

Planning Board Meeting  
January 29, 2008  
7:30 P.M.

The regularly scheduled meeting of the Planning Board took place on the above date. Chairman McCabe read the Open Public Meeting Act and requested Board Secretary Ms. Citterbart to call the roll. **Answering the roll were: Mr. LeFrois- Excused, Ms. Unhoch, Ms Kithcart, Mr. Ricciardo, Ms. Fowler, Mr. White, Mr. Caffrey, Mr. VanDyk, Chairwoman McCabe. Representing the Board was Mr. David Soloway, Esq., of Vogel, Chait, Collins and Schneider and David Simmons, Jr., P.E., P.P., Board Engineer. Board Secretary Citterbart stated there was a quorum.**

Mr. VanDyk was sworn in by Mr. Soloway.

Chairwoman McCabe stated: Glenn Kienz, Esq., our Planning Board attorney, has chosen not to renew his contract as our attorney. He was our Planning Board attorney for 14 years. In that 14 years, he helped us to do excellent work. He created wonderful relationships between the Boards and other professionals. He was an invaluable part of this Board and he will be missed. I have requested that this Board send him a thank you letter.

The first item on the Agenda under **Consideration of Minutes** from the December 19, 2007. **Mr. Ricciardo made motion to approve the minutes. Ms. Unhoch second the motion. Board Secretary Ms. Citterbart to call the roll. Answering the roll were: Ms. Unhoch-yes, Ms Kithcart-yes, Mr. Ricciardo-yes, Ms. Fowler-yes, Mr. White-yes, Mr. Caffrey-yes, Chairwomen McCabe-yes.**

The next item on the Agenda was **Historic Resolutions**, there were none.

The next item on the Agenda was **Resolutions, #MNPFSV7-2007, North Park Urban Renewal Associates. Chairwoman McCabe stated that they requested that this resolution be carried.**

The next item on the Agenda was **Old Business**, applicant: **MNSPV2-2006, Loughran, 19 Slate Hill Road, Block 301, Lot 2.02, request for an extension of an approval granted on February 15, 2006 and memorized on March 15, 2006 and a resolution granting an extension decided on October 18, 2006, and memorialized on November 29, 2006. Chairwoman McCabe recused herself. Mr. McCabe represents Loughran.**

Mr. McCabe was sworn in by Mr. Soloway. Wayne McCabe, licensed professional planner, License number #2009, office at 83 Main Street, Newton, New Jersey.

Mr. McCabe stated: Block 301, Lot 2.02, had received initial approval back in early 2006, and late 2006 we had received an extension. We were working with Dave Simmons throughout that period of time and within the second extension time to resolve

certain issues that he had raised in these comments. We ran over time and caught up in review for a long period of time. We have finally reached the point where the Board attorney had signed off the deeds. Mr. Simmons has indicated in writing that all the deeds are fine as far as he is concerned. We have met his other requirements and submitted our final revised maps to him. I am asking for an extension of 60 days so we can get the filing done within the next 2 weeks before you memorialize. Nothing has changed on the plan. Mr. Soloway stated: The packet that got distributed to the Board before tonight there is a January 11, 2008 report from Mr. Simmons who isn't here tonight. It seems to indicate a few outstanding compliance items. I'm looking to address whether 60 days is going to be enough. Mr. McCabe stated: 60 days is enough because Mr. Simmons has all these revisions in his office as of last week. It was just map work. It was done and he has everything in hand. Mr. Ricciardo questioned: Who held the review up for such a long period of time? Mr. McCabe stated: There was a period of time that it sat in Pellow's office. It was a protracted period of time. Mr. Ricciardo questioned: Was it held up by the County Planning Board? Mr. McCabe stated: No. Mr. Ricciardo questioned: The deed had nothing to do with the delay? Mr. McCabe stated: The deed was some of the delay and some of the agreements on the snow plowing easements. We finally got that resolved. Right now everything is in order.

**Mr. Ricciardo made motion to grant a 90 day extension. Ms. Fowler second the motion. Board Secretary Ms. Citterbart to call the roll. Answering the roll were: Ms. Unhoch-yes, Ms Kithcart-yes, Mr. Ricciardo-yes, Ms. Fowler-yes, Mr. White-yes, Mr. Caffrey-yes, Mr. VanDyk-yes.**

Chairwoman McCabe returned.

The next item on the Agenda under **Old Business, #SPV-10-04, Applicant: Lombardi, 89 Trinity Street, Newton, New Jersey, Block 802, Lot 36.01. Request is for an extension for a resolution decided on December 15, 2004 and memorialized on January 19, 2005. Board Secretary Ms. Citterbart swore in Mr. Shawn Szoludko.**

Ms. Ferrante stated: Stated she was here on behalf of Mr. Szoludko, owner of Lot 34, Block 802. Mr. Ferrante stated: The applicant back in 2004 was Joseph and Lorraine Lombardi, the owners of Lot 36.01, Block 802. They made subdivision application which was approved by the Planning Board. Mr. Grebb was the attorney that prepared the deeds to be filed pursuant to the subdivision. The incorrect number of deeds were filed. The second deed that was recorded was factually incorrect. Now in 2008, Mr. Szoludko is under contract to sell this property and our buyer did their title search. All the problems came about and were brought to light. Now I am seeking an extension of the resolution to get the appropriate number of deeds and the appropriate descriptions approved by Mr. Simmons. I have given the proposed deeds that have been approved by the buyer's title company to Mr. Simmons for his review and discussed in detail with Ms. Millikin as well.

Chairwoman McCabe questioned: How long of a period of time do you think you will need? Ms. Ferrante stated: The deeds have already been submitted, just how long it will take Mr. Simmons. Ms. Millikin stated: I have spoke to Mr. Simmons and he has taken a brief look at them already. He will be doing the final review in the next couple of days and get a report out to Mr. Kinney right away and anything that needs to get addressed in the deeds. Mr. Soloway stated: There is a requirement in the Municipal Land Use Law that deeds be recorded 190 days with the Board authorization. If you want to eliminate title questions, the deeds before they are recorded recite that fact in the deed. Ms. Ferrante stated: It is recited in the description. Mr. Soloway stated: It should reference a resolution. Ms. Ferrante stated: It does.

