

Planning Board Meeting

Regular Meeting of October 15, 2008 at 7:00 pm

The special meeting of the Planning Board took place on the above date. Chairman McCabe read the Open Public Meeting Act and requested Board Secretary Mrs. Citterbart called the roll. Board Secretary Citterbart stated there was a quorum.

Members Present: Mrs. Fowler, Mr. Phalon, Mr. Ricciardo, Mr. Russo, Mr. Vandyk, Mr. White, Chairwoman McCabe

ABSENT: Mr. Caffrey, Mr. Elvidge

ALSO PRESENT: Mr. David Soloway, Esq., of Vogel, Chait, Collins and Schneider, David Simmons, Board Engineer, Debra Millikin, Deputy Town Manager, Jessica Caldwell, Town Planner from the firm Harold Pellow and Associates, Board Secretary Mrs. Citterbart.

FLAG SALUTE

CONSIDERATION OF MINUTES

September 17, 2008

Mrs. Fowler made a motion to approve the September 17, 2008 minutes. Mr. White second the motion.

AYE: Mrs. Fowler, Mr. White, Mr. Russo, Mr. Vandyk, Chairwoman McCabe

ABSTAINED: Mr. Ricciardo, Mr. Phalon

DISCUSSION

COAH

Ms. Caldwell stated: I put in your packets a Housing Element and Fair Share Plan for you to take a look at. I want to go through it briefly tonight and take a few minutes to look over the Fair Share Plan and get your feedback on the plan that we have laid out so far and see if you like it. I have a public meeting in November if it is okay with the Board. This is your chance to give any feedback or make any changes you think are necessary. If you took a look at the plan, the Housing Element the beginning of it goes over the housing stock inventory, demographics and employment characteristics of the town.

Ms. Caldwell reviewed her report.

Ms. Millikin stated: We have to schedule an actual public hearing for this where we have to Notice for the Fair Housing Element and Fair Share Plan and hold a public hearing on that so that we can follow our schedule to get this filed by December 31, 2008 in COAH. We have to Notice 10 days prior. The Board decided December 10, 2008 and Town Council on December 22, 2008.

OLD BUSINESS

#SP 08-07 Martorana Enterprises, Block 1201, Lots 5 & 5.03, 100 & 104 Sparta Avenue. Applicant is seeking approval for a major site plan approval to construct 2 retail buildings. Representing the applicant is Kevin Kelly, Esq. from firm Kelly, Ward and Laemers and Mr. Fiorello, Esq.

RECUSED: Mr. Ricciardo

SWORN: Hall Simoff, 466 Southern Boulevard, Chatham, New Jersey, sworn.
and Mr. Donahue from the firm of Donahue Engineering, 34 East Prospect Street, Waldwick, NJ 07463.

Mr. Kelly stated: A-9 Black and white revised concept plan dated September 24, 2008 and A-10 colored version of A-9. We are going to refer to those in our presentation. We are still with the issue of the buildings and their location. At the September 17, 2008 meeting you all were kind enough to give us the Exhibit PB-1 to use in some of our rethinking about our issues. We have agreed, if you all recall, that we were going to give you some revised plans or concepts to look at before this meeting and get some feedback from you prior to tonight. We did submit the concept back in October 1, 2008. I got them down here in the Town Hall. I didn't get any feedback so I thought that meant that everyone was satisfied and we would be able to proceed. We are going to have our engineer, Tom Donahue represent to you what that concept plan is and what the changes were, knowing very well that it is not all that you asked us to do. We did sit down and made an honest effort to do the best we could in the directions you were leading us. I also asked Mr. Donahue to prepare a report because I wanted to try to explain to you and the audience as well. What we did, if we could change to accommodate people we would certainly do that because we know we have gotten that much feedback. I want you to know that this is not a case of being stubborn and it's not a case of wanting to have it our way. There are real planning issues that you heard at the last meeting on the record for why we need to do it this way. You are going to hear that there is real engineering issues as to why we want to do it this way. We need to do it this way. Finally, that there is some very real business reasons as to why the owner needs to do it this way. I would also like to refer to another report I'd like to mark A-11, dated October 7, 2008, 10 specific engineering reasons or justification for what we are presenting you tonight from Mr. Donahue.

Mr. Kelly questioned: Mr. Donahue would you give us the highlights of your revisions and your concept plan that we dated September 24, 2008? Mr. Donahue stated:

The plan is entitled Conceptual Site Plan and dated September 24, 2008. What we did with this revised plan was to shift the 12,000 square foot building to the south and also to the east. Those setbacks now are from the northern property line 71.1 feet and from the western property line at 80.7 feet. We shifted that building down and actually shifted the entire parking area to the east from prior plans that were submitted. Along with that, we shifted the 28,390 square foot building to the east. That setback now is approximately 86.7 feet. With that, we shifted and rearranged the parking lot on the eastern side of that building along with the circulation of that parking area along with the main parking area to provide for the WB 65 size truck. Mr. Kelly questioned: What does the WB 60 mean? Mr. Donahue stated: It is the largest truck on the road right now. Along with that the front parking lot was angled for angled parking by only a one way northerly direction through the parking lot so anyone wanting to access the front of the existing retail building would have to travel in a northerly direction to gain access or circle around the entire building. We did a lot of work within the parking lot to make the traffic flow. We shifted the two buildings which actually shifted the entire parking lot area. Mr. Kelly questioned: In your concept plan you did a consultation with the other experts on behalf of the applicant, and the applicant as well is that correct? Mr. Donahue stated: That is correct. Mr. Kelly questioned: Before we leave that, at my request I asked you to make a list of reasons of why you think this is the appropriate plan and particularly the piece of the piece of the Exhibit PB-1. I have a copy of it here. Mr. Donahue stated: I have a copy of my letter and maybe it would be helpful to put up my plan so we can describe that along with this. Mr. Kelly stated: Okay.

Mr. Donahue stated: Members of the Board I think you all have copies of the October 7, 2008. You have three October 7, 2008 reports in your packet. The one I am referring to is the one that has 10 specific items on it and it refers to the litigations. It is the document that we would like to mark Exhibit A-11. Just so you know there is two other ones, one response to water and sewer and the other responds to Mr. Wentink. We will get to those. This plan which we reviewed shows the buildings being shifted more towards, at least the northern building, shifted towards the center of this area of the property. Mr. Kelly stated: You are now referring to PB-1? Mr. Donahue stated: That is correct. Which has a date of 9/17/08. This would require this 12,000 square foot building to have frontages along three sides which means the stores would have front entrances all the way around the building, which is very difficult for retail type use to function. Typically they would have a front and a rear to the building that people would walk in from one side they would have storage and other things at the other side of the building. This would require frontages along three sides. Same thing with the other building, the 28,000 square foot building, this piece here of the L shape would require frontages along three sides. Mr. Soloway stated: I realize the applicant doesn't have users yet, but if I remember correctly that building might be a bank or fast food restaurant. Mr. Donahue questioned: Which one? Mr. Soloway stated: The 12,000 square foot building. Mr. Donahue stated: Correct. Mr. Soloway questioned: If it was, would it be a single user building? Mr. Donahue stated: No. The bank or the fast food would not encompass the entire building. It is too large for one use. Initially, to stay on that building, if were to have a drive-thru for a bank or fast food that would have to be associated with a side of the building. With that, you would have to have parking on the rear, which I have

indicated in my review letter. You would have to have parking behind the building and then patrons would have to walk through an isle way, a drive-thru to get to the store frontages or, if you have a fast food or bank you would have frontages here adjacent to an isle way, which just does not work. This does create an unsafe condition in my opinion where you would have people parking and then having to walk through past a drive-thru isle. That would be the same thing on the L shape situation on this building where the applicant was previously proposing a drive-thru. That would have to be located adjacent to the L shape with parking on the outside, if that is possible and then people would have to walk through that area which creates an unsafe condition in my opinion.

Chairwoman McCabe questioned: Would it have made more sense originally to take the 12,000 square foot building, make it a little bit smaller and bump it to the south the nose of that property? It almost seems like a natural drive-thru in that area. The one near the warehouse. Mr. Donahue stated: Again, we placed it up in this area because in that location, which at the last meeting the Planner testified that it would provide a buffer to the surrounding neighborhoods. That was the reason again for the parking lot on this side, the building and then that would buffer the surrounding neighborhoods. That is the reason to have it at that location. Mr. Soloway questioned: That is the only reason? Mr. Donahue stated: The planner discussed a couple of other reasons last time. It also provides a means for a drive-thru in that location. That's where we feel is the best location for it. Mr. Vandyk questioned: If a fast food were to go in there and they do have a drive-thru you can almost eliminate a bank because most banks have a drive-thru, and if that only associates with one drive-thru. Mr. Donahue stated: It's one or the other. We are only proposing one drive-thru. Mr. Kelly stated: Mr. Donahue in your report you had several other reasons, I am correct? Mr. Donahue stated: Yes. Mr. Kelly questioned: What were some of those reasons? Mr. Donahue stated: Again, I covered items number one, the orientation of the buildings with three store fronts, parking, parking would be required to be put behind both buildings, which is closer to the adjacent properties. I am skipping around on my review letter. Placing the buildings in the center would require more traffic lanes and traffic isles to be created, and the parking would have to probably expand towards the adjacent property lines because the other concept takes away from the parking area. So we would have to put parking behind. Putting parking behind you would have to put lighting to be adjacent to the property lines right now. Also, the other concept with the 28,000 foot building would require parking to be placed underneath the L shaped which would create a dead end area. Right now we do not have a dead end, we have a drive-thru for our parking under the garage. Also, excavation in that area to create parking underneath would be about a 20 foot deep excavation. As I mentioned in the prior concept, it would require, in my opinion, additional parking be placed adjacent to the outside perimeter lane that is showing and getting that closer to the adjacent properties. Mr. Kelly questioned: Where would that 20 foot excavation be? Mr. Donahue stated: It would be in the center where the L shape concept was before. Mr. Kelly questioned: From where to where? Mr. Donahue stated: Basically the entire area underneath that L shaped area. It is about a 20 foot excavation.

