet, so, we are staying under that 45 feet requirement. Our Exhibit A-18 is our Sheet A-4 which now just shows you the right and left sides on these we also continued the windows on the second and third floor and we also added the shutters on the other side and then we went back and added additional landscaping that the engineer will testify to. The additional landscaping that we added to that was really in response to Mr. Gardner's concerns about what it's going to look like. The last time, based on one of the objector's, they had questions about what the roof would look like. I had made the comment that anybody with a pencil could draw one so, we drew one. Basically, it's showing you that it's now a new full pitched roof. So, even from a distance you'll see it. It is going to be a residential scale roof; big hip to the back, there's a hip to the side and basically, you'll see the slopes in there and that is our Exhibit A-19, Sheet S-4. Then we get to the new color rendering that's in there and what's happening, I also have the back two sheets are the actual color renderings up close for you. We redid the rendering showing you a little bit more in terms of what the color palette is going to be. Mr. Ferruggia said it was going to be more of an earth tone type materials. We are using clap board, we are using brick. We have a cut faced block on the lower level. We added in the windows. We've also, then gone back and changed the roof design to make it a little bit more residential in character so that is the front of the building and our Exhibit A-21 today's date, shows the rear of the building. And, to show again, what we're having, what the color scheme is, what the roof design is, and the additional buffering of the landscaping in there. So, based on this, we determined that we could go back and get that lower level to work. It's going to cost more money to do it. The roof is going to be more money to do it because before we were actually building storage facility spaces up on that roof. We're no longer doing that. One of the questions came up about the loading dock and what's interesting about it, in typical warehouse space one of the things they're looking at, is there's very little common area in a physical warehouse. In this particular type of facility there is a lot of common area and because in a warehouse space, everything is useable to the person who owns the warehouse. In this, they're only utilizing the space that they're renting. So, right now, we have a building that is 31,580 something square feet. Only 18,000 of that is usable to the tenant. The rest of it is common area. There's a very high common area to this particular building; it's about 58% of rental space compared to a warehouse that normally has 100%. So, our testimony or my testimony would be under the requirement of having two loading docks for a warehouse, you could see that when you are utilizing all the space, but in this case we almost have a 50% of the building being utilized as common area and it not going to have storage in it just means the hallways, the office and all that area. We kind of feel that the additional one loading space works but our testimony the last time was if the Board felt so, we had parking spaces in the front that

we could take three of those parking spaces and stripe those as the additional loading area if the Board so felt so.

Chairman Johnson – Did you say you had storage on the fifth floor?

Doug Coleman – Fifth floor?

Chairman Johnson – The roof?

Doug Coleman – No. The last time, if you remember, we had a square building and what we did is we ran a mansard roof across the top. What that mansard roof did, was it hid the fourth floor. Now, we don't have, this is just attic space right now; it's trusses. So, we are no longer storing up in that area and I was just bringing the attention to the fact that a building like this has a very high common area because you need the five foot wide hallways to get everybody to the storage space. So, we thought that the one storage or a loading dock or area was sufficient.

Member Pryor – Do you have any mechanicals up top?

Doug Coleman – There will be mechanicals. There'll be ductwork; this is going to be (inaudible) space so, there will be some duct work running through the attic.

Member Pryor – Are those fake windows or real windows?

Doug Coleman – They're actually; they're going to be fake windows. Now there maybe an opportunity based upon a hallway or something to make it be a real window, but the intent was really just to bring it

Members talking over each other.

Chairman Johnson – A question on the building height and I tried to pull up the grading plan but I couldn't get it up quick enough so, I'll just ask it, the building height that's on your plans is that from the highest grade elevation around the building or the lowest grade elevation? I know it's not perfectly level.

Doug Coleman – I think, we took it from the engineers so, I guess your gonna ask him that question from the grade but the intent, just to show is we're going to stay underneath the 45 degree requirement based upon the definition of your ordinance. Your ordinance I think is based on average grade.

Chairman Johnson – On average grade, okay.

Doug Coleman – And, my testimony, is we are going to be below 45 feet average grade.

Chairman Johnson – Based on average right?

Doug Coleman – Because we have the ability to change the pitch on that roof.

Attorney Peck – And that concludes your testimony. I mean if the Board has any questions or members of the public, if there aren't any questions, I'd like to call my next and final witness.

Chairman Johnson – Let's do the questions first to make sure there's no Board questions and then we'll check to see if there's any public questions on that particular witness. Any further Board questions?

Member Pryor – I just went over the plans. Some of the dimensions change a foot here and foot there; going around just to make it all work right?

Doug Coleman – The reason is, is because in some areas we have brick and in some areas we didn't have brick.

Talking over each other

Member Pryor – So, you wind up with approximately the same usable floor space.

Doug Coleman – That's correct.

Chairman Johnson – The setbacks that are current are the same setbacks that were in the original plans.

Doug Coleman – That's correct.

Chairman Johnson – Okay.

Member Pryor – I do think it's going to change a fraction right? Just because of the way the, some of the walls, like you said change a few inches so, the setbacks he showed are going to be off a fraction of a foot.

Doug Coleman – No, the setbacks are going to be the same. It's going to be the building. We have to measure the outside face of the building. So, if I'm using an 8-inch block or 4-inch brick, I'm still measuring my setbacks from the outside face of the building. So, if we're going to tell you that we're going to be 40 feet off the front, its 40 feet off the front. It's not 40 feet minus the (inaudible).

Member Pryor – Well, I'd ask the engineer then because I'm mean you got the width of the building change and a few others, you can't wind up in the same point. You're measuring from a diagonal property line on an angle

Doug Coleman – Oh, I thought you meant you were taking a building finished thicknesses into consideration.

Member Pryor – No, I'm saying the setback changed fractionally from what I see. I don't know the exact number

Chairman Johnson – Right, so Joe, so they were holding the inside dimensions and the wall got a little thicker so that reduces the setback.

Member Pryor – It won't move from, I'll let him testify. I mean you showed 10 feet or whatever. It's not going to be 4 feet or

Chairman Johnson – Right.

Member Pryor – or 15 feet.

Chairman Johnson – Then we will, at this point, we'll open it up to questions for this witness, specifically, from the public if there is any and it looks like we have none, so

Vice-Chairman Olschewski – (Inaudible) but I think I asked and I'm not sure it was me, if we can go one level underground and I was under the impression it was testified under oath that you said no it cannot.

Doug Coleman – No, when I saw your professional tonight I said that Paul

Vice-Chairman Olschewski – Not tonight, not tonight, before we asked, before can you

Doug Coleman – Right.

Vice-Chairman Olschewski – and it was absolutely not. We have sink holes and what not

Doug Coleman – What we said was Paul asked the question last week whether we could lower the building down there and I said based upon the current geotechnical information we had, they said it was going to be infeasible meaning it was going to cost a lot of money to do that. We then went back after that meeting, met with Mr. Gardner, the Ferruggia's then brought the geotechnical people back out to the site, did additional test pits in areas and said yes, it can be done. The design of the foundation is going to change because of the subsoil conditions but it's not as crazy as they thought. Certainly, because that's what the Board was leaning towards, so it's a question of you can say five stories and not get approved or you could say three stories and one below and get approval, it's going to cost them more money to do it.

Vice-Chairman Olschewski – It's definitely a better product I would say, you know, it looks nicer. I wish we would be in a position that we can make this determination from the beginning because I know a resident complained and then we figured out either we get it down or we have objector, so.

Member Pryor – I do think some members of the Board expressed concerns about the mass.

Doug Coleman – I think what I said, before they ended up being Mr. Gardner's concerns and the Board's concerns, that the client went back and did a little more additional due diligence and

came back and said that it can be done. They weren't happy about it from a dollar and cents standpoint, but they also want to build it, so they understand it's a give and take.

Chairman Johnson – Understood. Looks like we have no further questions, so we can move on.

Attorney Peck – Thank you Mr. Chairman. Call Mr. Tom Decker up. Actually, the only thing I'm going to ask Mr. Decker to testify to, be the revisions to the landscaping.

Mr. Decker – Thank you. I think we're up to A-23.

Engineer Sterbenz – 22.

Mr. Decker – (Inaudible) A-22. This is A-22 with today's date is the Site Plan similar to the rendering we had at the previous meeting with some revisions. Per Mr. Gardner's concerns about buffering and so forth, we've added a few more buffer plantings to the plan. We've added four servient spruces along the detention basin which provides some additional screening from the detention basin and the rear of the building and we've also filled in a few of the gaps within the buffer to the north. We also have a note on the plan that the plantings can be field adjusted to the satisfaction of the Boards professionals so that when we actually get out there, we can tweak the plants so that they fill in the gaps and provide the optimal buffering. We've added four more servient spruces in those areas as well to fill in the areas. We couldn't really add to much more because you start overplanting and crowding the trees have a difficult survival rate. So, that's really what we've addressed as far as landscape. With regards to the building, slight increase in size, I haven't done those calculations to give you a number, but we will still pulled in ten foot on the southern side. We'll make it up in a little bit on this corner in here. It'll be

Member Pryor – I assume that.

Mr. Decker – It'll be negligible as far as our setback so that's

Member Pryor – I did have one question about the landscaping, obviously, the north side there, you're going to preclude access with equipment that route so you have 10 feet on the southerly side?

Mr. Decker – We have 10 feet on the southerly side.

Member Pryor – And you're going to maintain that for access?

Mr. Decker – We are going to maintain that clear. We have our storm sewers in that area as well, so we don't want to put any plantings on top of that and maintain that for maintenance in the back

Vice-Chairman Olschewski – Just quickly, and I don't think it's going to be an issue, but I see with other projects in town specifically, with the solar panels that there's trees dying over the

course of whatever, if, if, are we able to get something in writing that whatever dies within the next for instance, one or two or three years, I mean you guys (inaudible) anyhow right?

Engineer Sterbenz – There's going to be a two-year maintenance bond. They have to complete the work and they'll post a bond before they start the work. At the time they get their performance bond back, they'll have to post a two year maintenance bond. So, if this is a six month construction project and, you know, the bonds are issued shortly thereafter, we'll have another two years of protection under the maintenance bond.

Vice-Chairman Olschewski – So whatever dies within two years, is going to be replaced?

Engineer Sterbenz – They'll have to replace it.

Mr. Decker – Yeah and that applies to the trees as well as, you know, pavement that might fail or anything like that.

Vice-Chairman Olschewski – Very good, thank you.

Chairman Johnson – A quick question. From this distance, it's hard to tell, but we still have the pavement size for what was it, 16 spots or 18 spots and then

Mr. Decker – 18

Chairman Johnson – they weren't just, they were just, we're not going to be striped. It looks like you filled it back in with grass seed.

Mr. Decker – No, no, no. Well, unfortunately this rendering was updated with just the trees. We still have it here, but the intent is, and we've agreed, that we will be paving that area constructing those parking spaces but as Mr. Coleman mentioned before, we'll be taking three of those spaces and striping them to reserve them as a loading area provide a secondary loading area if needed in addition to the one by the trash enclosure.