Mr. Ricciardo made a motion to grant a 90 day extension. **Ms. Unhoch second the motion. Board Secretary Ms. Citterbart to call the roll. Answering the roll were: Ms. Unhoch-yes, Ms Kithcart-yes, Mr. Ricciardo-yes, Ms. Fowler-yes, Mr. White-yes, Mr. Caffrey-yes, Chairwoman McCabe-yes.**

Next on the Agenda is **New Business**, there was one. **Applicant: Martorana Enterprises, # SP08-07, Block 1201, Lot s 5 & 5.03, 100 & 104 Sparta Ave. The applicant is seeking approval for a major subdivision site plan to allow construction of 2 retail buildings. Mr. Anthony Fiorello represented the applicant. Board Secretary Ms. Citterbart swore in Greg Martorana and Thomas Donahue, Donahue Engineering.**

Mr. Fiorello stated: Martorana Enterprises by way of summary of the application are the owner of property on Sparta Avenue known as Block 1201, Lots 5 & 5.03. The property consists of 9.92 acres fronting on Sparta Avenue. It is in the C-4 Commercial Zone. The present activity on the premises which are located on the front 3.5 acre portion of the property is active Commercial use and consistent with your Ordinance. There is a 6.4 acre track to rear of the property that fronts on Sparta Avenue. It contains 6.4 acres, it's empty, it's wooded, scrubbed and you will hear it described by the witnesses we have to come before you. We propose a subdivision of that parcels into 2 lots. A proposed Lot 5.03 would consist of the 3.5 acre front portion on which the existing buildings are located. A proposed Lot 5 located to the rear would contain 6.5 acres. The proposal conforms in all respects to the bulk and area requirements as it relates to area, width, front yard setback, rear yard setback, side yard setback and height. The architectural elevations will show that on the left hand side of the building there is a clock tower. The clock tower exceeds the height requirements of your Ordinance. However, there is an exception in your Ordinance for church steeples, hooplas, mechanicals, elevator housings, in structures of similar nature.

Mr. Soloway stated: I must confess, I didn't research that because I saw a letter from you indicating that you have withdrawn the tower from the application. Mr. Fiorello stated: We are not looking to seek any variance. If we need a variance because of that, then we will withdraw the clock tower and bring it down to roof elevation. Under your exceptions to height, (Ordinance 20-5.7d, Height Exceptions), the clock tower is similar

in nature to the church spire, gables, hooplas, etc. If you determine that it is not an exception, and we withdraw the clock tower, then it will stay at roof elevation.

Mr. Fiorello stated: With respect to parking on the site, proposed Lot 5 there is 127 spaces required and we have provided 145. Your engineer review letter indicates that conforms with your Ordinance and Regulations. On the Lot 5.03 there was a requirement of 274 spaces and we provided 283 for your review. Proposal on 6.4 acres in the rear to construct 2 buildings. One is a two-story building containing 28,000 square feet and a one-story building containing approximately 12,000 square feet. The utilization of these buildings will be retail as required by the C-4 Ordinance.

Thomas E. Donahue, Donahue Engineering, 34 East Prospect Street, Waldwick, New Jersey. Bachelor Degree of Science in Civil Engineering from the New Jersey Institute of Technology. Worked 15 years of practicing engineering preparing site plans and site division throughout Northern New Jersey. I have prepared these plans and qualified as an expert witness for numerous Boards in Northern New Jersey. License as a professional engineer. License is current and in effect. Board Accepted Mr. Donahue as an engineer.

Mr. Fiorello questioned: Mr. Donahue you prepared the plans that were submitted to the Board and the revised plans with you this evening. Mr. Donahue stated: Yes. Mr. Fiorello questioned: Can you review for the Board the proposal of Martorana Enterprises as it relates to the subdivision and the proposed construction of buildings on the premises? Mark as Exhibit A-1, 8 Page Plans that consist of Title Site Plan for Martorana Village prepared by Donahue Engineering dated January 4, 2008. Mr. Fiorello questioned: Can you advise the Board of the location of the subject property in it's relationship to other properties in the area? Mr. Donahue stated: The subject property is located at Lot 5 and Lot 5.03, Block 1201 and has frontage along Sparta Avenue and located in the C-4 Zone, General Commercial. Surrounding the property to the North and East are property zoned C-4 and to the South R-2, to the West R-3. Page 2 of 8 Site Plan: The first site contains a number of buildings located in western portion fronting on Sparta Avenue. The current uses are retail, warehouse, and office space. There are McAdam pavements, wood areas, lawn areas and graveled pavements. There is a dilinear wetland along the eastern property line which has received approval from the NJDEP. With that Letter Of Interpretation there is a 50 foot buffer attached to it. Mr. Fiorello questioned: Is the LOI 50 foot buffer maintained throughout in your site development? Mr. Donahue stated: Yes all the construction would take place outside or beyond the 50 foot transition area. Mr. Fiorello questioned: Can you indicate what the applicant proposes as far as the site plan is concerned? Mr. Donahue stated: The applicant is proposing to construct a one-story 12,000 square foot building and also a two-story 28,393 square foot building with parking below. The uses that are proposed include banking, fast food, and retail for the two buildings. There is a proposed subdivision that would take place for the application that would separate the existing uses from the proposed two buildings. Mr. Fiorello asked Mr. Donahue to point out the 2 subdivision lines. Mr. Donahue stated: It runs 4.5 feet along the eastern buildings line and runs in easterly direction perpendicular to the eastern property line. Mr. Fiorello

went on to question: Access to the rear portion to be subdivided off the greater portion would be by what means? Mr. Donahue stated: There are two existing driveways that serve the existing units. They are two way driveways and maintain their access to the rear along the back there is a proposed two-way driveway which would provide direct access to the back parking lot. Mr. Fiorello questioned: Would there be easements for the driveways to permit ingress and egress from Sparta Avenue to the rear track? Mr. Donahue stated: Yes. Mr. Fiorello questioned: In terms of parking, could you review for the Board the parking analysis that you have indicated on the plan? Mr. Donahue stated: Based on the proposed uses for the application along with the existing uses, we are calling the front existing area that is labeled on the plan as Lot 5, and the newer portion as proposed Lot 5.03. The existing uses on Lot 5 there is a total of 127 that would be required based on the floor area and the requirements of the Zoning Code. We have 145 spaces shown in that area. For proposed Lot 5.03 with the conceptual uses that we are showing 274 spaces would be required, and we are indicating 283. Mr. Fiorello questioned: With the exception of the clock tower, does this site plan comport with the required area with front yard, rear yard and side yard requirements of the Newton Zoning Board. Mr. Donahue stated: Yes. Mr. Fiorello questioned: With the exception of the clock tower, does it comport with the height requirements of the Newton Zoning Ordinance? Mr. Donahue stated: Yes. Mr. Fiorello questioned: There are no variances being sought with respect to this application? Mr. Donahue stated: No.