Mr. Kelly questioned: You also submitted a colored version. I am referring to Exhibit A-10. I hope everyone can see that as well, we can turn it. That is the same plan I asked

you to color in show the buffers and what they would look like in the plan. Could you do that Mr. Donahue for the Board and the members of the public? Mr. Donahue stated: Yes. Basically this plan is the concept site plan shown with landscaping. Basically the same concept of landscaping that we had proposed in our application with our buffering enhancement around the outside perimeter with evergreen trees and landscaping throughout the parking lot area. The buffer width behind the 12,000 square foot building from the property line to the curb is 47.6 feet. So behind the building is a width of buffer which would be natural and also enhanced with additional evergreens for 47.6 feet. Mr. Kelly questioned: Your exhibit does show all of the extra buffering that we agreed to during this hearing process? Mr. Donahue stated: Yes. Along the northerly side is 30 feet. It shows the existing trees that were there along with an enhancement of evergreens that would be planted within the existing tree area.

Mr. Vandyk questioned: Where were you proposing to put the snow removal? Mr. Donahue stated: In an area I believe adjacent to the warehouse area in the parking lot. Mr. Vandyk questioned: Is that paved area now? Mr. Donahue stated: No. It could be paved, what we are showing here. This is more or less a final. Mr. Soloway questioned: Is that the area of future parking area? Mr. Vandyk questioned: If you are putting future parking there where would you put the snow after that? Mr. Donahue stated: The applicant would have to remove it. There wouldn't be any on site. If he has snow, he has to remove it from the property. Mr. Soloway stated: Just so we are clear, on the concept plan the area designated as the future parking area those spaces are counted towards the 388? Mr. Donahue stated: No, they are not. The landscape plan just shows an alternate parking area in that location. Mr. Kelly stated: It is my recollection and I am going to ask Greg Martorana to correct me if I am wrong, but the latest answer to that snow removal question was going to be that for this year it was going to be off site. Mr. Martorana stated: Yes.

Chairwoman McCabe stated: The plan that I have, the newest plan, shows still the fenced area. That is to remain? Mr. Donahue stated: Yes. Should it be necessary, there is an area for parking and that is what is shown on this plan in that area.

Mr. Kelly stated: I think that is all I have Mr. Donahue. Is there any questions? Mr. Vandyk questioned: You have the dumpsters towards the top of the 12,000 square foot building, how are you proposing to pick them up with the garbage truck? Mr. Donahue stated: They would have to roll them out to take place. Mr. Vandyk stated: To roll them out and block the possible drive-thru? Mr. Donahue stated: There is a loading/unloading area. Mr. Vandyk questioned: They would be backing up to the loading area to get the garbage cans? Mr. Donahue stated: Yes, or pulling up into that area. They pull up into that area, pull it out, load it and then drive around. Mr. Soloway questioned: Would they be blocking it? Mr. Donahue stated: No. Again, there is a loading and unloading area adjacent to a 16 foot wide isle way that goes around. Mr. Wentink stated: There could be a condition that you only remove trash at certain hours when you figure you would have a low traffic volume. Mr. Soloway stated: Not if you can get the disposal company to go along with that.

Mr. Vandyk questioned: Do we have a truck route for in and out, basically out after deliveries are made? Mr. Donahue stated: It would vary depending upon where they are going. I don't know where they are going to, but they have a loading and unloading area here adjacent to the 12,000 square foot building and then to the south on the 28,000 square foot building. Trucks are able to come in through either existing driveway, but probably from the southerly side and then travel through and make your way to that 12,000 square foot building or travel around towards the middle. That has been calculated. Mr. Vandyk questioned: There is enough room for turning radiuses and everything? Mr. Donahue stated: Yes. That is why we have designed this plan to accommodate the WB 65 truck. Mr. Phalon questioned: How long is that truck? Mr. Donahue stated: The cab is about 63 feet. Mr. Phalon stated: We have a ladder truck on our fire department that is why I ask. I was wondering if that would fit the dimensions of our truck to get around the back of that turn.

Ms. Millikin stated: Mr. Phalon there is a template that our town engineer does have for the fire truck for the ladder truck so we could get that to their engineers. Mr. Phalon stated: That is tough truck to drive in a lot of places.

Mr. Vandyk questioned: With the top building being a buffer, for the reason of moving it back. Sound travels can get broken in half by a person walking through so to say that keeping that back there is because of buffer and sound I don't see how that makes a difference from having it there or moved up forward. Mr. Donahue stated: I'm not sure what your question is. Mr. Vandyk stated: Well, the reasoning for keeping it back instead of keeping it up, the main reason we are talking about is because of sound and keeping as a buffer for property. Sound travels can get broken up by anything, by wind, cars, trucks, so to say that we have to keep it there because of sound. Mr. Donahue stated: I am not a sound expert. I can't really answer that. Mr. Kelly stated: That is not your testimony Mr. Donahue, that was testimony of our professional planner and I would refer the Board to the transcript that you have there with the reasons that we set out rather than asking Mr. Donahue. Chairwoman McCabe stated: I have also spoke to a couple of planners who said that putting a building there would actually amplify the sound. Buildings do not reduce sound. Mr. Kelly questioned: Are we going to have that in some fashion enter the record of this case? Chairwoman McCabe stated: No. Mr. Kelly stated: Well it just did and in a way that we can't possibly respond to it. Chairwoman McCabe stated: It is an idea that is refutable I guess. Mr. Kelly questioned: Is there any other questions for Mr. Donahue?

Mr. Kelly stated: Let me call my final witness for a real brief question. Mr. Kelly called Mr. Martorana. Mr. Kelly questioned Mr. Martorana: Tell the Board in your own words for wanting the buildings in the location as they appear on our 9/24/08 exhibit and plan. As Mr. Donahue explained, the biggest and most important reason is that this building has three sides. It will never work for retail. It will never work ever. The second reason is that not only does it have three sides it has a dead zone here. A very large dead zone, two dead zones, here and here he pointed. In here in the corner that is almost impossible to get something rented. I have property like this. Currently I have property like this and it is extremely difficult to get rented, the ones in the corner because nobody wants to be

in the corner because of visibility. The main reason is that I have a concern that when we build these buildings that the development works. A lot of designs and a lot of thoughts so we can move the building this way and this way doesn't mean the building will work. Mr. Kelly questioned: What does that mean that it will work? Mr. Martorana stated: That I will be able to get it rented. I don't want to spend all this time and all this money to build something. Mr. Soloway questioned: Not that it's relevant to these proceedings but you are not going to spec these are you? Mr. Martorana questioned: Spec them? No, I have been chit chatting with certain people about what they want so I have an idea of what people want. Mr. Vandyk questioned: People meaning contractors or retailers? Mr. Martorana stated: Retailers. The conversation did not go much further than knowing about the development and know about where the buildings were laid because of lack of permits. They were like when you get them then come back to us and discuss further to sit down with their attorneys and so forth. Mr. Kelly questioned: If you thought you could do what is suggested to us you would do it right? Mr. Martorana stated: By all means, just financially it makes more sense to do whatever they say to go with but because every time we come back here it is quite costly for one, very time consuming for two. We have tried two and half years now. Just on this plan about a year. I made seven changes to this to adjust everyone's concerns we are using their lighting. I am doing everything I can possibly do to make everyone happy. All the buffers I know the Board's concern was all the buffers. We changed all the buffers from 10 to 70 and 80 feet from the borders. So, I've tried everything. Not to get on the wrong side of the Board or anybody, truth be told, it's still has to work. Just to maneuver a building here. You could do this, you could do that doesn't mean it is going to work. We are in the business of building and then filling it. I don't want to build it and leave it vacant. That has never come up and that's the first time I have testified to that. In all the meetings that I came, never once did it come up. Well, maybe is there a problem with getting it rented. It never came up. I'm going to tell you, if you start moving things too much, it won't get rented.

Mr. Kelly stated: That is all I have. Does the Board have any questions? Chairwoman McCabe stated: No.

Chairwoman McCabe stated: Mr. Kelly, I would like to address circulation if we could please. Mr. Kelly questioned: May I ask in what respect? Chairwoman McCabe stated: In several. Do you have your engineer so we can speak about the circulation plan? Mr. Kelly stated: I thought we were done. Chairwoman McCabe stated: No, we're not. We have serious issues with circulation. In particular, if you pull back PB-1 which has on it the circulation plan for the delivery truck behind Quick Chek. I don't have an issue with the truck going in and the truck making a delivery, but I don't see where the truck is going afterwards. Maybe you could point that out on the plan. Mr. Kelly stated: We have Mr. Simoff here. As long as we are not going to repeat the four hour meeting that we had in August. Chairwoman McCabe stated: This was not addressed before. Mr. Kelly stated: Okay. Mr. Soloway stated: To be fair Mr. Kelly it wasn't a four hour meeting in August. If I recall, the meeting ended, and I did look at the minutes with the Chair indicating that there was still a lot to be discussed in terms of circulation. Mr. Simoff indicated that he would submit an amended plan which he did do, but he has not

testified. Chairwoman McCabe stated: He has not testified about that. Mr. Kelly stated: He did throughout the night testify about that but we don't have that transcript. Chairwoman McCabe stated: Not since PB-1 has been presented or your plan that modified PB-1. We did not discuss the circulation of the delivery trucks. Mr. Kelly stated: I don't mind doing that.