Chairman Johnson – Okay. Are there any existing trees that are going to be removed?

Mr. Decker – There are about, there's, most of the trees are along the northern quarter. I'm not sure; I'd have to take a look at the plans, we may have a couple that are coming up. To be honest, most of the trees in this area are not specimen trees if you will. A lot of them were kind of scrubby you know, don't really have much of a canopy which is why we tried to put in some additional plantings in here to supplement them, but otherwise this is primarily an open field.

Chairman Johnson – I would suggest to salvage as much as you can for a screening for the adjacent, you know, property.

Mr. Decker – We do, but if there's one that's, it's just diseased or dead or posts a hazard, we're certainly going to take it out.

Chairman Johnson – Understood.

Member Fox – I have a question too. What's the distance from your building to the adjacent buildings?

Mr. Decker – Just a second.

Member Fox – Because I commend you for everything you've done. I appreciate the fact that you took your four story and you were trying to make it look like a four story, you were trying to make it look like three story and then gone through all this work to bring the esthetics into view but both (inaudible) setback's I'm still concerned. I'm looking for a way to agree to this. So, my thought is that the distance from building to building if it's twice as much as what the setback is supposed to be, I can almost envision the property line being a little further off, meaning that distance.

Mr. Decker – We are approximately 60 feet from the strip mall to

Member Fox – And, what is the side yard setback requirement?

Mr. Decker – The side yard setback requirement? It's 50 feet.

Member Fox – So, if you each had a side yard setback, you should be 100 feet from that building.

Mr. Decker – Right, the problem is, is that we applied the 50 foot setbacks, we end up with a building envelope

Member Fox – Right, I am aware of the (inaudible) concern.

Mr. Decker – So, we're 60 feet from this building and we're about 95 feet from the daycare.

Member Fox – Because the adjacent properties are, they don't have any extra room.

Mr. Decker – No.

Member Fox – They're pretty much at the envelope.

Mr. Decker – They are, at the shopping center to the south is at 50 feet.

Member Fox – Right.

Mr. Decker – And the daycare to the north is, they're also at 50 feet.

Member Fox – Okay, thank you.

Chairman Johnson – Do you remember, relatively speaking, I’m just trying, I was looking at the elevations that were put in there, this building is about 45 feet high. Do you remember the height of the adjacent building; 35 is in my head but

Mr. Decker – The adjacent buildings.

Chairman Johnson – Yeah.

Attorney Peck – (Inaudible) if not exceeding 45 feet

Mr. Decker – Correct.

Chairman Johnson – Excluding the little chimney thing.

Attorney Peck – But it would be like Warren Heights across the street. I think they’re pushing 45 feet.

Mr. Decker – Yeah.

Attorney Peck – I can look that up on google or

Member Pryor- I raise an objection to that google map too, so.

Chairman Johnson – Yeah, I think there was. I’m just kind of curious relative to the south property right there just to give us a rough ballpark. Your building is approximately how much higher than what that roof line would be?

Mr. Decker – Well, we have to take into account topography and were you looking at the front of the stores or the rear of the stores because the back end is lower.

Chairman Johnson – Is lower.

Mr. Decker – It will be higher, but it won’t be, I don’t think, a towering height over the others.

Chairman Johnson – (Inaudible) magnitude.

Talking over each other

Mr. Decker – I believe this building was at least 35 feet.

Engineer Sterbenz – What was testified to at the last meeting was the shopping center’s cupola is 53 feet high and the Warren Heights Buildings are 44 to 45 feet high. I don’t have anything in my notes as far as the height of the daycare building or the strip mall building. Certainly they are not; it’s not 53 feet high. The cupola is an architectural feature. I can’t give you that answer, but there are height elements around this building that are on the border height of this particular building.

Mr. Decker – Yeah, the Warren Heights buildings to the north are approximately the same height as this; they are 43, 44, 45 feet.

Attorney Peck – And, the elevations are so a little higher

Chairman Johnson – I was trying to envision it, you know, refresh my memory on the height issue. I do think the fact that it's not square architecturally, we pull a little off of (inaudible) and it matches the architecture of the adjacent strip mall correct? More or less.

Mr. Decker – Yes.

Attorney Peck – It will be very compatible I think with the surrounding commercial businesses.

Attorney Sposaro – Any other questions of this witness?

Talking over each other.

Chairman Johnson – Okay. We'll open it up to the public for this witness. Any questions. It looks like we don't have any, so back to the Board. We'll give it a couple minutes here just to talk over the, think about what we just heard.

Attorney Peck- That would conclude our direct testimony.

Attorney Sposaro – Why don't we

Mr. Decker – I know we talked about the google map. I think everyone's looking at the google map. That was prepared actually; I know that was presented at the last meeting. I actually prepared that from google earth. When you take the cursor on google earth it gives you some rough elevations and when you go over the roofs, that elevation jumps up so the difference, even though, the elevations may not be to any particular datum, the relativeness between the grave shot and the roof shot from google earth, is within reason. I think what we found on the google maps were very comparable to what I think Mr. Gardner's experts testified at the last meeting.

Chairman Johnson – Kind of consider it approximate.

Mr. Decker – Yeah, it's approximate. It's certainly not a survey number, but we were trying to get a handle on, you know, based on information that was readily available.

Attorney Sposaro – If anyone from the public wants to comment on the application now is the time.

Chairman Johnson – This is public comment on any questions that you have for the applicant or the plans that have been presented. It doesn't have to be to this expert witness specifically.

Talking over each other.

Attorney Sposaro – People get the opportunity to express their views. They’ve had the opportunity to question all of the witnesses. They can come up and speak their peace if they are so inclined.

Chairman Johnson – Open it up to the public again. Okay, we’ve got no public comments on the application tonight.

Attorney Sposaro – Mr. Peck do you have anything else you’d like to add?

Attorney Peck – Other than we believe that we have diligently and in good faith pursued development of this parcel. We’ve heard the Board’s comments over four hearings. We’ve heard the public’s comments and we’ve worked with their neighbor to accommodate their objections and I think we were successful in doing that given that the neighbor has formally withdrawn the objection which in 25 years of doing this I have rarely seen an objector actually affirmatively saying hey I no longer object. We are seeking several variances. The primary one I think is the lot size but that’s a pre-existing condition created by this Planning Board and we gave supposition approval of the surrounding neighborhood. There’s this remainder .91 acres left and it’s in the HB Zone District. Through all the testimony you’ve heard, this is a compatible use, it’s a good use and the variances that we seek, the dimensional variances are all necessary so we can have a viable project. Otherwise, it’s, you know, it’s a tough lot, we don’t have to go into that. So, I thank the Board for its consideration and its courtesy over the past few months. We certainly hope that we get an affirmative vote. Thank you.

Chairman Johnson – I do have a question for our professionals and possibly you may know as well. The property lot, size and shape, just need to confirm that it was not self-inflicted. This was not subdivided by the current owner and he didn’t create the hardship on himself.

Attorney Sposaro – This has been a standalone lot for a considerable period of time, well, I think long before the present owner took title to it.

Member Fox – Right, I think first, tonight’s testimony, the owner testified that he bought the property hoping he’d be able to do something with it.

Chairman Johnson – I needed to hear it again.

Attorney Sposaro – Now, it is up to the Board to discuss the matter and if someone wants to make a motion that is okay too.

Member Pryor – I wouldn’t mind discussing it before we vote, if there’s no objections.

Chairman Johnson – Absolutely, I agree with that.

Member Pryor – I think you’d probably be able to figure out the way I’m going to vote when I’m finished. If this were a conforming application, there’d be nothing to argue about. Applicant has come and asked for a significant number of variances. The Municipal Land Use Law provides

us guidance. I think the planner did a good job. He tried to justify two different variances; a C-1 Variance which is your hardship variance and he testified as to their narrowness, shallowness or irregular shape of the lot. The hardship was not self-inflicted and there was no way out. There wasn't adjacent property that the applicant could acquire to mitigate or eliminate the variances. So, he fulfilled one of the criteria of the C-1 Variance. The other criteria are called negative criteria. One is no substantial detriment to the public good and the other, is no substantial impairment to the intent and purpose of the Municipal Land Ordinance. I think the two primary objections that were heard at the time were relative to providing adequate light, air and open space. The mass of the building was considered by many, some Board members and the public to be too massive and out of character. I think the other one was the utilitarian design of the building. The Municipal Land Use Law seeks to promote a desirable, visible environment as well. I applaud the revised design. I think it satisfies my concerns relative to the negative criteria. The planner also testified relative to a C-2 Variance; it's a flexible C, it is an alternate way he tried to cover both. Kind of a belt and suspenders thing. Some of the criteria you have to look at the variances needed for a specific piece of property that's true. They testified the property has been on the market for eight years and hasn't attracted a lot of interest. There was testimony by two people with accounting degrees and development experience that relative to the minimum building size necessary to make this project feasible. The second criteria, the variance advances the purposes of the Municipal Land Use Law and I look at a couple of things. If you look into the law, and you can pick out things, encourage the efficient expenditure of public funds, I think this is an efficient application. Its low impact provides for the cost effective use of the property, it brings in tax dollars and it has a negligible demand for public services. I think the question came up about economics was that a criteria or not, I don't believe it is the overriding criteria but it is to be considered. We consider it in our Master Plan when we seek to achieve a balance of municipal land uses when we seek to bring in rateables. In terms of looking at what he can put on the property, you of course consider economics. You wouldn't expect them to put in a whole bunch of improvements to build a, you know, an ice cream stand or something so; I think economics is certainly part of the consideration. The Municipal land Use Law talks about providing a variety of uses to meet the need of all citizens. We heard testimony about the lack of climate controlled storage; an area there must be a market for it. I believe there's a market. I think I heard testimony we had to go all the way to Hackettstown if we wanted to find one. Preventing urban sprawl, this is an infill project, it's part of the Highlands Center, it's in the existing Highway Business Zone, it's in the existing Sewer Service Area, there's no offsite improvements. So, I think it does everything it can to prevent sprawl, promote the free flow of traffic. There's a small traffic impact. There's been measures taken in terms of controlling turning movements out of the site and so on. I think it promotes that goal with the Municipal Land Use Law. Desirable, visual environment through creative development techniques and good design. Again, I think this revised design removes my concerns relative to that. I think this does promote the Municipal Land Use Law in that respect. More efficient use of land. Again, more service, less parking and impervious so, I think it satisfies that criteria. The last one

somewhat subjective, the benefits of granting the variance would substantially outweigh any detriment. In my opinion, this application as eventually presented, has benefits that outweigh the detriment of granting these variances. Those are my comments.