Mr. Fiorello questioned: Can you review for the Board the drainage calculations that you have made? Mr. Donahue stated: Turning to Page 3 of 8 which is titled Draining and Utility Plan. Existing condition: The property slopes from the northwestern corner in an easterly direction toward the existing buildings and pavements, along with that it flows in an easterly direction to the existing wetlands. The proposed construction would continue the same slope condition and a new drainage system would be installed to pick up all the runoff from the roof area and the pavement areas, and directed down to a detention basin which would discharge to a buffer transition area and then to the wetlands. We are proposing to capture the roof runoff to both buildings and put that underground into an infiltration system as required by the DEP to discharge clean water into the soil. We have performed soil logs in those areas along with two soil logs in the detention basin witnessed by the reviewing engineer. We have indicated what the soil logs were and the percolation rates are included and have been reviewed by the reviewing engineer. Mr. Fiorello questioned: Were they acceptable? They were done at the request of Mr. Wentink? Mr. Donahue stated: Yes. Mr. Fiorello questioned: You and Mr. Wentink were in attendance when the pits were dug? Mr. Donahue stated: Yes. Also indicated on the plan are utilities. We are proposing a water main to be installed which would be looped throughout the proposed building to service the proposed fire hydrants. That would be looped back to the existing water main at Sparta Avenue. A sanitary sewer was constructed to service both buildings. That would be connected to the existing sewer line that runs along the eastern property lines. Mr. Fiorello questioned: Is the sewer line of adequate dimension to handle the capacity anticipated from the site and it's use. Mr. Donahue stated: Yes, we are proposing 8 inch diameter PVC pipe. Mr. Fiorello questioned: In terms of the water supply, is there sufficient capacity design within the system you presented to handle the water needs of the site? Mr. Donahue stated: Based

on the proposed piping, yes. Mr. Wentink stated: On both issues, sanitary sewer and water it would appropriate if the Town's Engineer, Mr. Simmons, would check that out. There are several issues. Sewer and Water capacity limits that may be mandated by the State. The sewer line is adequate. The water line is adequate. For the buildings, fire protection is the governing thing. That should be checked. Chairwoman McCabe questioned: Where is the hydrant on this property? Mr. Donahue stated: We are indicating a hydrant up near the proposed 12,000 square foot building and another hydrant right in the middle of the proposed 28,000 square foot building. Mr. Fiorello questioned: Are these buildings supposed to be sprinkled? Mr. Wentink stated: I can't answer that. Mr. Soloway questioned: The buildings are conceptual? Mr. Donahue stated: The uses. Mr. Soloway questioned: Not the buildings themselves? Mr. Donahue stated: The configuration is what we are proposing at this time. We don't know what tenants would be willing. Mr. Soloway questioned: There are no architectural? Mr. Fiorello stated: There are preliminary architectural that were submitted. Chairwoman McCabe questioned: You said there was an engineer on site during the inspection for the drainage? Who was that? Mr. Fiorello stated: Yes we did. Mr. Wentink was there with Mr. Donahue.

Mr. Ricciardo questioned: You are proposing site drainage and storm water drainage. Is all that piping contained on the rear portion that handles the rear portion or does it go into the proposed subdivision? Mr. Fiorello stated: It all goes into the detention basin. Mr. Ricciardo questioned: All the piping and the manholes for it, are they contained within the rear parcel itself? Mr. Fiorello stated: There is no activity proposed outside the site. Mr. Donahue stated: We are picking up an inlet here which does pick up some runoff the subdivided piece. Everything would go back to the proposed detention basin. Nothing is coming off-site. Mr. Ricciardo questioned: Why can't all of the drainage from the rear site be contained in the rear site? Mr. Donahue stated: It is. We are picking up more from the existing conditioned area. Mr. Ricciardo stated: That's going to be subdivided off. Mr. Donahue stated: (pointing to the exhibit) The subdivision line is here. We have an inlet here that is bringing water back, then it travels down this pipe in this direction and then to the basin. Mr. Ricciardo stated: Is that because the water from the parking lot is not totally contained within the second parcel? It's going to flow on to the subdivided parcel? Mr. Donahue stated: No, a small drainage area in this location which has gravel pavement right now. We are going to pick up the runoff and bring it back. There is proposed curbing along the parking lot area so all the water would be collected and run along the curb line to the proposed inlets. Mr. Ricciardo questioned: The sanitary sewer or the second piece the rear parcel does it cross the subdivided piece? Mr. Donahue stated: Yes. It does cross into the existing location area and a connection is made in the existing lot or the proposed lot. Mr. Ricciardo questioned: Why are we subdividing the piece off if it is owned by the same person? Mr. Fiorello stated: Because of leasing considerations between tenants and the original piece and tenants who may be in the subdivided piece. There are legal considerations of leasing. Discussion ensued.

Mr. Soloway stated: I know you have submitted a plan after Mr. Wentink's initial report. Why don't you make a submission of at least 10 days before the continuation date. It won't be any earlier than February 10, 2008 with a cover letter indicating to the

affect of amending the application and following up on the Board request. An application form, checklist, any fees. You don't have to do a new notice.

Ms. Citterbart stated: I did not give Mr. Fiorello that it was complete administratively. Mr. Soloway stated: It isn't complete because it hasn't been filed yet under subdivision. Mr. Fiorello stated: We have a letter from Mr. Wentink in January stating it was complete. Mr. Soloway stated: Mr. Wentink's January 2, 2008 letter which is the latest and if he's saying it's complete there is sure a lot of stuff he is still asking for.

Chairwoman McCabe questioned: Is there anything else administratively missing that would keep this application from being complete? Ms. Citterbart stated: Just the subdivision and the architectural. Mr. Wentink stated: The site plan was in my original plan.

Mr. Ricciardo questioned: The 12,000 square foot building, it is a bank and fast food. Mr. Donahue stated: Conceptually they would like it to be a bank 2,000 square foot, 2 fast food restaurants 1,000 square feet each and remaining would be 6,000 square feet of retail. Mr. Ricciardo questioned: Why did you jam that building in that back corner when you have all that room up front? Why did you stick so close to the buffer zone and residential units in the back? Mr. Donahue stated: That's the way the architect put it together with parking out front putting it on top of the property. That's really the highest point to put it in that corner with parking out front. It meets side and rear yard setbacks and there is no reason particularly that it is in that location. For circulation of the driveway that would circulate around the entire outline providing drive-thru lanes and bypass lanes putting that building at the highest point with parking in front. Patrons would come in and choose where they will park and pick one of the buildings. Mr. Ricciardo questioned: Determine what the owner considers retail? Little clothing stores, antique stores that kind of stuff? Mr. Donahue stated: Yes, whatever is permitted.

Chairwoman McCabe questioned: Can we go back to the Drainage? Mr. Wentink you made mention that you were concerned about the physical size of the unit necessary to serve the application. Is it your determination that this drainage is not adequate? Mr. Wentink stated: The detention basin is adequate. My main concern is there is nothing shown on the plan for a spillway coming out of the basin or there's no detail of how the water is going to come out of the basin. Somewhere they would have to have something to control erosion for the water come into the basin. It would have to go into the transition area. My real concern is they might have trouble with the DEP. Mr. Donahue stated: We do not have to go to the DEP. Mr. Soloway questioned: Is this comment number 10 on page 3? Mr. Wentink stated: Yes. Mr. Donahue stated: We show on the plans an outlet structure box. We have details of that in the construction detail sheets on page 3 of 8. Attached to the outlet structure box is a pipe connected to a rifraf apron indicated on page 6 of 8. Also indicates 15 foot wide spillway area. Mr. Ricciardo questioned: Why do you think he has to go to the DEP? Mr. Wentink stated: If you put one shovel in the transition area you have to go to the DEP. Mr. Ricciardo questioned: So the minimal disturbance you have to go to the DEP? Mr. Wentink stated: Yes. Mr. Ricciardo questioned Mr. Donahue: You don't think you have to go to the

DEP? Mr. Donahue stated: All work is taking place beyond the transition area. We are connecting down to the existing grade outside that area. Ms. Unhoch questioned: Do you have a letter from DEP stating that? Mr. Soloway stated: He's got the LOI. The DEP accepts the delineation of the area. Mr. Donahue stated: We can put in orange fence in the construction area. Mr. Wentink stated: If the soil conservation service approves Mr. Donahue's configuration for the outlet, he won't have to go to DEP. Mr. Ricciardo questioned: How far from the line are you? Mr. Donahue stated: Within a couple of feet. Mr. Ricciardo questioned: Is there a head wall there? Mr. Donahue stated: There's a head wall near the burn area of the detention basin and that's where the discharge would be and there is riffraff apron in that area which does not extend into the transition area. Mr. Ricciardo questioned: During the construction it will not disturb any of that DEP area even with the equipment and machinery? All work will be contained in the slope area that you are going to construct? Mr. Donahue: Yes. Mr. Fiorello stated: We know we have DEP looking over our shoulder. We want to stay outside the bounds of the yellow line.