Chairwoman McCabe questioned: Perhaps you could describe how delivery trucks would circulate around the site, in particular around the Quick Chek building? Mr. Simoff stated: Yes, we submitted, I think before the last meeting, a conceptual truck circulation plan. Mr. Donahue has revised his plan to match some modifications that I had in some of the parking lots. Some of the parking had to be removed in order to accommodate the circulation. Chairwoman McCabe questioned: That is represented Mr. Donahue in the plan that we have? Mr. Donahue stated: Yes. Mr. Soloway stated: To be accurate, the plan he testified to tonight would be the conceptual plan. I don't think that is what Mr. Simoff is referring to. Chairwoman McCabe questioned: What I am asking is, was the parking on tonight's circulation conceptual plan modified because of Mr. Simoff's truck route? Mr. Donahue stated: Yes. Mr. Soloway stated: If you have it handy, Mr. Simoff's plan was marked into evidence as Exhibit A-5 last time. Mr. Kelly stated: It's now part of what is up there. It is dated September 4, 2008. Mr. Simoff stated: What I did is took Mr. Donahue's original plan and I amended it so the radii had changed and some of the parking had to be removed in order to get the circulation that we talked about at the August meeting. As we talked about the parking in front of the Quick Chek angled as we discussed. To get to your question, the entrance truck would come off of Newton-Sparta Road, make a right, pull forward. I call Newton-Sparta Road east/west so it's a little bit different orientation than with Mr. Donahue. They would face to the west and then back into the Quick Chek. That is basically how they do it now. They back into this back corner with the trucks. The egress move is shown in the box to the right of the plan. That is what required the removal of the parking spaces. If the truck is heading to the south it will make a 180 degree turn. Chairwoman McCabe questioned: It would make a left around the building? Mr. Simoff stated: It would go counter clock wise. Chairwoman McCabe questioned: So that parking has been removed? Mr. Simoff stated: Yes. Chairwoman McCabe questioned: Is that reflected on the colorized version that you have? Mr. Simoff stated: It will probably show it as all pavement in that area, which it is. Chairwoman McCabe questioned: But there is no parking? Mr. Simoff stated: There's no parking there. You can also see it on the concept site plan. There is existing parking striping. It is a little confusing, but if you look at the top isle it says 7 parking spaces. Mr. Soloway stated: So when you have to the left of this on the drawing you are showing a 9 foot by 20 foot parking spaces, but to the right of that you show parking spaces with no such notation. That means that they are not parking spaces. Mr. Simoff stated: That is correct. Yes, it is a little confusing. There is existing striping there now, but they have been moved. Mr. Wentink stated: The fine lines are existing and the heavy lines are proposed. Mr. Kelly stated: The proposed are a little darker. Mr. Simoff stated: If you look on the opposite side of that isle it says 15 parking spaces. So there is 15 on the other side. On the side you are talking about there is only 7. Chairwoman McCabe questioned: So if a truck leaves the site they cannot go north on Newton-Sparta Road they have to go south and make a right outside of the site? Mr.

Simoff stated: They can go anywhere. Chairwoman McCabe stated: Oh yes, that is the two lane entrance.

Chairwoman McCabe questioned: Would you talk about truck routes to the back two buildings, please? Mr. Simoff stated: The intent was that we used the flexibility to the eastern driveway, the lower driveway, as the entrance/exit because of the unrestricted turning movement. The traffic would go south. As you can there is an island that has been adjusted and the traffic would head around the building, make the left turn and go up then probably go straight back and go around the back of the building. Mr. Soloway questioned: Is there any plan to have anything other than arrows on the pavement to alert people that's how you find the 12,000 square foot building for example? Mr. Simoff stated: We can produce a sign plan that shows trucks routes. As you can see, these radii are all very generous in the areas that we have to circulate trucks, but what we have done is developed a circulation plan that takes close to a 70 foot long truck. It has a 53 foot trailer. You can see on the upper right hand corner of my sketch. It has a 15 foot cab, which includes a sleeper. There is a couple of feet in between the cab and the trailer. It is close to 70 feet. It is what is called a Wheel Base 65. As you would go west but going toward the top of the plan just past the Quick Chek for a truck to make a left turn and try to make its way to the back of the site. That looks like less than a 90 degree angle there to make that turn isn't it? Mr. Simoff stated: Yes, and that is why we adjusted the island. I can assure the Board that a WB 65 can go from the driveway at the lower edge of the property, circulate through to get to the 12,000 foot building, get around the back of the 12,000 square foot building and also get around the back of the 28,000 square foot building. We have adjusted them. Mr. Soloway questioned: All in a continuous maneuver without doing something equivalent to a K-turn? Mr. Simoff stated: No, absolutely not. They can get around to the back of the 12,000 square foot building and back around the corner of the 28,000 square foot building and head along the property line and head straight out. Let me also state that these are conservative plotting because it calls for a truck with a sleeper cab. That is like for a truck that is coming from someplace out of the area. Most deliveries if you have tenant that is going to make multiple stops with the truck, they are not using a sleeper cab. Mr. Soloway questioned: Is WB 65 longer than the double trailers? Mr. Simoff stated: They are just over the road. Mr. Soloway stated: They are not allowed to pull on to a site like this. Mr. Simoff stated: I might also add that a ladder truck has a wheel base of about 20 feet. So, if we can make this with a 65 foot wheel base, we can make it with a 20 foot wheel base.

Chairwoman McCabe stated: I am looking at your turning radius above the 12,000 square foot building and the bottom most building. There seems to be a very wide radius for a truck and yet I don't see that graphic down behind the Quick Check for how that truck is going to get out of there. Mr. Wentink, what is your opinion on that circulation plan for a truck of that status? Mr. Wentink stated: I checked the turning radii and it will work. Chairwoman McCabe questioned: You mean that one with a less than 90 degree angle? Mr. Wentink stated: I'm not sure where you are talking about. Chairwoman McCabe stated: Behind the Quick Chek they show a truck coming in and pulling straight behind the building and backing up to the loading dock and then leaving. That truck cannot go anywhere else on the site but out, correct? Mr. Wentink stated: Yes, I believe

the left turn out of that middle driveway, I guess you would call it future parking that would be a little tight. I don't think they could make that. Mr. Simoff stated: What happened is there was a slight change between my plans originally drafted in September and Mr. Donahue's plan. If they wanted to they could go from the Quick Chek to the 12,000 foot building. What happened is we modified that one isle is 34 feet when you look at Mr. Donahue's conceptual plan. That is the route of the truck. If the truck is making a delivery to Quick Chek and they still want to make a delivery to the 12,000 foot building, they could still do that. Mr. Soloway stated: You would have to assume that the trucks would want to go to the 12,000 square foot building. You are expecting them to go to the Quick Chek, right? Mr. Simoff stated: I thought the question was can they make multiple stops on the property. Chairwoman McCabe stated: Yes, I am verifying every contingency. There is a neat, safe route on this plan. Mr. Simoff stated: As you look at the island on the end of the parking isle that has a 15 and a 17, that island has been modified to make a left turn. That is a little bit different than my plan. When Mr. Donahue drafted his plan he emailed me the plan and made some recommendations and in concert we came up with this layout. That island at the end of the end of the 15 and 17 will accommodate the left turn for a semi truck WB 65. If the truck were to leave the Quick Chek and make a right, they would be able to get around that isle because that is the truck route anyway. As you can see, the area where the original snow storage was that radius was made very large so the trucks can make a right turn and head up the sheet and then come around the back of the 12,000 square foot building. Chairwoman McCabe questioned: Based on this plan, what is the pedestrian plan for this site? Mr. Vandyk stated: Sidewalks. Chairwoman McCabe stated: They have to put in sidewalks on the front. I mean on the site itself if you wanted to from one building to another? Mr. Simoff questioned: You mean if you want to go to the 12,000 square foot building to the 28,000 square foot building? Chairwoman McCabe stated: You would hope that they would go on the site for multiple shopping. Mr. Simoff stated: They would like any other shopping center they would walk down the aisle. Chairwoman McCabe stated: I would like to see some kind of striping or some kind of pedestrian walkway that would assist a shopper going from one building to the next to travel in a safe manner and it would also put drivers on the alert that those are areas that pedestrians may be in for their safety. I don't know, striping. Would there be room enough perhaps in parking area 14? Could there be a walkway down the center sufficient for pedestrians to walk from one half of the site to the other? Mr. Simoff stated: I just discussed this with Mr. Donahue. We exceed the requirements for the setback and the buffer. If the rear isle or the southern isle would be pushed back 4 feet maybe we could put a sidewalk down this in between these two or in that parking. Chairwoman McCabe stated: Okay. That is a balance that you have to evaluate because we are exceeding the buffer, but we could meet the buffer and it wouldn't be a required variance and put a 4 foot sidewalk there. Our thought when we developed the plan was to make it maximize the buffer. Chairwoman McCabe stated: We can't compromise safety either. There has got to be a balance. Mr. Simoff stated: It is not a problem to move this back 4 feet towards the rear property line. Chairwoman McCabe questioned how the Board felt about that, to give up 4 feet to allow for safe pedestrian passage way. Mr. Soloway stated: You are not moving a building.