Chairman Johnson – Thank you Joe. I'll follow up with that too. We heard from the objector the last time from the architect which I believe had some very valid points. I'm happy to see the application come back to the point where the architect or the objector no longer has to present themselves and their objection has been removed. So again, kudos on working together on that issue. My big thing that I was concerned about was the traffic. To my satisfaction, I think you have proven that this use will actually present very little traffic and I don't believe there is a lot we can do based on the geometry of the roadway. We can't fix that. It is not ideal, yes it is a little dangerous, it is a little complicated. I agree with all that, but I don't believe there is a lot we can do and I believe we did what we can do. We talked to the Chief of Police and he gave his opinion. That was addressed. The last thing I want to bring up, which I just need to hear that the fire chief has looked at this and he has given his thumbs up on this.

Attorney Peck – Yes, I can address that. I don't know if the Fire Chief himself or herself has looked at it, but I did forward to the Board's Professionals I believe yesterday or Monday; just very recently, the fire department did review it. There are only, they approved of the plans. Their only question was what size would the dumpster and enclosure be that was provided to them a little over two weeks ago that information and we haven't heard back so we're assuming that (inaudible).

Chairman Johnson – And, that was their only area of concern?

Attorney Peck – They actually said we approve of the plans.

Talking over each other.

Engineer Sterbenz – I can read of, to you, there was an April 11th email from Kevin Maguire.

Secretary Dilts – I forwarded that to all the Board members.

Engineer Sterbenz – Okay, then we're good.

Chairman Johnson – I read it and I wanted to make sure there was no further follow up so, okay.

Attorney Peck – That's the last Tom, unless you heard something after that.

Chairman Johnson – Okay, all right, thank you.

Member Fox – I thought it did make it a little open cause even though they approved the plans; they were concerned if they would have access, but if they never even followed up further.

Attorney Peck – We provided the dimensional information that was asked for over two weeks ago and didn't hear back.

Member Fox – Right, okay.

Attorney Peck – Have to assume it's satisfactory. You don't have to assume, you'd like to assume.

Member Fox – We don't have to, but they're not here to assume otherwise.

Attorney Peck – Exactly, so.

Member Schneider – I would just, I just want to ask our professionals because we didn't, I haven't heard from you guys based on the new plans if there were any concerns on our end, is there something we should be looking at that maybe we're not?

Planner Ritter – Well, from my perspective, the improvements to the building have been significant. I think they've done a lot to produce a building that's actually a much higher standard than what I've seen go into most self-store buildings and the fact that they were willing to go to the basement, which I've now learned to read the Township definition of a basement instead of assume, the, I think that was a significant change and allowed them to make the pitch. I would also say that in discussing the, you know, the intensity of use of the site the one thing that the applicant did comply with is the impervious cover, building coverage. So, even though he is on a very substandard lot, he hasn't put a building on here that's technically larger than what he could put on that size of lot. Now, it doesn't meet the setbacks and all that, but bottom line is it is in balance with the town's ordinance as to intensity and, quite frankly, from my perspective, you couldn't get a use other than maybe a furniture store that could generate less traffic and fit on this site better than the one the applicant's proposed. I think it is a very well thought out project at this point and for such an unusual and difficult lot, I think they've done a pretty good job on it.

Member Schneider – Thank you.

Engineer Sterbenz – I would just augment what George said. I think the applicant should be commended for going back to the drawing board after the last meeting and revamping the entire architectural design coming up with a much more attractive building that is more in scale with the surrounding uses and buildings in the area. I echo what George said I think absent this lot being merged in with one of the adjacent commercial lots and we know that's not going to happen, this is really probably the best use for the this location. You know, given the low level of traffic and the quietness of this particular type of use, I would commend the applicant and their team again on this particular project because every step of the way, they did work with Mr. Ritter and I on solving problems and changing the design to better fit this particular use into this neighborhood and onto this particular site. I think they've done an outstanding job and I do

believe they've proven their case for the various variances that have been requested under this application. So, from my perspective, my recommendation would be for the Board to approve the various variances that have been requested, design waivers and Preliminary and Final Major Site Plan approval.

Member Schneider – Thank you.

Attorney Sposaro – I'll limit my comments to the legal side of things. I'll echo what Mr. Pryor said and what my fellow professionals have said. I think the applicants made a compelling case for the variances that they are seeking and whatever waivers are required. If this use is not approved, I don't know what this lot could be used for and I would hate to be put in a position to have defend the denial of this application if, in a court of law, if that's the way this Board is to vote.

Chairman Johnson – Thank you. Any other questions from the Board or discussion topics?

Member Fox – Just one last thing and I know everyone is saying the same thing; you guys did a great job of reworking the design and everything. I was held up a bit on the setbacks and how you couldn't clear any of those variance requests, but being that it's a non-conforming lot, squeezing this in there and matching the esthetics of the neighborhood, you know, I just hope as a Board, you know, we don't set precedence that somebody doesn't come in and say well you approved six variances on that project, why can't you approve six variances on my project. So, you know, obviously we are not setting standard, this is a non-conforming lot; this is a unique situation and yes, a great job.

Chairman Johnson – No changes were required because of the building geometry as far as the drainage or the detention basin. That all stays exactly as it was before, correct?

Mr. Decker – Correct.

Attorney Sposaro – I think it's time for a motion.

Chairman Johnson – I'll take a motion on something.

Member Pryor – I'll make a motion to approve this application subject to and we have not discussed the conditions Paul. Are there any?

Engineer Sterbenz – Yeah, I think it would be in accordance with George's last letter and my last letter. In my letter I've suggested conditions on a lot of administrative issues, bonding, permitting, and things of the like. I think we would condition the approval on the Site Plan being revised to, I guess, be consistent with Exhibits A-15 through A-23 I think it was tonight or A-22. So Mr. Decker would have to revise his plans to be in sync with all the work that Mr. Coleman did, that he presented in these exhibits tonight.

Attorney Sposaro – And, it would be subject to any stipulations that are in the record that were made by the applicant during the course of the hearing. This has gone over several months and it could take me some time to go through my notes, but it's part of the record and if there were any stipulations, they would be included in the resolution as conditions as well.

Chairman Johnson – So then, that is the motion.

Member Pryor – I will amend my motion to approve this subject to conditions in George's most recent letter, Paul's most recent letter and Mr. Sposaro's comments.

Chairman Johnson – I'll take a second.

Member Fitzsimmons – I'll second the motion.

Chairman Johnson – We have a second and as a discussion I would ask right now so we know the applicant doesn't have any objections to that letter from our engineer on the stipulations and that way when this goes through it's good.

Attorney Sposaro – They would have been jumping up before then.

Talking over reach other.

Chairman Johnson – I needed to be sure. And we will do a vote

AYES: Members Fitzsimmons, Fox, Pryor, Schneider, Woolf, Mayor McKay, Vice-Chairman Olschewski, Chairman Johnson, Alternate Frank.

NAYS: None

ABSTAIN: Member Correa

Mr. Ferruggia – It has been a real pleasure working with this Board. Thank all of you very, very much for the patience, multiple meetings but its compromises and you compromised and we compromised. We met with Larken, he compromised. We did what we had to do and we'll make it happen. Thank you.

Chairman Johnson – Next item, is the terms of Ken and Carlos. We just want some clarification on that. They are the Mayor's appointments so Tom do you have clarification on the terms of these two individuals that we can settle on and get into the record.

Mayor McKay – I don't know what you mean by, what I mean, I did, as I recall, I appointed Ken Fitzsimmons to fill the unexpired term of Pisello which expires in 12/17.

Secretary Dilts – That's correct. This was questioned by Member Olschewski. He wanted clarification; he thought Donna was the unexpired term, but it isn't, it is Ken Fitzsimmons. I just wanted to make it a matter of the record.

Mayor McKay – Donna replaced VanVliet according to my notes and her term expires in 12/2020.

Attorney Sposaro – Gary is irreplaceable, but

Mayor McKay –He is.

Chairman Johnson – So, our question has been answered to our satisfaction we can get this into the Beth we are good on our terms.

Secretary Dilts –Yeah, like again, I wasn't prepared to answer Peter's question, so I looked into it and I put it on the agenda so that you all would be very clear as to who took those unexpired terms.

Chairman Johnson – I think that it is important to be clear, so thank you for bringing that up Beth. I appreciate it. And that checks out for Carlos for being end of 2018. Does the math work?

Mayor McKay – Yeah, he replaced Gural, yeah.

Chairman Johnson – What we are going to do is a little modification to the agenda. We're going to push the Highlands Master Plan Reevaluation to after Executive Session. Being the Executive Session has a higher priority and if we have time permitting afterwards, we'll do, we'll continue the Highlands and if we don't, we'll push it back to the meeting following if there is time for that so, right now, we'll take a five minute recess and we'll start Executive Session.

Attorney Sposaro – We just need a motion to go into Executive Session.

R 17-07

RESOLUTION OF THE PLANNING BOARD OF THE TOWNSHIP OF LOPATCONG,
COUNTY OF WARREN AND THE STATE OF NEW JERSEY AUTHORIZING AN
EXECUTIVE SESSION

WHEREAS, there are presently pending matters to be considered in Executive Session concerning possible matters listed:

Litigation – Marinelli v. Precast mfg. Co., LLC

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Lopatcong, County of Warren and the State of New Jersey that the Planning Board is authorized to hold an Executive Session.

BE IT FURTHER RESOLVED that the Planning Board of the Township of Lopatcong will make said matters public within approximately 30 days of said meeting or until such a time as confidentiality of the matters is no longer required.

CERTIFICATION

I, Margaret B. Dilts, Secretary to the Planning Board of the Township of Lopatcong, County of Warren and State of New Jersey do hereby certify the foregoing to be a true and correct copy of a Resolution adopted by the Planning Board at a Meeting held on Wednesday, April 26, 2017.

Margaret B. Dilts
Planning Board Secretary

Vice-chairman Olschewski – Motion

Mayor McKay – Second

All in favor. Motion carried.

For the record, Member Schneider left the meeting room at 8:36 pm.

Mayor McKay – Motion to come back to, to come into regular session.

Chairman Johnson – Do we need a motion for that? We're already in it.

Secretary Dilts – You are already in it.

Chairman Johnson – So, seeing no public outside our doors, we continue.

Attorney Sposaro – Based upon discussions in closed session I would ask someone to make a motion as to whether or not we would authorize Mr. Carbone to make application to the appellate division for an award of counsel fees.

Member Pryor – I make a motion we do not authorize Mr. Carbone to pursue his recommendation.

Chairman Johnson – So again, so a yes vote is

Mayor McKay – No, no, no.

Chairman Johnson – not to go after, correct, got it. So, we're all clear.

Secretary Dilts – Second

Vice-Chairman Olschewski – Jon Fox seconded it.

Mayor McKay- Wait a minute. I didn't understand that, so would you please repeat that because they were talking, I'm sorry.

Chairman Johnson – Joe, can you say it again?

Member Pryor – Again, I got to make sure I don't get too many double negatives.

Attorney Sposaro – All right the motion is to, in simple terms, is to

Mayor McKay – to advise you to tell Mr. Carbone we are not interested in him going after the
Talking over each other.

Mayor McKay – I'll second it.

Chairman Johnson – We have Joe, can then Tom, you're second.

Mayor McKay – We're like buddies now, you know.