Chairwoman McCabe stated: Looks like the detention basin is 5 feet deep? Mr. Donahue stated: A little less than 5 feet in the invert outlet. Chairwoman McCabe questioned: What are you proposing for fencing? Mr. Donahue stated: We are not proposing fencing. We are proposing a guide rail which will be installed adjacent to the exterior driveway. Chairwoman McCabe stated: For safety we will require fencing. Mr. Ricciardo stated: Requesting 6 foot black vinyl coated chain link fence. Mr. Wentink stated: With a gate in the appropriate place for a vehicle.

Mr. Fiorello stated: Sheet 4 of 8 – Lighting Plan. Mr. Donahue stated: The lighting plan shows the intensity in the parking lot. The poles are 22 feet 6 inches in height. 18 wall mounted fixtures to go along the existing building, surrounding the two proposed buildings. 15 free standing light poles in the parking lot area.

Mr. Fiorello stated: In terms of the lighting, are they designed that migrating light coming off the side. Mr. Donahue stated: Yes. The picture shown on the plan is a downward lighting type. The fixture is set up inside the housing. Mr. Fiorello questioned: How will the lighting be configured? Mr. Donahue stated: Same type of fixture. They would be directed downward to the pavement. Mr. Ricciardo questioned: I see you have light overflowing your property line. Can you contain all of the light on your property? Mr. Donahue stated: Yes, we would have to revise this plan. Mr. Ricciardo questioned: Would you consider a different type light? Mr. Fiorello stated: We have no objection to that. Mr. Donahue questioned: What is the mounting height of those poles? Mr. Ricciardo stated: We will give you a copy of those poles. Mr. Soloway stated: Someone should get the requirements.

Chairwoman McCabe questioned: This Board is concerned about how it will affect your neighbors. You are abutting a neighborhood. In accordance to our vision plan we are trying to create better neighborhoods, we are very concerned about how this will impact the neighbors. Concerned about buffer between you and the property owners. What are you going to do to buffer this from your neighbors? Mr. Donahue stated: On sheet 5 of 8 is titled Landscape Plans. The disturbance line has a 10 foot buffer

requirement. Surrounding that, we are proposing some shade trees and low plantings. The applicant would add to that additional planting as a proper evergreen buffer. Mr. Wentink stated: Any buffers have to be evergreens. Two rows but staggered. Mr. Ricciardo questioned: How far apart are the trees on the landscaping plan? Mr. Donahue stated: They are every 40 feet. Mr. Ricciardo questioned: Would you consider putting one 10 foot tree every 40 feet? Mr. Donahue stated: Yes, we could add that in. Mr. Fiorello stated: We don't have any objection to your request. Mr. Soloway questioned: Any chance you can have something concrete when you come back next time? Can you work with them on the landscaping? Mr. Wentink stated: Yes. Mr. Ricciardo stated: You can contact our Shade Tree Commission to find out what trees they recommend.

Mr. Donahue stated: We are proposing landscape on the proposed islands. Shade trees and low shrubs throughout the area. On the plan is 47 new trees to be installed. We will have the Shade Tree Commission review the plan and additional recommendations.

Mr. Fiorello questioned: Have you analyzed the site and proposed construction in terms of soil erosion and sediment control? Mr. Donahue stated:

Mr. Donahue stated: The plan for construction has riffraff aprons, for inlet control, tree protection around the fence. This plan will be submitted to Sussex County for their review and subject to their recommendations. Sheets 7 and 8 Construction Details of various items to be constructed along with profiles of storm drainage, the outlet structure. Mr. Fiorello questioned: You have received comments from the consulting engineer? He has made recommendations. Did you have an occasion to review those? Mr. Donahue stated: Yes. Mr. Fiorello questioned: Could you comment on the recommendations? Mr. Soloway stated: Referencing the 1/22/08 report of Mr. Wentink starting under Review. Mr. Donahue stated: Item #1 talks about the test kits which he had witness. He also talks about they were satisfactory as to the test results with flow permeability. He asked for more information on the storm sceptor unit which we can provide the flow calculations and the information from the manufacturer as to the adequacy of the unit. Mr. Fiorello questioned: So you can comply with that recommendation? Mr. Donahue stated: Yes. Mr. Fiorello stated: It relates to a COAH fee and whatever the requirement is we are obliged to comply. Mr. Ricciardo stated: The compliance will be retroactive from 1999. Whatever the new one is you are going to have to comply. Mr. Fiorello stated: We will make a contribution to the Developer's Fee Ordinance if necessary.

Mr. Fiorello stated: Next item is Tree Roots. Mr. Donahue stated: We did soil logs for 4 different locations. The deepest one was soil log #4. We went down 108 inches. We did not hit any rock. There is an area on the northeast that has a question about the Title. We are not proposing any work to be done in that area. On every plan we are staying outside that area. Mr. Soloway questioned: The area of questionable Title, if that area was excluded from the application would it impact any of the bulk requirements of the ordinance? Any violations in terms of lot size or setbacks? Mr. Donahue stated: No. Mr. Fiorello stated: In our design we kept away from that using our buffers.

Mr. Donahue stated: Item # 5 – Grading Plan. We are cutting in some areas and filling in some areas.

Mr. Donahue stated: Item # 6 - The slope of the parking lot. I have designed the parking lot at 5 percent slope. That is what is shown on the plan. Mr. Wentink is requesting the parking lot areas to be 4 percent. In the stall areas 6 ½ percent.