Mr. Vandyk questioned: For the base of the bottom building 28,000 square foot building should there be an exit only sign towards the outer part of the building because that only goes to the back, down towards Quick Chek? It should be a one way only. You have the arrows going both ways around. Mr. Simoff questioned: That is not wide enough for two-way. Mr. Vandyk stated: Right that should be an exit only there. Mr. Simoff stated: Correct.

Chairwoman McCabe questioned: When a person exits the site and reaches the bottleneck where they have to make a choice whether they are going north or south, east or west, there is going to have to be some kind of signage at that bottleneck. At that point they are going to have to make a choice. Mr. Soloway stated: You don't want people coming out on the Newton thinking they are going to make a left. Mr. Simoff stated: That would be a standard intersection sign. Chairwoman McCabe stated: No, I'm talking within the site at the bottleneck. Mr. Simoff stated: That would be a standard. If you go to any intersection you have got a sign that, and I can't give you a notation, but it has the arrows to say only underneath. Mr. Wentink stated: I don't think the Chairwoman means that, I think she means the signs says Sparta to the right and Newton to the left. Chairwoman McCabe stated: Yes. A directional sign. Mr. Simoff stated: Usually what happens is that you have those arrow signs. One right at the intersection then you have it a hundred feet back or so. Chairwoman McCabe stated: Right. This is within the bottleneck where the back of the property meets the front of the property. Towards the center where the snow removal at the corner of the building. Mr. Soloway stated: You could irrevocably commit to the wrong way pretty early here. Mr. Simoff stated: I understand what you are saying. You don't commit to going to the center driveway. Chairwoman McCabe stated: Correct.

Chairwoman McCabe stated: I thought that early on we also talked about some pedestrian safety issues when it came to that masonry building on Newton-Sparta Road. Mr. Simoff stated: Right now there are sidewalks involved. Chairwoman McCabe stated: I think those issues were resolved by you adding parking to the side in front of where it says retail office. Initially we were talking about people walking from the back of Quick Chek to all the way around to the front of this masonry building. Which was unsafe. This is probably adequate parking there. Mr. Simoff stated: We could stripe a crosswalk across the center driveway.

Mr. Soloway questioned: I guess this is a question for Mr. Donahue. Getting back to that future parking area just so I am clear on this, the chain link fence you are showing is existing that is going to be removed? Mr. Donahue stated: Yes. There is an existing chain link fence to which is on the outside of the existing gravel area and there will be a proposed fence which would go around that future parking area. Mr. Soloway stated: The fence now blocks the access to the rear. It doesn't say on the plan that it is to be removed. If it does it was too subtle for me. Mr. Donahue stated: Yes. Adjacent to the warehouse one story high masonry warehouse says existing gravel area and fence to be removed. Chairwoman McCabe questioned to the Board: Any other issues with circulation? I think we addressed lighting. Mr. Wentink stated: The only thing I have is circulation. I have it in my reports. The entrance on the west edge of the 28,390 square

foot building, I think that driveway should be entrance only. I am very concerned that when you pull out of that driveway with the building there you are not going to see vehicles coming around that corner even though they should be moving slow. Mr. Soloway questioned: You mean pull out of where? Chairwoman McCabe questioned: From underneath? Mr. Soloway stated: From underneath? Alright, so you come out of there. What is the striped? Mr. Wentink stated: That is to show that he has a radius that will accept a WB 65. Mr. Soloway stated: As I understand it, when you come out of there it looks like you can only go left. Chairwoman McCabe stated: The problem is visibility. Mr. Wentink stated: Yes. I am concerned about visibility when you pull out of there. Mr. Simoff stated: One of the things is you can see by the striping we have directed the traffic. Mr. Wentink stated: You are attempting to force the traffic away. I understand that. The other thing is that underneath the building I think that the architecture might be able to devise to have that open space. Mr. Wentink stated: On your plan you show the corner of the building cut off. Mr. Simoff stated: Mr. Donahue moved it underneath, because you have to have a certain percentage by building code to be open anyway. That area would be somewhat open to see through it. Chairwoman McCabe stated: That is also a pretty steep decline. Mr. Wentink stated: That will be coming down to 10 percent grade. I have not been able to review. This is conceptual so it has not been put on a final site plan so some of those details I haven't had the opportunity to look at.

Chairwoman McCabe questioned: Does the Board have any other questions? The Board answered no. Chairwoman McCabe questioned: Mr. Wentink, do you have any another questions? Mr. Wentink stated: No.

Chairwoman McCabe opened the floor to the public.

Charles Briggs, 73 Pine Street. You talked about the 12,000 square foot buffer as being 47 feet. What is the buffer on the 28,000 square foot building? Mr. Donahue stated: It is on an angle. The measurements at the northern side is approximately 50 feet scaling and on the southerly side it is about 40 feet. Mr. Soloway questioned: Just so we are clear, is that the site plan you submitted or the conceptual plan? Mr. Donahue stated: That is base on the plan entitled Conceptual Site Plan. Chairwoman McCabe questioned: That is the buffer to the end of the drive and not the building, correct? Mr. Donahue stated: Yes, that is from property line to curb line.

Mr. Briggs questioned: The dumpsters for that building are going where? Mr. Donahue stated: The dumpsters for that building are eastern side of the building. There is indicated as certain areas for those. Mr. Briggs questioned: Almost where the tile company is right, or up further, that little open lot there where the wetlands are? Mr. Donahue stated: Further back.

Mr. Briggs questioned: The drainage where the slope comes down to under the ground? Where you have the slope is that underground parking? Mr. Donahue questioned: Under the building? Mr. Briggs stated: Yes. Mr. Donahue stated: Yes, that will get hitched out to the circular drive, the perimeter drive, there is inlets to connect the water to

the detention basin. Mr. Briggs questioned: That 4 foot sidewalk you are talking about adding in, you want to bring that down from the 12,000 square foot building on the outside all the way down connecting down to the 28,000 square foot building? Mr. Simoff stated: No, what our thought was in between this row of parking to put the sidewalk. Mr. Briggs stated: Okay. Mr. Simoff stated: What that does is shifts these last four rows 4 feet to the edge of the property. Mr. Briggs stated: Okay. You were talking about putting that sidewalk going to the outside of the buildings and bring it down. Mr. Simoff stated: So that you would walk from the 12,000 square foot building down. Mr. Briggs questioned: So you are on the inside? Mr. Simoff stated: Yes.

Neil Flaherty, 154 Sparta Avenue. My concern is about the sidewalks and the traffic flow onto Sparta Avenue. Much of the entrances are predicated on the County Plan and expansion which has not been approved and is still under study. According to Pellow and Associates when they appeared at a public meeting on that said that it is possibly ten years away. My concern is with it here and now what is going to exist, not what might be. I have young children and everyday they walk to school by there. Is there going to be sidewalks with curbing all the way along Sparta Avenue? The existing stone building does not. It has a driveway and parking space to go in and that is hazardous, extremely hazardous. Is that going to be rectified in this plan? Mr. Simoff stated: Yes. That parking is being removed. Mr. Flaherty questioned: Are there going to be sidewalks as opposed to just striping on the parking area. Mr. Simoff stated: Yes, there is going to be sidewalks in the area where that parking backs out into the road is going to be bricks. Mr. Flaherty state: Alright. The traffic control for cars entering and exiting, there is obviously going to be increased volume if everything gets fully rented as one would hope. What are the pedestrian safeguards for children and other pedestrians going to use that facility? We don't all have to drive there. Mr. Simoff stated: There are sidewalks on the edge of the existing building and you would just have to walk along these islands in the parking lot. Mr. Flaherty questioned: Are there going to be any sort of top lights to allow pedestrian to cross over those driveways walking along Sparta Avenue or is just going to have to depend on the courtesy of drivers? Mr. Simoff questioned: You are talking about walking along the road? Mr. Flaherty stated: Yes, we travel that quite frequently. Mr. Simoff stated: What has to happen is the County has asked for details for that, but we are putting sidewalks along the entire frontage and then there will be painted crosswalks to stop cars and traffic control. It does not meet the requirements. Mr. Flaherty stated: Well, you can always exceed the requirements and safety I am concerned about pedestrians. Mr. Soloway stated: The applicant does not have the ability to put in a traffic light without the County. Mr. Flaherty stated: If the County is 10 years away, I am just concerned about the interim. Chairwoman McCabe stated: Honestly, I had a meeting with the County Engineer. As much as we would like to put a light here, it is too close to the light by Diller Avenue and they are proposing a light at Hicks Avenue and it is too close to the light at Hicks Avenue. Believe me they have looked at every avenue and every safety consideration that they could.