Chairman Johnson – What's going on here? All right so, we got the motion. I think

Attorney Sposaro – Second. Roll call:

AYES: Members Fitzsimmons, Fox, Pryor, Woolf, Mayor McKay, Vice-Chairman Olschewski,
Chairman Johnson, Alternate Frank.

NAYS:

ABSTAIN: Member Correa

Chairman Johnson – All right, time permitting, we have to go over some of George's things. I'm
just going to check it real quick. I think that's the last on the agenda

Attorney Sposaro – That's it.

Chairman Johnson – besides the announcement which is already taken care of because it's on the
agenda.

Attorney Sposaro – And there's no public left.

Chairman Johnson – So, since its only 8:40 pm I suggest that we go over one of George's Master
Plan areas and

Planner Ritter – At the Board's pleasure.

Chairman Johnson – So, I don't have your, you basically have this.

Planner Ritter – I'll start, I'm just saying it's at the Board's pleasure. If they want me to go, I'll
go.

Chairman Johnson – We want you to go, but I don't have a list in front of me so, it's on you.

Planner Ritter – I do. That’s all right. Yes, to get into a discussion, if you remember, we put together a report a while back that made certain recommendations in for your consideration in terms of possible rezonings, changes to the Highlands Center regulations as part of our conformance with the Highlands and there were seven or eight recommendations in there; one of them of course was is the ROM District which we are not going to discuss tonight, but there are some that I think are relevant and we can get a discussion going on them I think with the Board and so, I put together a letter back in March, around March 17th listing six that I thought might be worth discussing so, I’m going to try to work through the ones that hopefully tonight, that are, that we can get a discussion going and maybe even resolve some of them. One of the recommendations in the report that we put together, is whether or not the Board wanted to consider developing what I call a Public Use-Zoning. One of the things that the Township does not have is any designation of lands that are owned by the town and lands that are owned by the school district, the county recognizing them as public uses. They all fall under your current Residential Zoning Districts or whatever they’re in and it’s not unusual for towns to actually create special districts that deal with Public Uses. That is to say, township, county, state and federal properties and usually, what those ordinances do is, essentially, allow those uses to use their properties as are consistent with their charter. In other words, a school district can go in and make improvements to their building, the township can do things on their township property for maintenance buildings, whatever, parks and it sets them aside from the standard zoning regulations as to say that they’re in the R-3 District and they’re non-conforming and that kind of thing. It also tends to address what happens if the town wants to liquidate some of these properties. Say that a town, through receivership or whatever, gets a property back in its inventory and then later tries to sell it or unload it, essentially, the ordinance would dictate as an example, some ordinances would say if it is a municipal property that’s going to be sold to a private individual, it would have to be when it’s sold, it would assume the zoning district within which it is located. In other words, it would just be transferred into that district or it, it’s on a borderline of two districts, it would assume the zoning of the most restrictive district. In other words, so that whoever was buying it, knows what he’s getting and if the Township Council or the Board wanted to change it, then they would still have to go through the process of changing it to whatever zone they feel is appropriate. It would also exempt the township, the county and the municipal governments from making site plan applications but would require them to inform the township council and the boards of what they are doing. In other words, you have to come back informally and make a presentation to the board and let them know you’re doing but it would be more for information. That’s one of the questions that raised here whether or not you want to go through the town, designate your parts, your school sites, other municipal properties and actually zone them as Public Uses rather than keeping imbedded in your residential, commercial districts and leaving a cloud as to what their use really is. It’s something to think about. Various towns that I’ve worked in all have Public Zones and it seems, over the years, to work very well in the towns that I’m in and the main purpose is, as I say, if they decide to sell a property or move it,

then at least it is very clear as to what the zoning has to be if the township fathers decide to relinquish control of the property or something changes how it's to be handled. So, that's something to talk about, that's something we thought might be useful in this go around of master plan revisions to think about whether we wanted to do that or not.

Member Pryor – Can I ask you a couple questions – let's say we put the municipal building in a Public Zone, I really don't get, what are we zoned now, residential?

Planner Ritter – Yeah, it's in a Residential District now.

Member Pryor – So, if we abandoned this building. The guys in a Residential District, if you put it in a Public Use Zone and then say it reverts back, to the Residential District, I really don't see the difference.

Planner Ritter – Well, what it does is allow you, it lays out the one, if the Township wants to do additions, wants to do improvements to here, they don't have to do a formal site plan application.

Member Pryor – Do we have to do it now?

Planner Ritter – I don't think you have to. Many towns actually require their own municipality to abide by their own ordinances.

Member Pryor – I think others exempt them. I'm just trying to think it through. I mean there's, this is one way, there's other ways, right?

Planner Ritter – Well, I'd say the Public Use Zones are the way most towns in New Jersey handle it right now. The other thing they can do is state that certain types of improvements, and I'll give you one example, in Chester Township, we basically, say that a municipal property, if they go to put any type of outdoor storage on it, it has to be so many feet from an abutting residential use or you can't do it. So, there's a restriction on themselves.

Member Pryor – What's the park zoned now?

Planner Ritter – There isn't any.

Member Pryor – No, I mean what is the park zoned, residential?

Planner Ritter – Yeah, all your various municipal properties and parks are under the residential zoning or commercial; wherever they fall. I didn't take the time to actually map where they all are but they fall under the current zone.

Member Fox – So, it's an R-150 and R-5/2.

Member Pryor – Well, I was around when we did that park. Did we go before the Planning Board?

Planner Ritter – I don't remember to be honest with you. I don't know. The park.

Member Pryor – I'm not, you know, I'm trying to think this through myself.

Planner Ritter – The other aspect of it you can look is you want (inaudible) both houses where the public property (inaudible). It tells them where the stuff is in town. In other words, they can look at the map and actually see it.

Member Fox – Now, what about properties like, you know, open space that would be deed restricted, you know, something that you discover and find all your green space properties and stuff where you can't then sell it and turn it into residential.

Planner Ritter – No, but

Member Fox – Open space forever.

Planner Ritter – It just points out what it is. You know, like if it was a county park, a state park or a town park, it would come up as public use; it would be a park.

Member Fox – Right.

Planner Ritter – And the ordinance would be, basically, saying that you can use the park for park purposes. In other words, the way the ordinance is established is that there's supposed to be uses that apply to those that are consistent with the intent of the owner of the park. It's true, some can't be sold. Some can't, I mean, as I say one town that I worked in, we have a Black River State Park; it's probably 7 to 800 acres. That's a park, but it's designated as open space as a Public Zone and the other advantage I see is, is it tells property owners what they're next to. I mean they, basically, can see where the municipal facilities are. I'm just suggesting that it's something you want to think about if you don't want to do it you're going to leave it exactly the way it is.

Member Pryor – I want to think about it. I want to understand it all.

Mayor McKay – Are there any negatives to doing it?

Planner Ritter – Not that I've seen, over the years, in the towns that I'm familiar with. It has actually; you could argue a work in favor of the residents up in Chester Township and the town decided they were going to do something with the municipal property and they wanted to sell it to a guy for a use that wasn't consistent with the zoning.

Member Pryor – How about the Delaware Park School? How did that go?

Planner Ritter – Well, that's the same arrangement where the zone was changed. In other words, if the Delaware Park School was under a Public Use Zone it would have told you what the base zoning district had to be when it was sold and if somebody wanted

Member Pryor – But, he was already in that, right?

Planner Ritter –What?

Member Pryor – He, the Delaware Park School was already in a Residential District.

Planner Ritter – Yes.

Member Pryor – And, he had to go to the Board of Adjustment

Planner Ritter – Well, he had to get a use variance. He did because he was totally changing the thing.

Chairman Johnson – (Inaudible) change that if it wouldn't of changed, if this was a Public Zone, it wouldn't of changed the fact that he had to go get the use change right? It wouldn't of made a difference.

Planner Ritter- Well no, except it would have started out; it would have reverted to the surrounding zoning district.

Chairman Johnson – But, he was already

Member Pryor – But, he was already there. That's my point.

Planner Ritter – Yes.

Member Pryor – And, he wanted to go multi-family which wasn't part of that so, he had to go to the Board of Adjustment anyway.

Chairman Johnson – He would have had to do it anyway.

Member Pryor – So, I'm trying to think it through. I did want to answer John's question real quick. Green Acres is horrendous. If you get Green Acres money you're giving away your rights forever here and as far as I know, the town has always refused Green Acres.

Member Fox – Environmental Committee member we want to promote open space, green space, Green Acre properties. We want to create (inaudible).

Member Pryor – But as a governing body member, you hate to give away your rights for all history and someday you may want to lay a sewer line through there and you go through as much trouble getting approval for a sewer line as if wanted to reclaim the park. You can't believe how that delays projects. So I, as far as I know there's no green acres property in Lopat and it's been discussed and it's been discarded.

Member Fox – Well, no and so that's kind of where I'm going, so then, I'm wondering, you know, if it's hard to get the board, or township or the populous to commit to that long term Green Acres commitment could we utilize this Public Use Zoning to kind of start of carve out green rays and things that might be a compromise to Green Acres.

Planner Ritter – Well no, this zoning would not be used to create funds. It responds to what is owned.

Member Fox – But once it is already out on the map, and say oh, well here we have all these that use properties and, you know, if we could acquire this property, look at that we would connect these and have it even longer.

Planner Ritter – Well, there's a difference between open space planning and your master plan and implementation through development applications and that kind of thing and zoning for Public Use. The type of zoning here gets applied to properties that are already under the control of government. The town, the county, the state, the feds that's what it gets applied to. The planning of how you link your parks, how you develop your parks, is not part of this zoning per se and because this actually goes on the properties that are actually in use and owned by a public agency, planning links, park planning; that's part of your master plan and can be included in a master plan in terms of where you want the paths, how you see them linking up, and the things you're talking about, you know, picking well here's a park, here's a park, well that would be part of the planning study that would actually be in the master plan to say why you want the links and then if somebody comes in with an application that happens to impact all of those proposed paths and areas, the Board may not get it, but the Board can clearly ask for it as part of an application.

I guess the best way to describe it is, is that in Chester we have an open space plan that had a series of trails on it and we acquired through the development process and set asides as part of the development of those parcels we got trails that amount to maybe six miles of trails that way it took 12 years and working on it since the Highlands came in, it's been much more difficult because nobody develops and you have very little control over that, but there's two different processes going on here; what you're thinking about is a master planning process, this is a zoning process that would just identify these different things, pull them out on the map and it's really a way to just say how they're going to go back and be used and if you, as an example, if you want to prohibit certain types of activities, it can be put in here like I said, you know, you can't store outdoor storage yards, warehouses within so many feet of a house. That would stop your municipal government from actually putting it without going through a process of expanding next to a home or something and doing something that's inconsistent. Now, it comes down to whether you want to put those handcuffs on yet. The town that I work in, that I know, the code is willing to do that. They trusted themselves to put those prohibitions right in the Public Zone so that the government couldn't arbitrarily stick the stuff on the site.

Member Pryor – I go back to our public works yard, have you ever been down there?