Mr. Donahue stated: Item #7 – The driveway along the rear of the property about 9 percent. Adjacent to the building area it goes to 10 percent. The driveway along the back of the proposed building about 1 percent. Mr. Fiorello stated: There is a concern about icy conditions and a car ending up in the detention basin. Mr. Donahue stated: That's the owner's responsibility to maintain their driveway and parking lot areas to prevent that. Mr. Fiorello stated: There is a recommendation of a fence along that aspect. Mr. Donahue stated: We are indicating a guide rail to be installed adjacent to the curb running from mid-way down the driveway shown with a line with circles behind it. That would encompass the top of the retention basin and travel down to the proposed dumpsters. Chairwoman McCabe questioned: Who would be utilizing the driveway behind the building? Mr. Donahue stated: Could be for a drive-thru area proposed if there is a fast food establishment. There will be a pull-off area, by-pass also for deliveries to the large building. We have trucks coming and circulating around to that area. There is parking below. It provides a means of access. It is a one-way driveway circulating the building. It is two-way coming in. The site plan shows directional arrows so you would enter the driveway area adjacent to the 12,000 square foot building and a one-way direction to the south going counter clockwise. That would circulate around the building. You can enter in for parking or exit out. It does create a loop for truck traffic. Chairwoman McCabe questioned: How wide is the driveway? Mr. Donahue stated: A 12 foot wide loading and unloading area and also 12 foot wide by pass area (24 feet total). Mr. Ricciardo questioned: Do you have a loading dock? Mr. Donahue stated: It's not a loading dock. They pull off to the area on the pavement, then there is an adjacent concrete sidewalk they pull off materials and go into the building. The building would have an elevator going to the second floor. Mr. Ricciardo questioned: Freight elevator? Mr. Donahue stated: Yes, if that is what is required. Mr. Fiorello questioned: The loading dock is on an area that's adjacent to the non-housing aspect of the community? Mr. Donahue stated: Yes. It is adjacent to the wetlands.

Item #8 - Mr. Donahue stated: The rear driveway minimum grade is 1 percent slope. If the Board wishes us to provide a profile of the driveway, we can do that. Item #9 – Mr. Donahue stated: The detention basin slopes were revised and are satisfactory. Item #10 – Mr. Donahue stated: The emergency spillway. We can add some information on the slope stabilization on the down stream side of the detention basin in accordance with the Sussex County Soil and Conservation. Mr. Soloway questioned: You will supply the requested detail and comply with the recommendations? Mr. Donahue stated: Yes. Item # 11 – Snow Removal. Mr. Donahue stated: It would be up to the owner. They would have to remove the snow from the parking lot areas. Chairwoman McCabe questioned: Is maintenance included in the Developer's Agreement? Mr. Ricciardo questioned: Does he just intend to push it over the curb onto the landscape area or does

he mean pick it up with a truck and dump somewhere? Mr. Donahue stated: I can't speak for the owner. Item #12 – Mr. Donahue stated: The Town Water and Sewer Engineer can review the plans and make revisions as necessary. Item #13 – Mr. Donahue stated: The perimeter and trees. Mr. Fiorello stated: We have addressed it. Item #14 – Loading and unloading. Mr. Donahue stated: Loading and unloading areas adjacent to the proposed two-story building. Mr. Ricciardo questioned: Can they be put anywhere else? That would be the architect's decision. Mr. Donahue stated: Yes. We tried to put them in an area that would work on the basement level for bringing the merchandise in than bringing it up to that area rather than loading and unloading in the front of the building which we are considering the front as the north face. There is a possibility that we could add it to the northeast side and putting a loading and unloading area there. Chairwoman McCabe stated: I don't see loading areas on the other building. Mr. Donahue stated: That's what we are talking about with the bank use. These are conceptual uses. We tried to indicate with a high density use. The fast food restaurants require 96 parking spaces. It depends on the use that the applicant would lease out. If they don't require a drive-thru but one of the areas could be a loading and unloading area in a revision. Chairwoman McCabe stated: It's not desirable to have a loading area adjacent to the neighboring properties. Mr. Soloway stated: It is a little difficult to give site plan approval to a not quite finished site plan. They don't have an actual user in front of the Board. It is hard to impose specific requirements. When they specific users, the users may impose requirements too. According to your ordinances, no one can get a c/o without another layer of site plans. There is a procedure. The Board Secretary can waive that under certain circumstances but you could direct in any approving resolution that specific users at least be presented to this Board before a permit is issued so that you have a shot at looking at it again and so you know what is going on there. Mr. Fiorello stated: A lot of towns have Certificate of Use Occupancies Zoning Permits where users who come in come before the Planning Board and tell you what they are going to do, hours of operation, loading and unloading, and details. Chairwoman McCabe stated: That should be part of this site. Any users will come before this Board. Mr. Wentink stated: The applicant is in the same boat. At this stage they have no idea who's going to rent the building. Chairwoman McCabe stated: We will plan.

Item # 15 – Mr. Donahue stated: We are proposing retaining walls adjacent to the driveway area along the top. Some of those walls are over 4 feet in height and as indicated on the Construction Detail Sheet Page 8 of 8 you have a typical detail. There is a note added to that that structural calculations will be submitted. I will bring them all to the reviewing engineer for his review. Chairwoman McCabe questioned: If you had a higher retaining wall there, could you eliminate some of the slopeage on the bypass? Mr. Wentink stated: My concern is the slope of the parking lot. Mr. Donahue stated: The bypass area that is shown has a 2 percent slope. Beyond that, where they travel down that's where it gets to the 10 percent. Mr. Ricciardo questioned: From the drive-thru window on? Mr. Donahue stated: Yes.

Item # 16 – Mr. Donahue stated: We are not indicating any proposed signs at this point and they would conform to your Zoning Code. Mr. Wentink stated: If it's not on that drawing, it doesn't get built. Chairwoman McCabe stated: If the applicants are

going to come back, they can come back with proposed signage. Mr. Soloway stated: What the Board is saying is that the users will have to come back for site plan review. If it was a individual building it would be extensive. If you are just changing one retail use for another it probably wouldn't. Signage will have to be dealt with as part of the smaller site plan applications. Mr. Ricciardo stated: The individual tenants within the building. You are going to want to put a pylon sign out on Newton-Sparta Road with a bank sign on it, you better put it on it on this drawing now or you're not going to get it when you come back for the sign for the building. Mr. Fiorello stated: When we come back perhaps we can design at least a pylon sign. Does your sign ordinance have a certain type? Chairwoman McCabe stated: Certain height and size. Mr. Fiorello questioned: A certain flavor such as your lighting? Chairwoman McCabe stated: We are asking any applicants to keep in mind the vision plan of the Town and trying to keep things a little more traditional rather than modern. Perhaps exterior lighting with the gooseneck. Mr. Fiorello stated: We will indicate in our revised plan.

Item # 17 – Two scale sections. Mr. Donahue stated: Whatever the Town Water and Sewer Engineer would require we would provide. Mr. Fiorello stated: I assume there has to be a couple of feet separation between your water and sewer line.

Item # 18 – Mr. Donahue stated: We are indicating some proposed DO NOT ENTER signs and STOP signs. We will indicate those on the revised plan. Mr. Ricciardo questioned: With traffic flow within the site? Mr. Donahue stated: Yes.