Ken Hardmeyer, 70 Pine Street. I would like to ask a couple of questions. At September's meeting I brought up what I thought were a couple of missions, a couple of ordinances that had been overlooked in the site planning. One was environmental

consideration, the second was gross density of floor area ratio. Mr. Donahue were you here for that meeting? Mr. Donahue stated: I was not. Mr. Soloway stated: Mr. Wentink, do you want to respond to that? Mr. Hardmeyer stated: I am curious on how your revised conceptual plan address those ordinances. Mr. Wentink stated: Under the C4 Zone off hand I can't recite the paragraph but it says that in this zone that does not pertain. Mr. Soloway stated: I don't think there is a FAR standard for this zone. The fact that it gets reduced under certain circumstances, it doesn't apply. Mr. Wentink stated: Mr. Soloway and I had telephone conversations about this. Mr. Hardmeyer questioned: How about the second ordinance in environmental considerations? Mr. Wentink questioned: Is that the one that talks about natural slopes? Mr. Soloway stated: Yes. Mr. Hardmeyer stated: Yes. Natural occurring steep slopes, wetlands and flood plains. Mr. Wentink stated: Based on my walk on that property, I don't think those slopes are natural. Based on going back in the deeds, in my opinion that is an old gravel pit I don't believe those slopes are natural. That is what the ordinance says. It uses the term natural. I don't think they are natural slopes. Chairwoman McCabe questioned: They are created slopes based on prior usage? Mr. Wentink stated: I am most certain they are. Mr. Hardmeyer questioned: You don't know that as a fact? Mr. Wentink stated: No, but I did talk to someone who told me. The deeds indicate that that property was owned by Hoodi. I know from experience that Hoodi was sand and gravel and quarry. That was their business. The one drawing, the survey map, there are deed restrictions. When I went to find out what those deed restrictions were they were basically that no one had owned that property could sell concrete or asphalt. When I traced the deeds back Hoodi's name comes up. When I walked this property when this job first came in when I was walking and I walked counter clock wise from the Newton side of the property I said "this looks like an old gravel pit." Just by looking at it and the grades. My feeling is that those are not natural slopes by the strict interpretation of natural. Mr. Hardmeyer questioned: So they would never be natural? A hundred years from now left along they still wouldn't call them natural? Mr. Wentink stated: No. In my opinion, it has nothing to do with time. Mr. Hardmeyer stated: I would dispute that. Natural is meaning never touched by mankind. Getting back to the buffers again, how much land is actually going to be untouched between the property line and where you start your limits of disturbance? Mr. Donahue stated: What we are showing is an area from the property line to a disturbance line which would indicate that trees are to remain in that area. That is approximately 25 feet. Beyond that is an area where there was a request to put in a constructed berm with these evergreen trees on top of them. That would be disturbed to construct the berm to put the trees on top. Mr. Hardmeyer questioned: How high is a berm? Mr. Donahue stated: About two and a half to three feet. So from the curb line to the property line again, as I mentioned before is about 47 feet. Mr. Hardmeyer stated: So roughly the green area to the outside appear to be trees that are going to be untouched? It looks like at the lower end of this side is a lot less than that, is that correct? Mr. Donahue stated: Yes it is. Mr. Hardmeyer questioned: What would the minimum be then down by the bottom of the pole? Does the basin stay pretty much how you had planned it, in the same location? Mr. Donahue stated: Yes. Mr. Hardmeyer questioned: What is the natural buffer area? Mr. Donahue stated: About 15 feet as a minimum. Again, that is what we are indicating as a limit of disturbance. We are not sure of the vegetation that is there. That is the reason why we are implementing

conditional plantings. Mr. Hardmeyer questioned: How about up on top paralleling Orchard Street, what does that measure out to be? Mr. Donahue stated: Thirty feet. Mr. Hardmeyer questioned: Thirty of untouched? Mr. Donahue stated: About twenty to twenty-five feet. Mr. Hardmeyer questioned: Is there going to be a berm up there too? Mr. Donahue stated: No, there is a retaining wall that is proposed along that curb line. That would bring the grade back down to the proposed parking area so above that would remain as is and supplemented in with additional upgrades. Mr. Hardmeyer questioned: Did you make any changes to the detention basin location, configuration, size or volume or anything like that? Mr. Donahue stated: No. The actual volume would, based on the conceptual plan submitted, be less because of the increase in the buffer area. You could say that the detention basin is a little oversized. Mr. Hardmeyer stated: You did not change it then, but you think that you have less impervious area and it will receive less foam is what you are saying? Mr. Donahue stated: Yes.

Nanette Thomas. Is the top part of the green that of which borders Orchard Street? Chairwoman McCabe stated: I believe it is. Ms. Thomas questioned: That is the 25 to 30 feet from my property line and then it would be a retaining wall? Originally they said ten feet even though it actually drops off at ten feet. Mr. Donahue stated: The retaining wall is approximately 25 feet from the property line. I am not going to discuss the plan or the buildings or the vegetation. I know something is going to be built there. What I am concerned about and I know it was brought up but now I guess the County is not going to have too much to say about the road, but for anybody that witness to the minor accident on Newton-Sparta Road last week saw how quickly traffic backed up all the way down one way. You couldn't even get on Hicks Avenue and all the way up to I don't know even maybe up to the green. It is very easy in this town to have a gridlock. It doesn't take much. I know how many ambulances go by everyday on Newton-Sparta Road. My concern is, and I'm not sure they can answer to this, once they start construction and if they don't have striking workers or all the things that were seeing happening with Kohl's. This is going to be ongoing for a couple of month which I guess I will be listening to and dust. I don't even know if blasting has been discussed because of the nature of the rocks and taking down trees and trucks. I guess my concern is this is going to add more to the road traffic. I don't know if anybody ever did submit a traffic report about just how many accidents happen on that road just trying to get in and out or go around the curve around Drake's Pond. I realize that everyone wants something built there. My general feeling is that it is going to add to an already overloaded town as anybody knows don't even go near Route 206 from 11:30 to 4:00 pm and that is when it's not Christmas. Newton-Sparta Road when we had the Able Explosion, my street was a parking lot. I couldn't even back out of my road. I realize that we do want to parking that was part of the Main Street to walk to areas. I am concerned about the sidewalk issues. It was one of the things that we were promised by the Town for all the school children and there are a number of school children that don't walk just on Newton-Sparta Road but on Hick's and Smith. I understand that they are under an obligation, but the Town already paid for and put in a sidewalk for those kids. So I guess at this point my concern is safety and it is going to be royal pain. I would think even if they get permission today, I don't see it finished in 18 months the way construction goes and I am going to be listening to that. Unfortunately for me, I am desperate enough that I would

sell my house tomorrow. It is going to create dirt, trucks, traffic, getting in and out. If you live in this town, unless you have a dog sled or a horse. That is all I am going to say. If they stick with the 25 foot line, I guess I will be building my own sound proof fence.

Charles Briggs, 73 Pine Street. They said they are not going to disturb within 15 feet of the lower half of the 28,000 square foot building. Within 15 feet of the property line you are going to wipe out all those trees. Fifteen feet is not far. Chairwoman McCabe stated: One of the things that was discussed early on is there is some run off on that property into the homeowners in the back. Mr. Briggs stated: Yes, there is a little flooding area back there. Chairwoman McCabe stated: The applicant agreed to build a berm for that reason. I know it is a greater area of disturbance for you, but if they build a berm and put in the trees then in the long run it will keep the flooding off your property. Mr. Briggs stated: Well, the flooding is down further. It would be more on the pavement then. That is how close we are, especially if that building is tweaked. You had that building tweaked 40 feet so it is much closer that corner of that building. It seems to me everything is wide up on top you have everything nice wide open it up and created a bigger buffer up on top and down below you get the bigger building with less buffer, more noise, more area to take place. It has a smaller buffer in the corner. Chairwoman McCabe stated: They did move the building over 30 feet. Mr. Briggs stated: It is still shorter than the top building. Chairwoman McCabe stated: More than it was. Mr. Donahue stated: If you look at the plans, this distance and this distance is almost identical because you have jog in the property. Mr. Briggs stated: Right. Mr. Donahue stated: You can't just look at this and say that these two are different. They are a little different, but there is a jog here. Mr. Briggs stated: You said the bottom corner is shorter. Mr. Donahue stated: The property line is about 87 feet and up at the top from the building to the property line is about 83 feet based on the conceptual landscape plan. So looking at the plan these are not in line because of a jog in the property. This is 80 feet here and you have more of a buffer to the building at the lower one. Mr. Briggs stated: Yes, to the building but you said before it was only on the corner and 50 on the other. Mr. Soloway stated: He was referring to the curb line. Mr. Briggs questioned: And the curb line to the top building to the property line? Mr. Donahue stated: As I stated before, is 47 feet. Mr. Briggs questioned: So it is still a little shorter? Mr. Donahue stated: A little shorter, yes. Mr. Briggs questioned: Those trees are all going to be equally and that berm is coming all the way down right on through? Mr. Donahue stated: No. The berm is only behind the 12,000 square foot building. Mr. Briggs questioned: So there is no berm coming down the side of the building that they said? Mr. Donahue stated: No, there is a retaining wall that is adjacent to the 28,000 square foot building and there is a drop from the existing grade down to the pavement. Mr. Briggs questioned: So there is going to be a retaining wall over there then? I did not hear about the retaining wall going there. I missed one or two meetings. Mr. Donahue stated: That has always been on the plans. Mr. Briggs questioned: No berm, retaining wall?

Mr. Hardmeyer questioned: How long ago did you say Hoodi owned the property? Mr. Wentink stated: I don't know. Let's say in the 50's. Mr. Hardmeyer stated: That was 50 years ago. If there were trees on that steep sloped area that were 50 years or older that would probably mean they didn't at least create that slope? Mr. Wentink stated: I don't

know. All I am saying is that property at one time was a gravel pit. Mr. Hardmeyer stated: I know parts of it were for the fact of where the sand pits down where Pine Street Park is when I first moved there 30 some years ago that it was a gravel pit. I am saying that there is a reason to believe that maybe some natural slopes there that would require this adherence to this ordinance. I think just letting it pass that easy that Mr. Wentink thinks that they are not natural. I think we need to investigate it further. It would be very easy to go out there with a forester, do a little increment boring, age the trees and I think that would answer that very quickly. Not a big deal. It can be done in a couple of hours.