Planner Ritter – Well, I know where the one is. I don't know if I know where all of them are.

Member Pryor – I mean I, there's all kinds of things going on and they do what they have to do. I would hate to put hand cuffs on them, you know, one day you don't salt, next thing you need a salt bin. I don't know.

Planner Ritter – Well, it's a question. You don't have to do it. I'm just saying it gets some of the purpose.

Member Fox – I guess it could also work the other way. You put these things in here that make it easy for them to do what they need to do.

Vice-Chairman Olschewski – Now, I always thought that government is here to protect the, working for the residents and for the citizens and our goal should be to be working for the benefit of the residents and not necessarily for us or for the town so, I don't have any objection or limiting ourselves and making sure we comply with everything we should comply.

Chairman Johnson – It seems like to take advantage of it is just the knowledge base. You know, you could look at a map and say well these are your public areas and this one you shouldn't worry about, you know, it's the DPW. They need to do what they need to do but all the rest of them; you want to keep them public but the knowledge base is there so you can see what you have as far as public property goes.

Planner Ritter – That’s what I always felt that it also tells the surrounding owners of private property well it puts them, gives all notice what’s there and I’m not talking about the guy who moved lived here for 35 years and knows what his neighbor has. I’m talking about when they buy and sell properties it gives somebody a way to look at a master plan or a town map and be able to say oh well there’s something public going on next to me, what is it.

Member Fox – By creating a Public Use Zone that then might take properties and dot them all over. Is there anything in the, would we adversely affect people adjacent to those properties? Like sometimes if you’re adjacent to a different zone boundary are there like different regulations?

Planner Ritter – No. We’ve never had that problem because the Public Zone doesn’t set buffers. It normally doesn’t. I’m not saying it can’t but no it wouldn’t have an impact on the neighbors other than putting them on notice that the public owns the property and they would have to be updated periodically like the zoning map always tends to lag behind what’s going on. I mean often times properties will be acquired through tax liens, they’ll get them back in the system, then the town has to decide whether they’re really public or if they are going to sell them. That kind of thing and sometimes parks are acquired and, you know, the zoning map doesn’t get updated for a year or two but you just try to keep everything up to date as you go forward and like I say, the biggest help I think is it puts people on notice. It lets them know what’s there. Usually, in the master plan or on the zoning map, often times you note that where the schools are. It is a Public Zone but its labeled school, municipal building; it’s actually right on the zoning map so people can look at it and know what they’re looking at.

Vice-Chairman Olschewski – That’s right. Just thinking about it Eric, you’re right and now if a resident wants to know right now what’s public, they would not, how would they figure it out? Besides, unless there’s a school on it, but all the other properties which are not developed but are owned by the town, how would they know?

Secretary Dilts – We have an inventory of them.

Members talking over each other.

Member Pryor – You’d have to do work either way.

Planner Ritter – Well, you could accept that it’s on the zoning; it’s a lot easier that’s all I’m saying.

Member Pryor – They still don’t know what’s, it would say a Public Zone right?

Member Woolf – I don't think Lopatcong Township ever sold a public property.

Member Pryor – Well, there's those things we get in tax sale and then we sell again right?

Member Woolf – No.

Secretary Dilts – Yes. We put liens on properties and we've put (inaudible) on them.

Member Woolf – But, you've never sold any.

Secretary Dilts – Not yet.

Member Woolf – That's right.

Member Pryor – But we could.

Chairman Johnson – So, George hypothetically

Member Woolf – Theoretically, I'm saying this Township has never sold municipal land property.

Member Pryor – How about the land swap with Perrucci? That's how you got your park.

Secretary Dilts – We bought that.

Member Pryor – We had property and he gave us property. His property was used to complete

Member Woolf – He kept two lots.

Member Pryor – But they were conveyed from the town to him.

Secretary Dilts – After the whole transaction took place

Mayor McKay – Yes seven years later for \$1 each.

Secretary Dilts – they were conveyed back to him. Yes, and that was in the original agreement to do that.

Chairman Johnson – So George, let's say hypothetically, right now we don't see a lot of negatives with this, there's only positives. What would the next step be? I guess it would be obviously identifying them so we can all see them and, you know, Joe had a great example there. So let's say you identify all these areas that could become zoned Public Use. If there's one of those spots that we think has a huge negative affect, could we pull that from the public and not change it to Public Use.

Planner Ritter – Well

Secretary Dilts – Didn't we have a Rossi

Planner Ritter – That's for the parks. That's for the Parks. There's different processes going on here. This is really doing nothing more than showing the properties that are in municipal ownership. If you have a lot that you put a tax lien on and flip it, I don't think that would ever end up as a piece of open space.

Mayor McKay – The municipality owns a lot of lots. There all over the place.

Planner Ritter – Okay, but I assume that the zoning that's on those, is the zoning that stays. In other words, you are not turning them into a park, you're not turning them into a municipal warehouse or whatever and those wouldn't show up on this map. What would show up on the maps is the stuff that is really municipally, state, county or local government owned and the intent is that's how it is going to stay unless something unusual happens, but I mean it shows up and I see it as more informative. It also, as I say, if you want to put some restrictions on how these properties are used, that's something that could be considered too. I will say most of the ones that I've been involved in had virtually, have no restrictions on how the town or the municipal government can handle it.

Mayor McKay – But you say they're in use. Didn't you say that before?

Planner Ritter – Yes.

Mayor McKay – They possibly would be so, if the Township was given a lot in lieu of foreclosure or something way back and it's not doing anything with it.

Planner Ritter – Well, if your intent is just to flip that out as another lot in the zoning district, it will never show up on this map.

Mayor McKay – Yeah, that's what I mean, okay.

Planner Ritter – If it's a town park, it would show up as a Public Use park. It's not all that significant other than I think for public record and informing people it's a good thing to have. It tends to show people how much green you have in the town which I don't think would hurt in terms of real estate sales and value. The more you show green on a map, the better off you are.

Member Pryor – I'm thinking out loud not everything is green. What if you had a municipal dump? It would seem to me if you create the zone; you have to create some restrictions with it. They all become conforming. What's to stop us from voting one night and we create a construction waste land fill on

Planner Ritter – Well, the purpose of the zone is if it's a park the purpose is to be used for a park. If you go to change it,

Member Pryor – No, but I'm saying as a zone. It's a municipal as a Public Use Zone everybody is going to be in the zone

Talking over each other.

Member Pryor – All public buildings and applications everybody is going to be in the zone the municipality has a facility on. Are there any restrictions on that zone?

Planner Ritter – Yes, the ones you want to put in. The only ones I'm suggesting that I've seen work, is setbacks in terms of types of uses. In other words, it just comes out and says if you're going to build a municipal maintenance facility, I'm not talking about the ones that exist. We're going to put a restriction on here on ourselves that we're not going to put within X feet of a guy's house or we're not going to put it within so many feet of outdoor storage yard. It's just the restrictions you are willing to live with and then the rest of it is saying they can be used for purposes that they're designed for. In other words, park uses can go in parks. I've never had a problem with it in any town but it also makes it clear that these do exist and can be improved and the uses that are the county park can do a county park project, that kind of thing.

Chairman Johnson – You're other towns

Member Woolf – Who controls Public Use?

Planner Ritter – Well, the government agencies. In other words, the county park system controls the county park.

Member Woolf – I mean in Lopatcong. If we say across the street where the church is at, with the vacant lot and you're saying it's a Public Use.

Planner Ritter – The church wouldn't be there.

Member Woolf – I'm saying it's the vacant lot owned by the Township. You're saying its Public Use. Now what is who controls the use of that property?

Planner Ritter – The way

Member Woolf – Forty-five kids come in and want to go over there and start putting a skate board park in, you said well this is for Public Use.

Planner Ritter – No. The question is, is it a park, is it a school

Member Woolf – It would have to be designated that.

Planner Ritter – It has to be designated that on the zoning map so then that becomes the use.

Member Woolf – They just can't walk in there.

Planner Ritter – It isn't just an open piece of ground that you, you know, that you're gonna, that you just all of a sudden declare its Public Use.

Mayor McKay – George, do you have one of these in writing from another town maybe you could circulate it around?

Planner Ritter – Yeah, no, I have one. I'll send you a couple examples of how towns have handled it.

Mayor McKay – Yeah, I think, give us a good.

Member Pryor – Couple, couple would be good, especially, towns that might handle it a little different way.

Mayor McKay – I think would, that's what we need, we need to be able to see what it looks like.

Planner Ritter – Okay, no, that's good. It's just whether, you know, you have some (inaudible) I'll go ahead and dig a little harder for it and send some stuff out.

Mayor McKay – Okay, thank you.

Member Pryor – My minds open, once I understand how

Chairman Johnson – So, we're showing enough interest George where I think we want you to gather up some more information for us and show us some examples. Carlos, go ahead.

Member Correa - Do you do like an estimated cost for this Township to change all these properties and put them into this Public Use?

Planner Ritter – Well, they're already in Public Use, all we have to do is identify them and put on a zoning map.

Mayor McKay – It's part of the rezone, the master plan we're working on.

Member Correa – So, it wouldn't cost anything to the town?

Planner Ritter – It will cost virtually nothing. It is more just sitting down and identifying what properties you have, where they're at and putting them on the zoning map and then, which is part of this process, making a recommendation as to a guidelines for zoning change. In other words, not the actual ordinance but just what's intended by doing it. So no, it wouldn't take much and then get it on the map, and I can get a couple of examples, you can see how a couple townships have handled it and see how you want to do it. Like I say, almost all the towns that I've worked in have a Public Use Zone so; it's just something to think about.

Talking over each other.

Attorney Sposaro – Since it's going so smoothly, let me just throw something in here. The Land Use Act does not specifically exempt from municipalities and municipally owned property from zoning or the requirement to secure a site plan approval to use property for a particular use. Most towns will simply say you don't have to come in to the planning board or if you do, it's sort of a courtesy review. I would recommend, to be on the safe side, because I've been, I'm in a situation now in another town where a member of the public is objecting to an addition to a police department building saying they're not exempt, they need site plan approval and the truth is they do. The planning board doesn't want to deal with it. The town does not want to put itself to the expense of putting a plan together. I think it would help you to give you the flexibility that you want and need. If it's something that you want to exempt the municipality from the need to secure site plan approval for public projects something you may want to think about.

Planner Ritter – And as an example, in the towns I'm most familiar with, they're exempt from site plan approval and they are only subject to review by the township professionals and review

by the township council if they deem it necessary. I mean it makes it clear that they don't have to make a formal site plan application to the board.

Attorney Sposaro – Nothing prohibits you from creating that exemption but in the absence of an exemption in your ordinance, the town's property and the use of that property really is like everyone else.

Vice-Chairman Olschewski – Why should it not be?

Attorney Sposaro – I'm sorry.

Vice-Chairman Olschewski – Why should it not be? Why should they not have to get the property application and why should they be exempt from anything?