Item # 19 – Mr. Donahue stated: There might be a little confusion on this, Mr. Wentink is asking for an outlet or 12 by 12 opening to drain the gravel I believe in the outlet structure. What is happening, the bottom of the outlet structure would go down 3 feet or so to be below frost level. Within the outlet structure we are going to fill it up with gravel and put a 4 inch concrete slab on top of it. There is no water that's going to get into the graveled area or need to be drained out of it. Mr. Ricciardo questioned: It's all encased with concrete? Mr. Donahue stated: Yes. The floor of the concrete structure will be concrete slab. Mr. Ricciardo questioned: The lowest portion of the outlet structure you are doing that way to get below the frost line? Then you are going to put a gravel sub base in, compact it and then put a concrete slab on top of it? Mr. Donahue stated: Correct.

Item # 20 – Mr. Donahue stated: On the revised plan for the utility crossing detail we are indicating that be concrete encasement when two utilities cross each other and goes from joint to joint.

Item # 21 – Mr. Donahue stated: The applicant's track line runs on the southerly side of what is indicated on page 2 of 8 as a gravel pavement. There is a driveway on the northern side of our proposed driveway that provides access to Lot 29. The applicant's property runs along that pavement edge and turns 90 degrees to the north and travels up into the questionable area. The line with 2 dashes on it, a heavy line with two dashes as it runs from Sparta Avenue back 182 feet. Mr. Ricciardo questioned: You are proposing to put your new driveway which runs in back of Ridgewood Plumbing Supply directly

adjacent to a gravel driveway? Sharing the same entrance? Mr. Donahue stated: Not sharing the same entrance. Our entrance would be separate to the back property. There is an egress/ingress easement on that property. Mr. Ricciardo questioned: Don't you think that's a little close to the existing driveway? Mr. Donahue stated: No, I don't. Mr. Wentink stated: What attracts my attention on this, the ingress/egress easement per Deed Book 1357 page 307, I don't have a copy of that. Who has what obligations? Mr. Ricciardo stated: We are going to have to produce it. Whenever you have an easement someone owns the property but someone else has a right to do certain things on it. Mr. Simmons stated: We will get a copy of the easement and research it. Mr. Donahue stated: On the subdivision plan, it indicates that driveway to be McAdams Pavements. On my plan it was gravel pavement. The subdivision map will be revised to indicate that.

Item # 23 - Mr. Donahue stated: We are below the 5 foot high requirement for the detention basin considered as a damn. The contour lines are interpolated between spot elevations. If necessary, we could send down to the damn safety requirement NJDEP for their review and determination. Chairwoman McCabe questioned: Have you showed these plans to Joe Inga the Fire Official? Everything is subject to his approval. Mr. Simmons stated: No. Mr. Ricciardo stated: Also water and sewer is going to have to make a determination on whether it has to be sprinkled.

Item # 24 - We have discussed. Mr. Wentink stated: That is a county road, the Sussex County Planning Department had their own criteria for driveways.

Mr. Soloway stated: At this point, there is no loading area proposed for the 12,000 square foot building. I just wanted to point out to the applicant, if that is the proposal that would require a variance so before you come back next time either propose something that complies with the ordinance or notice that you are going to seek a variance from that because it appears right now it does not comply. Mr. Fiorello stated: We either factor in a loading area or when we make our application for the subdivision revise our application site plan to include a variance. Mr. Soloway stated: Right, but that would also require notice. The subdivision itself will not. Mr. Fiorello stated: During the break I had occasion to speak with our witness. There is an area in your site plan just to the south of the warehouse buildings. Can you identify that to the Board? Mr. Donahue stated: On sheet 2 of 8, there is an area which is indicated as a parking lot area but is labeled Parking Area. It includes 14 parking spaces. Should it be necessary for the front or the rear developments to require additional parking, we have more parking available in that area. Mr. Fiorello questioned: That's not included in your calculations of parking? Mr. Donahue stated: That is correct. Mr. Fiorello questioned: That is the area that is gravel? Mr. Donahue stated: Presently yes. Mr. Fiorello questioned: Is that an area where snow could be stored? Mr. Donahue stated: Yes it could be. Mr. Wentink stated: The problem with that is you lose the loading docks for that warehouse. Mr. Donahue stated: The loading dock area is from the north. That's how they access it. This area is proposed to have a fence around it, but we could have gates and that could be an area where snow is removed by trucks. Mr. Ricciardo questioned: The loading dock is from the north? You have two loading docks. Elevated concrete loading dock and elevation 586 and another loading dock at the rear at elevation 586. Mr. Donahue stated: Access if from

the north from the loading dock area. Presently they only use the northern loading dock. The rear dock is not used. Mr. Ricciardo questioned: What prevents them from using the rear dock? If Ridgewood Plumbing goes out and another supply company comes in what prevents them from using that dock? Mr. Donahue stated: The owner would either remove it or in the least say it's not permitted. Mr. Fiorello stated: Mr. Ricciardo you are hitting on a very critical issue with these kinds of things. We can't limit our thinking to today. We have to think in the future.

Mr. VanDyk questioned: Eliminating some of the spaces here and moving the building forward so that the property lines and the buildings and the parking would make it a lot easier for some of the town people, the neighbors, to feel better about the possibility of something going in here. They are probably going to be upset about anything going in here but this is something really would like to do with Newton maybe this is a way that we can make everyone else happy. Mr. Ricciardo stated that was one of his concerns. If it is a retail building, then they could have stores on all 4 sides of the building placing the building in the center of this area would allow parking in front of every store there. That would move it away from the residential area which is a big concern. If this other building could be flipped this way so the parking is in the rear. If they still propose to put the drive-thrus they can put them at the other end somehow and that would keep the drive-thrus away from the residential properties. I am also concerned with the loading and unloading for the present retail Quick Check store. There is no loading and unloading. The Quick Check deliveries are brought in tractor trailers which would mean they would park in the driveway or in the front of the store to unload since there is no loading and unloading docks in the rear of the retail area. Chairwoman McCabe questioned: Does Quick Check have a loading area now? Mr. Ricciardo stated: They have a door in the back where the tractor trailers go around the building and go out this way. They unload their milk and stuff in the back. The Wise and Entenmann's trucks pull in front to unload. Chairwoman McCabe stated: That is something you are going to have to look into the loading dock. Mr. Ricciardo questioned: Will Quick Check still be there? Mr. Fiorello stated: They are there under a lease. Mr. Ricciardo questioned: How long is their lease? Mr. Donahue stated: 6 years. Mr. Ricciardo questioned: They have one year left and is it their option to renew or yours? Mr. Donahue stated: Their option to renew.

Mr. Ricciardo questioned: Is the other half of the building rented? Mr. Martorano was sworn in. Mr. Martorano stated: Yes. He described the site to the Board. Chairwoman McCabe questioned: Would the applicant consider moving the buildings away from the property line as much as possible? Mr. Fiorello stated: I would have to confirm with them. Mr. Donahue questioned: What is the Board's feeling on a sufficient buffer? Mr. Simmons stated: There is an engineering concern about flipping the two-story building. Mr. Ricciardo questioned: Why is that? Mr. Donahue stated: It's because the property slopes from the west down to the east and there is an existing drop off that takes place. The building is making up that drop. Discussion ensued. Mr. Donahue stated: We can give it to the architect.