Chairwoman McCabe closed the public portion of the meeting.

Chairwoman McCabe stated: We have the report from Newton about the proposed water and cemetery sewer issues. I don't know that is something that needs to be addressed tonight. I would like to get a feeling from the Board members their feelings about the conceptual site plan. If this is a proposed site that we can work with and that we can move forward with and if we can allow the applicant to clean it up and bring back the details, including landscaping and signage and we can let you know of the sewer and water issues at that time or if there are any issues that the Board would like to discuss or is this unacceptable. I need to know how to move forward. I would like your opinions.

Mr. Vandyk stated: It's their property and they have every right within the regulations to do what is proposed. It is a tough decision to make, but they have every right to do what they want with what they own. Chairwoman McCabe questioned: Is this a plan that you would like to move forward with? Mr. Vandyk stated: With that being said, from what Mr. Hardmeyer said, I wouldn't mind getting some information on what the forester had to say about the trees and everything else. Chairwoman McCabe stated: I would be interested. Did you do any soil borings on the property? Mr. Kelly stated: Yes. You had also do an Environmental Impact Statement, but it was talked about so long ago that people are forgetting parts of it, and frankly because I have heard answers to these questions before and I know that some of those questions, specifically with respect to Mr. Hardmeyer, were resulting in our doing an EIS, which was not required but we did it anyway. I go back and look at it before every meeting and I see what is in there and I really recommend that you all refer to it with respect to those questions. Chairwoman McCabe stated: There were questions that Mr. Hardmeyer brought up at the last meeting that were not addressed that Mr. Wentink needed to address. Mr. Kelly stated: Yes, I didn't get involved in that dialogue but the EIS was done for many of the initial questions. Mrs. Fowler stated: For what they cleaned up it looks okay. I just don't like all that traffic, but you can't tell them not to build.

Mr. White stated: My biggest concern for this project is something we have no control over and it is Newton-Sparta Road and the traffic. I don't care what their study says. I live here, you live here, and we all live here. That is going to be a mess. It is a mess now, but we have no control over it. Mr. Soloway stated: I would tell the Board that it is simply now within your jurisdiction. Mr. White stated: That is my biggest concern. The Martorana's, they want to develop this and they worked with us and try to accommodate a lot of things that we have asked. Basically, I don't have a problem internally. My

concern is something we can't do anything about. Mr. Kelly stated: We all agree with that. Mr. White stated: All these traffic surveys you can start your fire with them. Mr. Kelly stated: No, I didn't mean to go that far with it. I just meant about driving around town and trying to avoid times of the day where you won't want to do it. Another lady said back here exactly what we all deal with. Mr. White stated: It's a mess now. Nothing we can do. Chairwoman McCabe stated: We can only hope that what the County does in the future will help alleviate some of it, but it is a difficult situation. Mr. Kelly stated: How much road money are we going to see in this County for improvements for a long time. Mr. White questioned: Is that one of the busiest road in the County? Mr. Kelly stated: If you drive at certain times. I have kids at Pope John for a while. I went over there to pick them up. If you went there at 3, 4, or 5 o'clock to go from Newton to Sparta and back again, it was an hour. It is unbelievable. Mr. White stated: I hope that doesn't impact people wanting to patronize what goes in. Mr. Kelly stated: I hope so too. I am diverting ourselves to my client's project. I think we all understand what the rules are, but those of us that live here don't like the traffic any more than, none of us do.

Mr. Russo stated: Obviously I concur with everyone else about traffic issues, but it has been stated that it is really not imper with the Board. My concern is going with that understanding is that once people get to the property, then what happens. I am addressing circulation, the truck route signage plan, how do cars navigate the area, how do trucks navigate the area, and how do people navigate the area. We know people are going to have a hard time getting there, but we hope that the establishments are rented out and people do go there to shop and congregate. Once they do that, how do they circulate around this area. Those were some of my concerns, but I think the application meets the Town's criteria, it's conforming, the applicant is trying to work with the Town and obviously wants to succeed, which would be good for the owner but good for the community as well. Chairwoman McCabe stated: Please voice those opinions when we go to final site plan approval so that they be tweaked be the best it can be. Mr. Russo stated: Sure, we talked about the walkways between the buildings. Thinking about little things like that that sometimes words take for granted, but once you get people to the site you don't want them to have to move their car from here to there to shop. You want them to treat it as one campus and be able to get from the 12,000 square foot building down to the 28,000 square foot building safely and in a fashion that would want them to come back to the site and not make it just one time. I think our options are limited. I understand the frustrations, but I think the Board probably will move forward. Mr. Kelly stated: I think you make a good point between the preliminary and the final. I do hope that everyone understands that the Martoranas are going to be in this town for a long time and they already have been. The purpose of this application was to start a process to improve that entire site. Mr. Phalon stated: I share the same concerns, but overall I think it is a good plan. I think it definitely would be an improvement for that area. Traffic is always going to be an issue, but at the same time the traffic may help the retailers that are in there. It could be a no win, but a no lose situation. Chairwoman McCabe stated: I am typically a person that sees the glass as half full, but I have to say that while this site is in compliance with our ordinances, it is the most poorly planned sites I have seen in 10 years I have been on this Planning Board. I am sorry to say. I think you have really shoved 10 pounds of crap in a 10 pound bag. I work closely with the redevelopment

teams in this town. Our number one priority is the future of this town. We want you to be a part of that future and we want you to succeed. Unfortunately, I don't see this site succeeding the way it is planned. That is unfortunate. We are proud to have you want to build in our town and we want you to succeed. A failure for you is a failure for Newton. We don't want that. We want this to be a successful site. Maybe some time in the future you will readdress the Quick Chek building so it is more of a campus setting and that would make this site so much better. If this site is approved with all the wonderful little tweaks that we are going to put in it for you, that ultimately this will become a cohesive site and a site that people will want to come and shop in. That is my hope for you.

Mr. Kelly stated: I just want to add a few more sentences to this to wrap this up. I think you all remember that we have had now meetings in January, February, July, August, September and October. I know you are going to say one of those was a brief meeting. I know it was. We had Ken Wentink doing the reports of September 18, 2007, February 14, 2008, April 11, 2008, June 25, 2008, July 14, 2008, September 18, 2008. We have revised the plan seven different times. We have had traffic experts, EIS, planners, engineers and we put, I will say from the time I came here first we worked very, very hard to make a half empty get a little better. I think you have worked hard at it and we have tried to work hard with you and now we've gotten to the end. We have agreed to exceed an awful lot of things. The buffer standards for one, the sidewalks and all the internal stuff that you want to see. We think we are done. Thank you for your input. Mr. Soloway questioned: When you say Mr. Kelly that you think you are done, you are not expecting a vote this evening are you? Mr. Kelly stated: Absolutely. Mr. Soloway stated: I don't think that is appropriate. You submitted a conceptual site plan. The Board can correct me. My read of the Board is that the Board is saying that's its preference as compared to what you submitted initially. The Board also seems to be saying with possible exception of the Chair that it would be inclined to approve something like, that but as it says in its caption it is conception. I think what the Board needs to see is that plan translated into a more formal plan with the details that we discussed tonight. I don't think the Board should vote to approve this subject to sticking a sideway here and sidewalk here, giving us internal directional signs due to whose satisfaction. I think you have to fill in those details. I don't know that it is an enormous amount of work. Mr. Kelly stated: But you see it was not in our mind as a conceptual plan. It was introduced as an exhibit to show improvements and changes that we had discussed in the process of exchanging and we did that we made it better and we sat here tonight and spent two hours making it even better. What I really don't want to do, and I want to be honest about this because I don't think you want to do this either, that plan is going to have to be revised to show all those things. We have a record of what they are. We have it all written down. You will even have a transcript of it in a couple of weeks before the next meeting and we have to do all those things that we agreed to do on record. Mr. Soloway stated: I heard Mr. Wentink say before that he hadn't even been provided with that plan or reviewed it. Mr. Kelly stated: Well I don't know. I wrote it down here on October 1 and was told what to do. Mr. Soloway stated: My understanding, not to get into that dispute, is that you copied Mr. Wentink on a letter saying that this plan was being submitted. You didn't send it to him, did you? Mr. Kelly stated: I was not asked to do that. I was asked to get it down here. Mr. Soloway stated: I don't see how the

Board could sign off on something the engineer has not reviewed. Mr. Kelly stated: I don't think it is fair to make us do another revision and come down here and pick it to pieces again for more hours and talk about it one more time. I don't think there is anything to be gained by that.

Chairwoman McCabe questioned how the Board felt about it and if they would like them to come back with a final site plan. The Board agreed to have them come back with a final site plan. Mr. Soloway questioned: Your response to that Mr. Kelly? Mr. Kelly stated: I don't have one unless my client is going to grab me by the back of the lapels. I am going to have to talk to him for a minute. May I please? Chairwoman McCabe stated: Yes.

Mr. Kelly stated: We almost give up, but we give in. Seriously, we will do everything you asked us to do and everything we agreed to do. We will put it on a real plan and submit it to everyone with plenty of time to look at it. I am just going to say that I really hope that when we come here next month you will say we did all of that. Thank you very much. We are ready to vote. With that, thank you for your time.