Planner Ritter – Well, one of the problems, one of the problems we struggle with is there's no design standards for probably and I'll say this, if the police station is in a residential zone, there may not be any design standards to address what the police station is doing. I mean that would make him subject to a Residential Zoning District or needing all sorts of relief to do their project. By exempting them, but allowing the township officials to look at it, one of the things that isn't even in our ordinance in Chester, but is required is that the township meet all its stormwater regulations. Every township project has to be designed in accordance with the township stormwater regulations.

Vice-Chairman Olschewski – How's Lopat doing it?

Planner Ritter – What?

Vice-Chairman Olschewski – How are we doing it?

Planner Ritter – I don't have a clue to be honest with you. I'm just; I'm bringing this up as something you might want to think about.

Vice-Chairman Olschewski – You're talking about all these towns around us how we (inaudible).

Planner Ritter – Well, you don't have a zone, so, I don't know how it's handled here.

Member Pryor – I don't recall a public project in a long time except for the new pump station which Beth I don't think that went before any boards.

Secretary Dilts – No.

Planner Ritter – Well, it wouldn't normally have to.

Chairman Johnson – That was a replacement right?

Member Pryor – No, but it was moved.

Member – New place

Attorney Sposaro – If you want some kind of oversight but not to the level of planning board review in terms of site plan, leave it with the governing body as George recommended to review it and have your professionals review it if you deem that necessary. I think that way it's, there's some checks and balances but not to the extent that normally would have (inaudible). It's also a cost savings.

Chairman Johnson – Well, you do need some. I think as an adjacent property owner, your next to a municipal lot and they're changing something, they're adding an addition, I think you owe it to that adjacent property owner to make sure they don't object or have any concerns.

Planner Ritter – Yeah, but it also leaves, this ordinance that I'm most familiar with, also means that an objector can go back to council and make his case which may give him a voice that is listened to; meaning if he goes in front of his township council and says what are you doing to me, they may listen if they think he has valid points.

Chairman Johnson – Assuming he finds out about it in time to bring up (inaudible) story building if they're going

Member Pryor – There's no notice requirements right? At least at the planning board you have that protection, so.

Attorney Sposaro – It's something to think about.

Planner Ritter – Well, I'll get some examples and you can take a look at it and we won't take it out of the recommendations, at least not yet, and I'll let you look at what some other towns have done.

Chairman Johnson – Excellent, thank you. George, you want to do the next one?

Planner Ritter – Sure let's pick another one that might be fun. Planned Unit Development Overlay District; this one is a district; it's a district that includes a good chunk of your Industrial Zone. It was adopted I don't know six/seven years ago with the idea of encouraging the redevelopment of the Ingersoll property and also encouraging putting together larger, assembling larger parcels and doing mixed use development. It's an Overlay District that includes the Ingersoll tract, it includes the affordable housing site that's under construction on 22, it includes part of the mall and then it includes all of the Industrial Zone is in the Overlay District and what that is is a district that gives density bonuses, impervious cover bonuses for assembling projects up to at least a minimum of 50 acres and doing mixed use. The idea was that we could get some mixed residential, commercial development. It was originally done with the idea of encouraging the redevelopment of the Ingersoll project into a mixed use project or possibly getting some

assemblies in the Industrial District to do larger, more efficient types of development. Zero interest. We haven't had one person come in and apply or try to assemble anything and now with the Ingersoll project being covered under the Redevelopment Plan, the largest single project that we had is gone. That's covered under the redevelopment agency and most of these tracks now have various uses on them. It be almost impossible now, well, there still where the solar is if that was torn down you'd have a large enough acreage but, essentially, there's very few projects that can be assembled anymore and my sense is it just makes no sense to leave it in the district. It encourages no one and I think it would be a much simpler and a cleaner ordinance to just take it out.

Member Fox – What's the Overlay District called?

Planner Ritter – Well, it's what, do we actually call it – it's essentially, well, I have the actual name back in my notes

Member Fix – I thought that it was labeled right there; pointing to it.

Planner Ritter – Oh, I'm sorry, Planned Development Overlay District. It's essentially, to encourage non-residential development assembly of larger properties and we were hoping to get mixed use, retail, and commercial office. We were originally looking at hopefully, somebody on the Ingersoll Rand tract were picking that up. As I said, it's going to a Redevelopment Plan, the largest property is gone and our sense is that it really serves no useful purpose any more than filling space in your ordinance and it would simplify a lot of things to take it out. The one part of the Planned Development District that would be retained is the ability to do a Development Plan which is what Ingersoll is currently being developed under. They're able to do a Development Plan in lieu of a specific site plan.

Mayor McKay – George, does another large piece that's next to the mall that's undeveloped they use to speak as if there was going to be developed for senior housing.

Planner Ritter – Yes, that's another one of our subjects that'll be coming up.

Mayor McKay – All right that's not included in the, this isn't in the Overlay too?

Planner Ritter – No it is not. It is outside of it.

Mayor McKay – We could do that one next.

Planner Ritter – So anyhow, my sense is it serves no useful function. No one has chosen in all the years it's been here to develop it. Sometimes it's good to edit

Member Fox – Open space.

Planner Ritter – What?

Member Fox – Open space, who said that?

Planner Ritter – Well, this has nothing to do with open space, this is development. We're really trying to encourage development.

Members talking over each other.

Member Fox – But there's going to be a nature center as part of deal with Ingersoll Rand. So, you're putting a nature center right there along the stream corridor?

Planner Ritter – Well, before we get to there, let's decide on the Overlay District and that's my next one. We can jump right into the next one.

Member Fox – So, if you take away the Overlay District.

Planner Ritter – Correct.

Member Fox – What does it revert, does it just revert back to?

Planner Ritter – Well, it stays exactly as zoned. It will be HB/ROM or it will be part of the Redevelopment Plan for Ingersoll and the only thing that we keep out of that zoning was we have a Planned Development option in the ordinance which is what Ingersoll's being developed under and that would be retained, that portion of it and that's really nothing but a procedure to get approval of a large scale project.

Chairman Johnson- So this wouldn't affect the Ingersoll?

Planner Ritter – Well no. Keeping the redevelopment in there will let them continue exactly as they are. So like I say, I just think it is a good one to clean up. I don't envision anyone ever taking us up on that again and it complicates the ordinance. It gives bonuses; nobody's chosen to ever go after the bonuses. Let's just say it was probably a good idea but didn't produce any results.

Member Pryor – George, were you around when that was

Planner Ritter – Oh, absolutely.

Member Pryor – and the thinking was what just

Planner Ritter – The thinking was to try to encourage assembly of larger blocks of ground into a unified plan of mixed uses.

Member Pryor – Yeah, you know, I always associate, associate mixed use with a town center or something like that.

Planner Ritter – Well, this gave you the ability to do it. If you read the ordinance, if the Ingersoll could have been, Ingersoll tract under this ordinance could have been developed as a town center.

Member Pryor – Well, it might of made sense; you have apartments and shops and

Planner Ritter – Well, right. I'm just saying nobody

Member Pryor – But that was a clean site. That was 100 acres

Planner Ritter – Well, this was to apply to basically, clean sites. It was to

Talking over each other

Member Pryor – hodgepodge of storage and industry and I can't imagine somebody

Planner Ritter – That's why

Member Pryor – paying a lot of money to sit next to industry, you know.

Planner Ritter – Well, that's why I think, quite frankly, it makes no sense to keep it. The original motivation was to try to get somebody to do something with Ingersoll and maybe something else, but the bottom line is, I think the real purpose of that ordinance is gone and like I say, I don't, I believe housekeeping sometimes is good on these ordinances. If they're not performing, just get the stuff out of there.

Chairman Johnson – What year was that done?

Planner Ritter – It was, where is my briefcase?

Vice-Chairman Olschewski – I don't think it is that important.

Chairman Johnson – I was just curious how long it has not been working.

Planner Ritter – It was proposed in 2004 and it was rezoned the following year 2005.

Chairman Johnson – Over ten years we've gotten nothing.

Planner Ritter – Nothing, not one application and the Ingersoll property as I said came in under its own redevelopment plan so that's gone and that was the largest single property. So again, my thought, I mean you can look at the ordinance; you can read up on it and see what you think but my guess is to take it out. Just eliminate it.

Chairman Johnson – Does anybody object to George's recommendation or do we want to talk about it some more?

Member Pryor – To be honest with you, I never even heard about it until

Mayor McKay – It was (inaudible) to an existing zoning.

Planner Ritter – Yes, yeah.

Talking over each other.

Chairman Johnson – And, it hasn't worked.

Planner Ritter – And, nobody has taken us up on the bonuses.

Member Fox – And, there's not like there is an void or vacuum by removing it

Planner Ritter – No.

Mayor McKay – Everything stays the same.

Chairman Johnson – So, if we

Member Fox – It just gets clearer.

Chairman Johnson – So, if we, so Tony, what do we have to do officially to concur with George's recommendation?

Planner Ritter – Well, all you have to do right now as far as I'm concerned, as a Board, if you agree, just say yeah, yay, nay and that's good enough

Member Fox – One piece of a (inaudible) pie

Chairman Johnson – I know it's one piece of a bunch, but let's get this piece behind us if we all agree that it doesn't make sense. Be done with it. So, can we just say all in favor or do we have to do a motion.

Member Pryor – I'd make a motion for him to put it in his plan for now.

Chairman Johnson – To take it out of the master plan.

Member Pryor – He's assembling the plan.

Mayor McKay – I second the motion.

Chairman Johnson – Okay, I understand I got what you're saying.

Talking over each other.

Attorney Sposaro – All in favor.

Planner Ritter – Take the Planned Overlay District out.

Member Pryor – It's going to end up in a recommendation of some sort and we'll see the whole thing at the end and that will get approved and sent up but for the working document I say yes go ahead and take it out.

Secretary Dilts – So, that's all in favor?

All members agreed.

Planner Ritter – This is the parcel behind the mall it's the AARC Active Adult Residential Community District that was put back there.

Chairman Johnson – That's the gold one that Carlos just pointed out.

Planner Ritter – That's the gold one behind right there.

Member Fox – Is that the only AARC zoning in the Township?