Mr. Ricciardo questioned: Has a traffic impact study been done? Mr. Fiorello stated: Yes it has. Mr. Ricciardo questioned: Do you have a copy of that? Chairwoman McCabe stated: That will be discussed at the next meeting. Mr. Fiorello stated: It was submitted. Mr. Wentink stated he has a copy.

Chairwoman McCabe opened the floor to the public. Board Secretary Ms. Citterbart swore in first of public to speak.

Andy VanOrden, 1 Linmore Avenue. Has there been any estimation done as far as the amount of rainwater that will be running off the new pavement into the wetlands area? Do you know what the increase would be getting rid of the 6 acres of trees that are currently there and extra rain water coming down. I am concerned about water backup. Block # 1201, Lot 4.57. Mr. Donahue stated: The detention basin is designed and the calculations are for review by the engineer and the actual flow coming out of the detention basin is reduced and flowing to that area for the storms. The purpose of the detention basin is to collect all the storm water in an area and then slowly let it out. The State requires us to reduce that post development flow because the 2 year storm is 50 percent, the 10 year storm is 75 percent, 100 year storm 80 percent of what current flows in it. There will not be an increase in flow.

Charles Briggs, 73 Pine Street. As far as the buffer goes, you are looking at a 10 foot buffer which if you are going to plant trees, the trees are going to hang into the property line. I don't understand how come they took everything out. Back in 2004 we had Able Oil on fire. The Master Plan was supposed to be put in effect. I guess nothing happened with that Master Plan. This zoning that is happened now is supposed to get a larger buffer added to it. That was our interpretation when we came to the meetings after the fire with Able Oil. Still, the buffer is not adequate enough for our residents. The lighting, the glare is going to come off. Snow. Everything. Anybody that knows that all those trees in the back and that glare just comes right off. I don't think we need another bank. We have like 10 banks in 2 mile radius. I know that that is proposed down the line. The food joint. Kids hanging out. Drive-thrus in the back. The only access that a tractor trailer comes in is the one entrance. I know I am right there. A tractor trailer cannot make that swing from Sussex County Computers when it comes in because Ridgewood Plumbing Supplies they bring their stuff in, their piping. They have to use the other one further down Newton-Sparta Road. When you come out of that you are using the smaller entrance you better gun it quick because you are afraid of a car coming up over the hill and you are going to get wacked. This is going to increase in traffic, noise and everything else. 40 feet apart between trees. It's 10 lbs in a 5 lbs bag. Chairwoman McCabe stated: We want a much better buffer than that. Mr. Briggs please understand that this applicant is coming in with an application that complies with the laws. Mr. Briggs stated: I understand but it's both ends you know. I've been to every one of these meetings before in 2004 and I thought the Master Plan was going to be put in effect. I guess no work was done on it. Mr. Ricciardo stated: That's where you are wrong, the Master Plan is in the process. It will be implemented by this summer. Chairwoman McCabe stated: We are trying to deal with this so it has the least impact possible. We are very sensitive to our neighborhood. Mr. Briggs stated: There is a lot of

wildlife back there also. Mr. Fiorello stated: We can say a lot of things. We can say who dumped the tractor trailer on our property. We can say who shot and skinned a deer and left it there. We can say who makes the bonfires and leaves beer cans and condoms on the site. We can find out who has the paint wars in the woods and then uses the paint things to splatter the building. We have a lot of complaints about the people who use this land for their own private preserve. People who walk their dogs, people who dump their leaves, people who dump their grass. You don't have to go far to wonder who does it. Yes, it's nice to have woods in your back yard. I have to but when the school board went to build a school there I knew that it was school board property and just have to live with it. This is a conforming application. This gentleman objected to townhouses. He wanted to buy the property at one point in time. He will object to anything that has to go there. Mr. Ricciardo stated: He raised an important points buffers, lighting, traffic and loading areas. Mr. Briggs questioned: Where are the garbage dumpsters? Chairwoman McCabe stated: Those are things we will handle at the next meeting when we go through the site in much more detail. Today we hit a lot of big issues. Mr. Donahue stated: We are proposing dumpster locations. They are in an area behind the 12,000 square foot area. Mr. Ricciardo questioned: You are going to put them in the back out by the property line. Chairwoman McCabe stated: That's an issue.

Wayne McCabe. I have a question for the engineer. In terms of your layout for lighting, I saw the pattern and it was a fairly tight grid showing the spikes of the lighting particularly in the area around the poles and you are trying to get f-foot candle average throughout the site, is that correct? Mr. Donahue stated: I'm not sure if it was an f-foot maybe one with more intensity, maybe a one foot. Mr. McCabe questioned: What sort of lamp are you using for this? Mr. Donahue stated: It is a metal highlight 250 watt. Mr. McCabe questioned: What sort of night glare is this going to create if this is a 24 hour facility? That is quite dark in the town there. The only lights that are on are the lights in Quick Check and the street lamps. You will get reflectants off the asphalt. During the winter you will get a high reflectant off the snow and ice that are there. Did you calculate for that? Mr. Donahue stated: No. Less than a 1 foot candle isn't safe. Whatever the Town standard is we will comply with it. Mr. McCabe stated: ½ foot candle is standard in our County.

Ken Hardmeyer, 70 Pine Street. The first several years that I lived there I walked across that property on my way to work. It was owned at the time by Don Richards. I worked at 100 Sparta Avenue so I know that site very well. I looked out it from my front window for 33 years. I didn't expect that it would stay undeveloped forever. I am willing to concede that there are certain regulations and sometime some development would happen. I think conceptually this development is very flawed due to the lack of buffers. Mr. Donahue did you perform any Environmental Impact Statement or Environmental Impact Study of this site? Mr. Donahue stated: No, we did not. Mr. Hardmeyer questioned: Why not? Mr. Donahue stated: It is a conforming use. Mr. Hardmeyer questioned: Why does that not mean you have to study the environmental effects of your development? Mr. Donahue stated: If it was a requirement by the Board we would have been aware that the Environmental Impact Statement was required. Mr. Hardmeyer questioned: So you only do what is required and no more? Mr. Donahue