Mr. Soloway stated: So everyone is clear, with the sidewalk you want the engineering details on this. I would suggest to make things a little more clear sometimes we were confused. Mr. Kelly stated: We will have the transcript. Mr. Soloway stated: I strongly suggest that I think the Board members are concerned that there would be some internal signage plan so that people don't get lost trying to find their way around the site and trying to find the exits. I think it is something that is in the applicant's interest as well. Mr. Kelly stated: I always thought that was part of the deal. Chairwoman McCabe stated: It was confusing seeing the proposed plan on top of the existing site. Mr. Kelly stated: I certainly agree with you all and you can tell by the way were doing it tonight flipping back and forth between all these different plans that there ought to be a final. An absolute done deal plan. Mr. Soloway stated: The Board is talking in terms of the conceptual plan. Mr. Donahue is the size of that detention basin going to change? Mr. Donahue stated: No. Mr. Soloway stated: So you will consent to an extension? Mr. Kelly stated: I certainly will. Mr. Soloway stated: Oh good. We should carry this to a date certain Madam Chairwoman. Chairwoman McCabe stated: December 10, 2008 we are having a meeting. We are going to have our COAH hearing first and then we will hear an application.

Mr. Soloway stated: Carried until December 10, 2008 at 7:00 pm. No further notice required. I assume that you will have your client submit the revised plans at least by the end of November if not sooner? Mr. Kelly stated: No, soon. Any comments I prefer to get this done by Christmas. Mr. Soloway stated: Mr. Wentink if you are going to revise your report try to get that done as quickly as possible and directly copy the applicant so they are aware of your comments. Mr. Wentink stated: I will.

REQUEST FOR WAIVER OF PLANS

Christ Community Church of the Christian & Missionary Alliance, Inc. Property Location: 274 Spring Street, Block 1301, Lot 1.01 C-4 Zone. Request waiver of site plan and variance. Ms. Meghan Ward from the firm Kelly, Ward and Lemerse represented the applicant.

Reverend Frank Leone, 20 Ashford Street, Newton, sworn.

Ms. Ward stated: Our client is Christ Community Church of the Christian & Missionary Alliance, Inc. The property is what is known as Station House Plaza. It is the renovated former Railroad Station at 274 Sparta Avenue. It is in the C-4 general commercial district zone. The property is just shy of 1.1 acres and as part of the submission with this application we included a legal memorandum from which was attached the prior resolution. The property was developed in accordance with both the prior County approval and the prior Town approval and frankly I don't think there is another thing you could do to this site. What we are here for is our client is the contract purchaser of Station House Plaza. Part of the application that was submitted to you included what "alterations plan" prepared by Houghton, Quarty, Warr. They are strictly interior alterations and they are minimal. I set forth in the legal memorandum the proposed alterations to the building consists of a new door and a change to the light switch and removing a counter on the first floor and on the second floor removing a couple of parcel height walls and changing a door around. That's it. Our client would propose as shown on the alteration plan to use approximately 35 percent of the building itself and leave the rest of it as currently been used for other uses permitted in the zone. There are tenants. Those tenants will remain. There are a couple of vacant units that our client has a realtor and will continue to seek suitable tenants of uses that are permitted in the zone whether that be offices, retail or uses that exist there now and have existed since this property was redone at the end of the 1990's. Why we are here is basically because the parking requirement for the portion of our client's property, which is actually on the second floor in an area that is currently vacant, where they would have their sanctuary has a different parking requirement than the existing mercantile and other uses that are there. It is a permitted use in the zone. A house of worship is a permitted use. It is a non-residential zone. It is an existing and developed site in a commercial business district. We are here to request site plan waiver because it again, everything that could and needed to be done has been done, drainage, utilities, site triangle easement to the County, road widening, rights of way. It is all there. Those deeds are filed. That was done basically a decade ago. There is an existing paved parking area that is striped for 43 spaces, depending on how you calculate the area where our client will be located. If you just look at what is a "sanctuary." I use the word sanctuary but it is not going to have fixed seating, it is going to be more in the nature of a multi-purpose room with a seating can be moved. That area according to the Houghton, Quarty, Warr plan is 1,701 square feet that actually calculates 43 parking spaces, which is what we have. First of all, our clients didn't want to close on the building without knowing that they had any and all approvals. Mr. Simmons as you know did a report and included in the calculation the other area on the second floor that is not to be used and would be used as it currently exists for classroom space and meeting.

So that is what we are here for Site Plan Waiver and a Parking Variance. There are 43 spaces. There are 12 spaces as we indicated immediately adjacent on lower Spring Street. I have with me this evening Reverend Frank Leone who is the Senior Pastor for the church and I would ask Reverend Frank Leone for some brief testimony regarding the number of people and the hours of operation and what it is that they are proposing.

Ms. Ward questioned: Christ Community Church has existed in Newton for about how long? Reverend Leone stated: In its current configuration, the reason I say that is because we were two churches at one time that merged. They merged together in 1992. Since then, we do own the parsonage, which is also doubled as an office in Fredon on Newton-Swartzwood Road. For the last 9 years we have been meeting at Pope John High School. Ms. Ward questioned: When you say meeting, I assume that your worship services take place on Sundays? Reverend Leone stated: Correct. Ms. Ward questioned: What are the hours of the services? Reverend Leone stated: We have typically a Sunday School or adult education time at 9:00 am and our service typically runs from 10:00 am to 11:00-11:15. Ms. Ward questioned: What is typical attendance for your worship services? Reverend Leone stated: Currently right now is around 75-80. Ms. Ward questioned: Is that adults or is that a mixture of adults and children? Reverend Leone stated: That is total adult and children. Ms. Ward questioned: In what we submitted to the Board we indicated that hours would be between 8:00 am and 12:00 noon on Sunday. Reverend Leone stated: That is correct. Ms. Ward questioned: I have indicated as well, what is it seating wise that is proposed with regard to the sanctuary or area of worship? Reverend Leone stated: What we were thinking right now is the general rule of thumb with seating is that if you are 80 percent full, you are full. Our attendance is around 75 or 80 so 100 seats would be full and we would probably look to expand that by 10 or 20 percent so maybe 110 to 120 seats. Ms. Ward questioned: With regard to the other existing businesses at Station House Plaza, are any of those at this point open for business on Sundays? Reverend Leone stated: Currently none. Ms. Ward questioned: If the Board felt appropriate, is there anything that the applicant could propose to do with regard to limiting and/or putting restrictions on operations of businesses on Sundays? For example: If future tenants came in and they wanted to open or an existing tenant wanted to be open on Sunday, would the church be willing to require them not to open until after noon? Reverend Leone stated: That is correct. Mr. Soloway questioned: Just to make it clear. When you are a contract purchaser, you are the contract purchaser of the entire building? Reverend Leone stated: That is correct. Ms. Ward stated: I'm sorry Mr. Soloway, that is Peter Horvath in the back. He is the current owner. Mr. Soloway questioned: If the transaction goes through then you will be the landlord for all the other users on the site? Mr. Horvath stated: That is correct.

Ms. Ward questioned: So the seating that you talked about is not fixed seating such as what is in this room? Reverend Leone stated: That is correct. They are individual seats. They can be joined together just to keep continuity, but they are individual seats. Ms. Ward questioned: some sort of stacking seating? Reverend Leone stated: Correct. Ms. Ward questioned: First of all I assume you were paying careful attention when I was speaking to the Board? Reverend Leone stated: Of course. Ms. Ward questioned: Did I

say anything in my introduction which you agreed as to your intended operation? Reverend Leone stated: Everything was accurate.

Chairwoman McCabe questioned: So really the maximum there is 120? The church can't grow beyond that seating capacity? Ms. Ward stated: I haven't measured it, I don't know. Reverend Leone stated: We haven't gone in there and put seats in. I know the Houghton, Quarty, Warr fireways is rated at 243 which I couldn't see us ever getting that many seats up there. If you are asking me, are you saying we would never put more than 120 seats? I'm not sure. Chairwoman McCabe questioned: You have 43 parking spaces? Ms. Ward stated: That is correct. There are 2 handicap accessible and 41 regular spaces that conform with the ordinance and something too that the ordinance does, and it is how these ordinance are, it contemplates that you are not getting a one on one. You are not getting every person driving their own car. Chairwoman McCabe stated: Exactly. Ms. Ward stated: That is why it says that one per four seats/1 per 40 square feet. Chairwoman McCabe stated: I just want to make sure that you have enough parking for your future. Hopefully you will grow and be ripping the seams out of the building. We hope that for all the churches. I just want to make sure you have adequate. I am concerned that 43 would be enough for you and your future. Reverend Leone stated: As Ms. Ward mentioned that having 12 spaces right on the street we definitely see that as additional parking for down the road. I have driven by the building a number of times on a Sunday and that area seems to be very empty. Chairwoman McCabe stated: I know there is a little strip mall across the street. I don't know how busy they are on Sunday if you could contract with them perhaps for some overflow parking. Ms. Ward stated: If the need arose would you be willing to address that? Chairwoman McCabe stated: Yes. You need to look at all your options to make sure you have enough. Houton Cory and War maxed you out at 154? Ms. Ward stated: Right. That is not based on how big the seats are, that is based on the fire code and the square footage.

Chairwoman McCabe questioned: Is there an elevator in the building? Reverend Leone stated: There is not currently. Chairwoman McCabe stated: So everyone who goes up has to be able to go up the stairs. Reverend Leone stated: That's right. Chairwoman McCabe stated: I am just thinking two handicap spots and they can't get up the stairs anyway. Ms. Millikin stated: Just to address the parking issue, I am thinking just sitting here that there is also Camp Iliff which is also directly behind the structure where they can maybe figure out some parking. Chairwoman McCabe stated: Camp Iliff frequently have their parties on Sundays. Ms. Ward stated: We thought of that before we filled out the application. Mr. Simmons stated: One other option for the church to think about and I wish growth and success to you. I have seen a couple of churches over time where they did become overcrowded for whatever reason, either seating or parking or both, sometimes would you ever consider going to two separate services. Maybe just to split up the traffic and the parking. Reverend Leone stated: Yes. There are options for a second service.