Planner Ritter – Yes. There's no sewer. That's one of the reasons we're going to talk about it. The original idea was to create a Senior Citizen Housing Project but provided affordable units as well. It has a mandatory requirement for set aside in it if you are going to develop it. The, there's two things that have happened since that's been developed that became very clear, actually three. One, there's become a major feud between the shopping center and the property to the rear as to whether they have access to the loop road, but serves the mall which is an issue that still remains under resolved. It was finally resolved with the current housing project that's under construction. It took three years to resolve that, but that's one of the issues, but more importantly, the issue was not included in the Highlands Center Designation for the Township and on the Highlands Major Regional Master Plan, this area is not within a district that they would support providing any sewer service to. The other aspect of it is, it's my understand that the only way to get sewer in there right now is out of Pohatcong to serve that track. Now, the difficulty comes that our ordinance is written that there's only two uses they can do; townhouses and multi-family. If they can't get sewer, that means that that property can't be developed and we're all sitting around here thinking that it is pretty remote that that'll ever happen. So there's several things we can do as a town. We could try and put them into the Highlands Center designation. In other words, go back and ask to reconsider to put them in which means that maybe, maybe they could get sewer or we could propose to write, amend their approval and we can do this several different ways their zoning. I'm sorry not approval, their zoning so that we could put in there that if they do not get sewer, they have to develop the site residentially at a density that could be supported on setback. The old zoning at that time for that site was five acre with a three acre cluster. That was the original zoning of that track. So we could write a clause that just says if you don't, here's your zoning, if you every get sewer you can go ahead and do what we said you could do. If you don't, you got to do five, three acre Cluster Zoning on the back. Now there's advantages to cluster on that back piece. There's also issues that we can talk about but the advantage of clustering is that you might be able to, if somebody did it, you might be able to create open space along your stream corridor. You might be able to actually get some of the open space buffers that I know a lot of people would like to see happen back there. The other way to do it is to simply say look, we give up, we know it'll never be part of the center and we're just going to zone it R-3 acres. In other words, just take away the Multi-Family Zoning and just make it an R-5, 3 acre Cluster

Zone which it was in the past or if you think because it's behind the mall and there ought to be a recognition of higher density, we could zone it into a residential district like our 2-acre zone or something because that's could still support septic and put them in that zone and then the ultimate zone that you could do which I seriously doubt because the mall's in trouble, you could obviously say well that a spot where we might have a community shopping center. In other words, maybe they should make the shopping center bigger so you could always zone it into the, into another commercial district, but I also know that that shopping center is struggling so, I'm not sure that makes any sense. So, I think it's something though we ought to address because the applicant, I'm amazed they haven't shown up here and made a case for something on that site because we have it zoned in a way now that they are stuck with a property that they can't do virtually anything with.

Mayor McKay – Do we know if the same people own it today that were the ones who were going to build the senior project?

Planner Ritter – I have no idea what

Mayor McKay – No I don't think it is. I think it's Santini owns it now. He's a farmer.

Attorney Sposaro – George, what access does that property have to the

Planner Ritter – The mall road.

Attorney Sposaro – That's it?

Planner Ritter – Yes. As far as I know, that's the only access into that property is the mall road.

Chairman Johnson – And Highlands does not support sewer?

Planner Ritter – Well, Highlands, you know, take it back. Highlands does not support sewer on that particular property just like it didn't support sewer on almost you whole Industrial District until we put it in the center. The reason for getting Center Designation years ago, from the Highlands, was to give the town the flexibility to extend sewers if they have the gallonage, extend sewer into certain areas of the town and that's why we had put in the center designation. There's no reason to believe that if you went back to the Highlands now and got that put in the Center Designation, that if, and I say if, because I know all the problems. If there were sewer available then they might be able to extend it to that property if we put it in the center. If we don't, I don't think there's a chance because the Highlands believe it or not has it in an Agricultural Preservation Designation.

Chairman Johnson – Sewer still comes from Pohat regardless.

Planner Ritter – Well, there was originally a chance to bring it up from the bottom but I think that, from up from the creek, but I think that was decided it couldn't be done.

Member Pryor – I never heard that to be honest with you.

Planner Ritter – I was trying to remember when the housing project was approved.

Member Pryor – Now, you know, Perrucci came up with the Lock Street thing and that's the only solid proposal I remember for going to P'burg. There's a sewer that loops around the mall and goes into Pohat

Planner Ritter – That's right.

Member Pryor – and that would have been the logical candidate I think. Otherwise, you'd have to go all the way down to P'burg or something

Vice-Chairman Olschewski – What's the recommendation George?

Member Woolf – Do you know how the property, Pohat property that abuts in the zone?

Planner Ritter – It's small lot residential abuts in the Pohat side. It's small lot. I don't remember the exact side but it's small.

Chairman Johnson – The smallest lot size that we can get in there and still do septic is 2 acres?

Planner Ritter – I would

Chairman Johnson – A guess.

Planner Ritter – I wouldn't, yeah, I'd prefer no more than an acre and a half to two acres as an absolute minimum if you're going to put septic on it. I think two is a good number till you get the field in and find the place that perc's.

Mayor McKay – They haven't come to us to ask for any approval to build anything.

Planner Ritter – No, I'm amazed that they haven't.

Mayor McKay - Actually, they tried to sell this to this to the county for Green Acres.

Planner Ritter – Oh well, maybe that's their way out (inaudible)

Mayor McKay – The County didn't take it.

Member Fitzsimmons – How much acreage is it? The total, it's hard to

Mayor McKay – There's two lots; one in Pohat, one in Lopatcong right?

Member Fitzsimmons – It's ten acres, it's 20.

Planner Ritter – Oh, it's fairly large, I bet it's kind of, I bet it's close to 40/50 acres.

Member Fitzsimmons – And, it's all sloped. I've driven back there. It's not (inaudible).

Planner Ritter – Well, it rolls down, right next to the mall road it's fairly flat and then it drops off in the back.

Member Pryor – Do you know what the Pohat side

Member Woolf – (Inaudible) Lopat creek.

Member Pryor – Do you know what the Pohat side is zoned?

Planner Ritter – Residential small lot.

Member Pryor – Small lot.

Planner Ritter- Yes and I mean small. They have sewer.

Member Fitzsimmons – What's that quarter acre?

Planner Ritter – I don't want to, I don't want to mislead you. I'd have to look it up. I don't know.

Chairman Johnson – Well, if they got sewer so it's probably is pretty small.

Planner Ritter- Yeah well, it's small, I know that and as I say the original zoning before it was rezoned (inaudible) was 5 acres with a 3-acre cluster. That's what it was zoned. I don't know why it was that zone but that's what it was zoned. I suspect it was partially because of the environmental issues with the creek.

Chairman Johnson – What's the main difference between a 3-acre zoning and a 3-acre Cluster Zoning

Planner Ritter – It's the amount of open space. The 3-acre zone you could cut the whole site up into 3-acre lots. If we do what we call the Cluster Ordinance, they would have to set aside a certain portion of the site as public, well public is the wrong word, as open space that could not be included in a lot and in the districts that we have now if it was R-5 with a 3-acre cluster, 50% of the land would have to be put in with all intense and purposes would be a park.

Chairman Johnson – Cause it is pretty restrictive.

Planer Ritter – Yes, if you did it in our mandatory 3-acre cluster to 2 the minimum set aside would be 25%.

Chairman Johnson – Detention basins count as part of that?

Member Pryor – You know, George

Member Fitzsimmons – So you said, I'm sorry Joe

Member Pryor – I was just going to say maybe the malls not doing well, but the out buildings seem to be viable.

Planner Ritter – Yeah, they have the frontage.

Member Pryor – It makes sense (inaudible) with a tire center back there, they could put

Planner Ritter – I mean if this was a viable mall I'd tell you that rezoning it to business use would probably be the smartest thing.

Member Pryor – But I'm saying those out buildings are independent of the mall and seemed to be viable.

Planner Ritter – Yes.

Member Audra – (Inaudible) they separate from, they're (inaudible)

Planner Ritter – Yeah, a lot of those pad sites, the one thing you're struggling with is that is the mall isn't healthy, there's not enough traffic to drive behind it. If this was the King of Prussia Mall, I'd tell you could build anything on that property that would sell as a commercial property.

Member Pryor – I understand that, but you go in front of Panera's any hour and you know, it's crowded. There's stores that are popular and that's probably as good as spot for a store like that as any.

Planner Ritter – I have no problem with zoning it commercial. I think it is a difficult commercial property just given the health of the mall. The ones that are selling well are the ones that face out on the main strip.

Chairman Johnson – I don't know if they're doing that well either. I think, you see Pizza Hut come and go Sonic come and go, I mean

Member Pryor – That Pizza Hut was there a long time and Pizza Hut as a business kind of had an up and a down

Chairman Johnson – I see a lot of change over on that frontage. I don't know, you know, maybe they're doing okay with

Member Frank – Star Bucks is doing a lot better

Chairman Johnson – Sonic didn't do well.

Members talking over each other

Member Pryor – I don't know. To me George, nothing makes a whole lot of sense back there.

Planner Ritter – Well, the one thing we could do to (inaudible) is simply leave it zoned the way it is (inaudible).

Member Pryor – You have to put something and 5-acre residential

Vice-Chairman Olschewski – I don't think we need more family. We have enough family.

Member Fitzsimmons – Well, the alternative is business.

Planner Ritter – As I say, business might. If the mall and I don't know enough about where they are the heads of the guys at the mall. (Inaudible) as a commercial strip would they buy in the mall to make it more viable. I don't know.

Vice-Chairman Olschewski – Well, considering with the new development there, some small (inaudible)

The recorder is muffling voices.

Member Pryor – Well George, 5/3 does that

Planner Ritter – Five/3 would do that because

Member Pryor – Maybe you could make it 3/2 or something.

Planner Ritter – Well right.

Members talking over each other

Planner Ritter – We have different districts. We have 10/5, 5/3 and 3/2 cluster mandatory. We have no choice and then we have our standard

Mayor McKay – Is Scenic Ridge like that?

Member Woolf – There's no access to the property.

Mayor McKay – Yeah, because there was a big piece

Member Pryor – Back when they did that whole deal it was all packaged. We gave him the zoning on the front

Member Woolf – (Inaudible). Talking over each other.

Member Pryor – We gave him the houses on the front. We actually owned the rear of that property where Scenic Ridge was. That wasn't really a cluster. That was all part of the proposal when all this land got swapped.

Planner Ritter- Well, Scenic Ridge is the one up on the side of the hill. That's a straight zoning district. I know which one you are talking about.

Member Pryor – He deeded the rear of that. He agreed at that time

Planner Ritter- Yeah, the water tank or something is up there.

Chairman Johnson – Would this be a desirable location for somebody to have a 3-acre property? I'm not terribly familiar with that zone, but I do know the area.

Member Fox – How much of that do you really have access through the

Planner Ritter – Mall road.

Member Fox - mall road

Planner Ritter – Which is private.

Member Fox – so you can't tie into another township's public road? You can't just continue that road into our Township?

Member Woolf – No.

Member Pryor – It's private roadway.

Planner Ritter – It's a private road.

Member Fox – The Pohat side. All those houses.

Planner Ritter – I don't think any of them come through. If I remember right, they all end and they end as cul-de-sacs or cut off, if I remember right.

Muffled voices – inaudible.

Member Woolf – There was a deed restriction with the mall cause once that property was sold in the back, they had grant them access off to the ring road.

Planner Ritter – Well, I think that's what our housing project that's under construction they thought too and it took them two years to get that worked out.

Member Woolf – Now Michael went off of his property onto that property without approval. He tried to and then (inaudible) originally we turned him down because the back access was going to

be right on the 90 degree turn. The site triangle wasn't there. Then he redesigned the road but the redesigned road went off of his property

Planner Ritter – Correct onto this one.

Member Woolf – on to this one.

Planner Ritter – Onto this one and then connects in with

Member Woolf – Right he couldn't do that. Then he worked something out with them afterwards to get access to where he's tying in now.

Planner Ritter – with coming in.

Member Woolf – Right.

Member Pryor – George, I thought that site was 3/2 once upon a time.

Planner Ritter – It was 5. I looked it up before I came up here tonight. It was 5/3.

Member Pryor – And 5/3 what was it before that though?

Planner Ritter – Before that, I have no idea because, if, and the stuff that's along the creek right now is in the old zone district which is 5/3. In the old master plan it is 5/3. I don't know what it was before that.

Chairman Johnson – Does this go up right to the creek?

Planner Ritter – Yes.

Member Woolf – Yes. The church or something owned that property.

Planner Ritter – The only advantage to cluster on that is it does give you an option if somebody ever pushes it to try to (inaudible). Now, I will admit if you zoned it all commercial, you'd still have all the wetlands. You'd still have all the riparian buffers. In other words the corridor would get protected whether we force a cluster on somebody or they try to develop it the state will come in and say you have a 300' riparian buffer, you have wetlands, you have dah, dah, dah which will also establish a corridor it isn't like you're going to build right up to the stream no matter how it's zoned. So any, you know, that's, that's the stream will get protected the same way it got protected at Ingersoll the corridor.

Member Woolf – Yeah, the far southern tip of that property used to be a (inaudible) there was a house and barn down there. There's still a concrete bridge going across the Lopatcong Creek at that point.

Chairman Johnson – Well, from my, I think the housing market is approving a little bit. Maybe you might get some bites on a 3/2 cluster in that area for development.

Member Woolf – But how do you get to it Eric?

Mayor McKay – Yeah.

Member Fox – Well that's, I'm just looking at Google Maps

Meme Woolf – Warren County, DCA and stuff is pretty much told everybody you can't cross the Lopatcong Creek.

Vice-Chairman Olschewski – I think Gary is right. If you were to build a house and your only way to get is through the P'burg Mall road right I think that excludes every housing project privately I think that only lease commercial as a viable option for me at least, I'm not sure if I'm right

Mayor McKay – Agriculture.

Vice-Chairman Olschewski – Well, if Tom wants to do the farm

Mayor McKay – There is a farm there, that's what it is.

Member Woolf – If I'm not mistaken

Members talking over each other.

Chairman Johnson – George, would you agree with that kind of assessment we got a

Member talking over each other

Planner Ritter – Well, we have an access issue but the one of the ways I looked at the zoning out there, that's not our problem to solve. The question is what do we think is the best use for the property and let them work out the access issues.

Chairman Johnson – But the knowledge of the problem to solve, could be reason enough to go in a certain direction

Planner Ritter – Well no, sure if

Members talking over each other.

Attorney Sposaro – Push comes to shove, unless someone created a hardship for themselves, the courts are going to allow that property owner access to the public thoroughfares in this municipality and that's just a reality. They may have to negotiate with owners. Maybe they don't want the time and the expense of litigation but that really is up to them. I think we need to look at that property. That's what I think the analysis here should be.

Chairman Johnson – I think the 3/2 to me sounds like it's the most viable.

Attorney Sposaro – Does someone want to have to go through the mall to get to their house every time you know that's

Members all talking over each other

Attorney Sposaro – and do you have enough housing and that's the other question you have to ask yourself.

Vice-Chairman Olschewski – That's right.

Member Pryor – You have to look at a housing plan and everything. I thought we were pretty well set there with our housing plan George.

Planner Ritter – Well as far as our going in well yeah, housing as it relates to affordable housing, we're in good shape. You're good through 2025 and you are carrying a substantial number of units into the next round beyond that. So you're, you don't need affordable housing units in the near future shall we say.

Member Pryor – You know, I don't know if this housing pressure at all

Members all talking over each other.

Planner Ritter – Yes, it includes Gardner's proposed project.

Vice-Chairman Olschewski – So, without Gardner's proposed project we won't be not in good shape?

Planner Ritter – No. You'd be in perfectly good shape without Gardner's proposed project.

Vice-Chairman Olschewski – So, we don't need Gardner to build this stuff?

Planner Ritter – Well, you need Gardner to build his stuff to carry a surplus into the next round.

Vice-Chairman Olschewski – Okay.

Planner Ritter – In other words, he's going to take care of a substantial part. You don't need it in terms of this round and the only reason I'm saying that that's because of the agreed to set, if approved by Council, the agreed to settlement.

Vice-Chairman Olschewski - Now in regards to the cost, I am not sure if we actually but I have been told but I am not sure if that is actually true and it has nothing to do with anything here, that is the town allowed to sell, rent out COAH units to other towns?

Planner Ritter – No not anymore.

Vice-Chairman Olschewski – Are we doing that in anyway?

Planner Ritter – No.

Vice-Chairman Olschewski – Is Lopat all our COAH units are used by (inaudible).

Planner Ritter – No, no, that's different. You have COAH units that qualify to be counted toward your obligation. They're not restricted to Lopat people. In other words anybody can occupy those units.

Vice-Chairman Olschewski – Sure.

Planner Ritter – and in fact they can't restrict it to just Lopat.

Mayor McKay – That's Clymer Manor we have here.

Member Woolf – Clymer Village is not all Lopat.

Mayor McKay – Other towns take credit for it.

Member Fitzsimmons – Where's Clymer?

Mayor McKay – Clymer Village. We only get credit for half those.

Planner Ritter – That's right. That's exactly right.

Mayor McKay – Nobody can find the agreement.

Planner Ritter – Well, I don't know. All I know is that from what I've seen as part, half of them went to the other towns.

Mayor McKay – Right. If we could reclaim those we would have been in a real surplus. There was a limit on the number of senior ones I think.

Member Fitzsimmons – Say there's no bridge, nobody that's the one you mentioned a concrete slab.

Member Woolf – It's a concrete slab.

Chairman Johnson – That's a bridge.

Member Woolf – Yeah, it goes to the old Paulus farm. There is a metal bridge that crosses the Lopatcong Creek on Lock Street

Member Fitzsimmons – Yeah, that's the one I meant

Member Woolf – but that doesn't take you to that property. There's two houses

Members talking over each other.

Planner Ritter – What on this?

Vice-Chairman Olschewski – Yeah.

Planner Ritter – No, I've thrown out about 4 to 5 ways to think about.

Vice-Chairman Olschewski – I would like one recommendation from you but your personal recommendation what to do with the property.

Planner Ritter – Well, I got to admit if I believe that the retail market was strong enough, I would have zoned it into the same use as the mall. That is my gut of what would work back there. The only problem you have is whether without sewer that's going to amount to anything either. I mean you can do retail but it probably for all intensity types of stuff.

Vice-Chairman Olschewski – That'd be perfect.

Planner Ritter – If you want to protect the environmental resources back there, the mandatory cluster will help you do that. You know, and you won't get that many houses if you think of 3/2, 5/3 you're not getting a lot of units back there, if say anybody wants to build there. The problem with that is exactly what was pointed out here you know with the access on the mall road do you, you know, I will tell you in some towns it would sell. I'm not sure it would move up here.

Vice-Chairman Olschewski – I would think that the house if it is not many houses, on a large acreage, the houses is probably fairly expensive houses so we're looking at houses 500, 750 I don't think these guys would want to be driving through the mall. I don't.

Planner Ritter – Yeah no, I understand what you're saying. I'm not arguing

Members talking over each other

Attorney Sposaro – Gardner said when he was here last month he's got over a hundred units that he has to rent right now because he can't sell them.

Member Fitzsimmons – Who's this Tony?

Attorney Sposaro – Gardner who appeared last month. The property values I think on the residential side are somewhat depressed because there are so many out there. Why you building more houses? I mean that's just my

Chairman Johnson – I think George's recommendation, you convinced me. I think the

Mayor McKay – What's his recommendation?

Planner Ritter – Well, mine is, I said my gut would be to zone it into the Commercial District and see if there is any desire to expand the mall by the back side commercial.

Mayor McKay – I would say that would make the most sense.

Chairman Johnson – I would be comfortable with that.

Members talking over each other.

Member Pryor – George's only reluctance is

Planner Ritter – Well I'm just not sure there is enough to portion but I shouldn't say that. In planning and zoning the absorption in the market really isn't your problem either. You should try, even though all of us think about that, what you're trying to do is figure out the best use of the land is because if you think about it, if you go and look through, not only in Lopat, but if you go into the general area and you see the amount of land zoned for residential, you know, just the hundreds and hundreds and hundreds of acres well, you know, that there's going to be a few people out there that win, meaning it gets developed as zoned but there's also a very large number of people out there that are zone residential but in their lifetime if they ever see their farm sold developed would be a long shot. So, I don't know if it's really important that we think of the absorption rate but what we do is think about what we think the best use of the property should be and let the owners try to figure out if they can or can't do it. If they can't they'll come in, they'll come in in front of the Board and say you got a better idea on the tract.

Vice-Olschewski – You know one wonders if a commercial property behind the mall would actually help the mall.

Planner Ritter – I don't know. I, you know

Vice-Chairman Olschewski – I know you don't but all the auxiliary buildings around the mall maybe already that is what, I don't know, I can't figure it out but some other interest in properties behind the mall commercially maybe able to sustain what is there, I'm not sure.

Planner Ritter – Well, they might. I've seen around some of the, if you go in and see the community malls that are being built now, you can go down to Flemington all right I'm not talking King of Prussia which is an unusual aborigine. If you go down to Flemington what you can see happening is they built the core mall and now all around the parameter on the opposite sides of the street they are getting all the stand alones; the Costco's

Vice-Chairman Olschewski – All we need is one corner store.

Planner Ritter – you're getting those kinds of things but it's also predicated on part of that the core mall is strong enough to draw people in. I mean I won't, I'm not telling you anything you don't know.

Member Fitzsimmons – You mean the mall right on 202 there? It's been there for years.

Planner Ritter – Yeah, but if you pull back in now, they're developing all

Member Fitzsimmons – All around there, yeah.

Planner Ritter – All around it is starting to go into free standers.

Member Pryor – But, you know, maybe it's the (inaudible) and not the mall. I mean sound management there's a lot of rete's out there that have very successful malls.

Planner Ritter – Correct and I think in the Flemington case I think some of the exterior stuff is owned by the same people that own the core mall cause it was developed at the same time.

Member Fitzsimmons – Well, like Costco took them close to 14 years to get that in. They had that on the books years ago.

Planner Ritter – They are it takes a while.

Attorney Sposaro – All right, so what's the recommendation here?

Chairman Johnson – Somebody wants to make a motion to

Member Pryor – I would say if you need a placeholder for now commercial.

Chairman Johnson – I agree.

Planner Ritter – Okay.

Chairman Johnson – Are we okay with an all in favor or do we need a motion Beth?

Secretary Dilts – All in favor. Motion carried.

Motion to adjourn by Mayor McKay, second by Vice-Chairman Olschewski. All in favor.

Respectfully submitted,

Margaret B. Dilts
Secretary