Chairwoman McCabe questioned: Talk about all your services if you would. Do you have evening services as well? Reverend Leone stated: No. What we do more during the week is home bible studies, home groups, which I missed tonight. We have several

groups that meet in Sparta, Newton and down in Green Township. We do that during the week. We do not have a Sunday night service. We do currently have a youth ministry that does meet on Sunday afternoon, which might be a part of that, but that would be very limited parking. The kids are dropped off. Mr. Soloway questioned: You said home bible studies, would they meet here or do you go out to people's homes? Reverend Leone stated: We call them community groups and we find ourselves drawing from all parts of the County so they tend to be geographic in nature and meeting in individual homes. Mr. Soloway questioned: I guess the question from the Board would be when else would the church be used? Ms. Ward questioned: You mean like the sanctuary for the services? Mr. Soloway stated: The issue I guess is parking for the site plan waiver. The question is what is going to be happening on premises and Sundays have been described but is there anything going to be happening during the week. I assume one of the arguments you would make in favor of a parking variance is that you are really separate from the other tenants and there is not going to be any conflict. Are there any activities from the church? Reverend Leone stated: Currently nothing on a regular weekly basis. I certainly wouldn't want to give you the impression that we would not schedule anything during the week particularly perhaps through the holidays. One thing that has caught our attention about this building as well is, if I am correct, other than the George Michael Hair Salon which I believe has Thursday night has later hours. Everyone else is closed by about 6:00 pm. Typically any of our evening meetings would start at 7:00 pm.

Chairwoman McCabe asked for questions from the Board. Mr. Russo questioned: My only question is there had been some conversation when I spoke to the Reverend today about the actual current use of this area. I just note that in each QW's alteration description July 16, that is references areas one and two as B uses and it is going to be proposed use. There has been some discussion whether that is accurate and whether or not the use would become an A-3 and how that impacts the sprinkler system. There is a whole discussion going on right now between the construction department, fire, my office and the applicant. I don't think that affects parking or the site plan waiver, but I question the accuracy of the building code information because I don't think that has been determined. Chairwoman McCabe stated: That will have to be addressed. Does the Board have any objection to the waiver for a site plan for this applicant? The Board had no objection.

Mr. Simmons stated: I agree with representations that have been made. I inspected the site and it is in good shape. It is well maintained. I understand the applicant's reasons with the Sunday non-tenant usage for the other facilities that are currently rented vs. their timeframe. I think that is a valid point. With regard to Mr. Russo's comment about the sprinkler system, I just note that we did recommend that any approval that the Board may consider may be subject to the construction official and the fire sub code official. I do know that about 11 years ago we did put a 12 inch water main at Diller Avenue so worst case scenario if they did have the sprinkler there is water nearby that could help ameliorate any kind of situation like that. The only other question I had was with regard to signage. There is an existing free standing sign there now. I didn't know if the applicant was proposing just to change one of the plates on the sign or if there is any

additional signage that might need any relief just to get it going here at the Board while they are in front of you. Ms. Ward stated: We were going to update the sign, but not change it in dimension or any other way. Reverend Leone stated: Correct. We were going to slide the plaque that is already down add ours in there as well. Just use what was already there. Mr. Simmons stated: Basically utilize the existing free standing sign. Ms. Ward stated: Right, consistent with what is there.

Chairwoman McCabe questioned: Mr. Soloway do you have any other questions? Mr. Soloway stated: If you grant the relief requested, you should consider the conditions Mr. Simmons has given you a couple in his report. You might also consider imposing a condition particularly since the applicant offered it that the applicant restrict the operations of other tenants by lease so either that they are not open on Sundays or at a minimum they are not open on Sunday mornings. Ms. Ward stated: That is fine. Reverend Leone stated: Sundays or Sunday afternoon? Mr. Soloway stated: You said you had youth ministries in the afternoon. How many people would be there for that? Reverend Leone stated: Maybe 12 or 14. Mr. Soloway stated: So most of the parishioners go home. Ms. Ward stated: Most of them are being dropped off. They are not driving.

Mr. Simmons stated: I have one more item that Mr. Soloway should comment on and/or it is appropriate to make a condition. I am doing this off the top of my head, but I remember when this site was developed as the Station House. The survey that was done by Laura Brill and Associates, there is about 4 or 5 partial parking spaces along the main parking lot that basically encroach into the right of way on lower Spring Street. My recollection is that there was a license agreement that was entered into between these owners or previous owners to allow those spaces. I wasn't sure if anything has been done between the Town to carry that license forward or not. I wanted to mention it because it was something that I remember when we worked with Sandy Hollander. Mr. Soloway stated: I didn't follow that. Chairwoman McCabe stated: These are in the right of way of lower Spring Street and there is an agreement with the Town to allow them to be there. Mr. Soloway questioned: A permanent agreement? Chairwoman stated: That is the question? Mr. Simmons stated: I think it was set up as a license. I would stand corrected on that, the reason I say that is that you will notice on the survey that over the years, I should say when this project was originally subdivided when the Town bought the train station and the right of way, there were a lot of easements and site triangles and what have you that Mr. Ward set up that I mentioned early that were set up for the East/West Expressway. Because of the fact that we weren't sure what was going to happen with lower Spring Street, I think they made that a license and not an easement. Mr. Soloway questioned: Those 4 spaces are impacted by that, do they count toward the 43? Ms. Ward stated: Yes. Mr. Soloway questioned: What are you suggesting as a condition? Mr. Simmons stated: That any necessary documentation that has to be entered into between this new contract purchaser and the Town in order to continue the license and the performed subject to the review and approval of the Town Council and the Town Attorney. Mr. Soloway questioned: What if the Town says we are not interested in continuing the license agreement? Ms. Millikin stated: Just so you know, for example: Downtown on Clinton Street where DiPasquale did their building we entered

into a licensing agreement for 10 spaces and Sandy Hollander's office did drop the ball and licensing agreement. Basically it is there to protect us if we did ever need to get in there and get the right of way. Chairwoman McCabe stated: I would say that if you are unsuccessful in getting a licensing agreement you would have to come back with a site plan.

Mr. Soloway stated: The only other thing I might suggest in addition to the usual conditions, and I will leave it up to the Board, I suspect that the applicant did not pay the fee for a variance application, your call. Mr. Soloway stated: \$600 for application, \$2,000 for a C-variance. Ms. Ward stated: We did pay the fee for the variance, but I wasn't sure what the fee was for a site plan waiver. Mr. Soloway stated: You understand on the escrow fees that whatever doesn't get used you get back at the end. The application fees you don't. Reverend Leone stated: Yes, I understand that. I know we submitted two separate checks but I can't tell you what they were for. Chairwoman McCabe stated: All fees have been paid.

Ms. Ward stated: We understand why you are not meeting in November but our client really needs to be able to apply because we need to resolve this issue regarding the fire code. We request to waiver the resolution now so that we can pursue that. Chairwoman McCabe stated: I have no objection to that.

Chairwoman McCabe opened the floor up to the public.

Peter Horvath, owner of 274 Spring Street. I'm not sure if the Reverend thought about the fact of where the dumpster is you can have three additional parking spaces which is there because of the double width area. Coats Jewelers was using it for their parking purposes. He can put an additional three parking spaces there without doing anything different. Chairwoman McCabe stated: In a follow up to a comment that Mr. Simmons made, I just have to say that you have kept up this building beautifully. It is a landmark building. Mr. Horvath stated: We try. All the real estate that I ever owned I always made sure it was kept up with.

Reverend Leone stated: One of the things that struck our church with this building is how good of shape it is in. Everyone that has come to see it in our denominational leaders everyone comes and says "wow it looks even nicer in person than in pictures." I want to commend you as well for the upkeep of that building. It is very attractive.

Mr. Vandyk made a motion to grant the application for a waiver of a formal site plan and for variance from the parking requirements to allow a total of 43 onsite parking spaces, the standard conditions and in addition, a Newton Fire Official and the applicant by lease limit the hours of operation of the other tenants on the property so they cannot be open on Sunday mornings. The applicant enter into a new or continued existing lease agreement with the Town of Newton for the 4 parking spaces, which are in the right of way of Lower Spring Street. The motion is granted on the assumption of there will be no new signage and must utilize existing

signs and if they want other sign arrangement they would have to proceed as required by the ordinance. Mrs. Fowler second the motion.

AYE: Mrs. Fowler, Mr. White, Mr. Russo, Mr. Vandyk, Mr. Phalon, Chairwoman McCabe

NEW BUSINESS

Mr. Vandyk made motion to Adjourn. Mrs. Fowler second the motion. The meeting was adjourned with a unanimous "aye" vote. The meeting adjourned at 10:03 pm. The next regular scheduled meeting will be held on December 10, 2008 at 7:00 pm in the council chambers of the Municipal Building.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Katherine Citterbart".

**Katherine Citterbart
Planning Board Secretary**

EXHIBITS

A-9 Black and white concept plan dated September 24, 2008

A-10 Colored version of A-9

A-11, dated October 7, 2008, 10 specific engineering reasons or justification for what we are presenting you tonight from Mr. Donahue.