stated: We did what was necessary for the application. Mr. Hardmeyer questioned: But you didn't take into account the environment? Mr. Donahue stated: The application speaks for itself. Mr. Hardmeyer questioned: How many trees do you think you will be taking down? Did you inventory those? Mr. Donahue stated: No, we did not count them or label them. Mr. Hardmeyer questioned: Why not? Mr. Donahue stated: I don't believe there was a requirement to do that. Mr. Hardmeyer stated: Again, you don't feel the need to go beyond the requirement. Mr. Donahue stated: Not when it there isn't a requirement to do that. Mr. Hardmeyer stated: In this state of global warming and all the focus there is on green space and keeping green trees there was not thought or consideration given to anything like that. Mr. Donahue stated: It is a commercial zone. It is a conforming application. We did not perform that task. Mr. Hardmeyer questioned: Do you feel that was right? Mr. Fiorello stated: Objected to the question. It is subjective. He is an engineer. He has testified as to his engineering expertise. Mr. Soloway stated: I think the objection is fair. Mr. Hardmeyer questioned: How many square feet of property will be disturbed? Mr. Donahue stated: I don't have that exact number. Mr. Hardmeyer stated: How many acres? Mr. Donahue stated: The rear lot is about 6.4 acres. It will probably be a little less than that. We have areas where the buffer is included in that 6.4 along with the buffers surrounding it. You would have to take some property away from that. I don't know the exact number but it is less than the proposed lot of 6.4 acres. Mr. Hardmeyer questioned: So roughly how many? Mr. Donahue stated: Could be around 5. Mr. Hardmeyer questioned: 5 acres which is how many square feet? Mr. Donahue stated: You want me to calculate that out? I can calculate it. 217,000 square feet. Mr. Hardmeyer questioned: That's quite a number, a lot of square foot. When you are finished that is going to be all cut and filled, right? Mr. Donahue stated: As shown on the plans yes. Mr. Hardmeyer stated: Anything living there is history. Mr. Donahue stated: I don't know what is living there. Mr. Hardmeyer questioned: Have you been on the site? Mr. Donahue stated: yes. Mr. Hardmeyer questioned: You don't know what's living there? You never saw any evidence of anything alive? Mr. Donahue stated: We saw some deer running through it but that doesn't mean they live there. Mr. Hardmeyer stated: Doesn't mean they don't live there either, right? Mr. Donahue stated: I can't make things up. I'm trying to answer your questions but I don't know what lives there. Mr. Hardmeyer questioned: What was your philosophy when you designed this site? What were you trying to achieve? Mr. Donahue stated: I was trying to achieve an application for the applicant that conforms with the local zoning. Mr. Hardmeyer questioned: How about harmony with the neighborhood? Mr. Donahue stated: It is in a C-4 Zone. It is in a Commercial Zone. That's what we design to. Mr. Hardmeyer questioned: The fact that it is surrounded by 2 sides of residential does that weigh into your consideration? Mr. Donahue stated: In every town you have Commercial abutting residential. On the Zoning Ordinance is prepared in a way that falls for certain things to be installed surrounding those buffers. We designed this application with the Zoning regulations in this town. Mr. Hardmeyer stated: Little or no consideration of the residential surrounding properties. Mr. Donahue stated: We designed this application in accordance with the Zoning regulations. Mr. Hardmeyer questioned: Did you perform any fiscal impact? Mr. Donahue stated: No. Mr. Hardmeyer questioned: What do you think is going to be the effect on the property values surrounding it? Mr. Fiorello stated: Ms. Chairwoman this is beyond his scope of

expertise. Chairwoman McCabe stated: Yes, this is beyond his scope. Mr. Hardmeyer stated: It's not beyond ours. Mr. Soloway stated: This witness isn't going to answer the question, and he's not qualified to. Mr. Fiorello stated: We don't intend to call anyone with any fiscal expertise. As understand it, we will produce a ratable. I don't know how much ratable translate into tax dollars. There are no children being educated. There doesn't seem to be the scope of the site demanding upon Municipal Fire or Police service to any great extent. I don't think there is any requirement for a fiscal analysis, nor an environmental impact. Mr. Hardmeyer stated: In closing, I just wanted to say I think the neighbors are the most important thing in this meeting hall tonight. We have the Board, the applicant and his professionals, and then we have those who are going to live here. You are going to be gone soon with the development and you will be out of here. These folks are good folks but they don't live in their neighborhood. We are the ones that are going to see that day in and day out. I think our concerns need to weigh the most.

Nanette Thomas, 7 Orchard Street. I understand that he has invested money and he wants to make money. That's America. But he's right, there was no thought given to the environment, the people or whatever. Let's talk about a question. We just did a Town evaluation. I don't know if you did it for his property. I guess my house just sunk 20,000. Why am I even bothering to fix it up because I have to tell you, and try to tell me different, if I live next door to a mall my house cannot be worth more than it is this very day with a herd of deer behind me. Yes, they live there. I see them every morning and I confess, I feed them. What is my house worth now? What is my house going to be worth when this is done? Can you answer me that? Just had a tax evaluation done. Should I tell the contractor tomorrow and tell him don't bother painting the bathroom? What is it going to matter? Because who is going to buy my house. I have one very direct question because I live at 7 Orchard Street. That line you have because I know our land slopes immediately down, is that supposed to be some kind of wall? Mr. Donahue stated: Yes, that is a retaining wall. Mr. Thomas questioned: So when it gets to the bottom of my hill that's where you are starting it? Are you building the wall from the slope up? Mr. Fiorello stated: You have to identify where your property is. Mrs. Millikin stated: Block 1208.01, Lot 24. Mr. Thomas stated: This is me (pointing to the map) and here's how it slopes deeply down. Mr. Donahue stated: We are sloping the top of the wall and dropping down 5 feet to the lower area where the parking lot is. Mr. Thomas stated: If I'm standing at my fence, am I going to be looking at the wall or is the wall coming up to here? Mr. Donahue stated: You will see the top of the wall. You won't see the wall because the wall is here (pointing to the map). Mr. Thomas stated: When my daughter is undressing in her bedroom then everyone from the lights can see. It is very ill-conceived. I know that you did a good job but I have to tell you I think it could have been done better. I know you wanted to build it. I know you want to make your money. I'm not going to say no if I think it's good, but this is just not good. There's way too many parking spots. And, my Town evaluation if they do this I want you to come back to my house and honestly tell me what it is worth now. This is not right, not there.

Chairwoman McCabe stated: I think the concerns regarding the buffer are huge for this project. God Bless America.

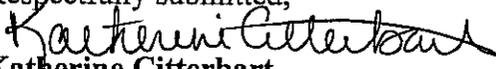
Mr. Fiorello stated: The Board is going to have to give us some guidance because to move the buildings compromises the parking.

Mr. Soloway questioned: Would the Board for discussion purposes and for the applicant's planning purposes be willing to consider allowing some reduction in parking as a trade off to moving the building? Chairwoman McCabe stated: Give me a 30 foot buffer and I will personally give them the variance. I need to know what the rest of the Board feels. Mr. Soloway stated: I think the Board speak for themselves. I think they want you to move as far away from the houses as you can. Mr. Donahue stated: We have 30 feet on the plan right now. Mr. Soloway stated: To the west you are saying. Chairwoman McCabe stated: Look at the back of that building you have virtually nothing. Mr. Soloway stated: I think the perception is from that building you have it tucked back into the corner close to the property line in 2 directions and if you could move it away. Mr. Fiorello questioned: How far from the north aspect is it? Mr. Donahue stated: Right now the property line to the curb is 20 feet. Mr. Ricciardo questioned: The road is 24 feet? Mr. Donahue stated: At that point it's 26 because of the drive-thru. Mr. Ricciardo questioned: So you have 46 feet from the property line to the edge of that building? Mr. Donahue stated: There's a dimension right now of 50 so if there is a requirement or request for a planted buffer that's what we are asking. Mr. Ricciardo stated: My opinion, I want to see the building moved forward and when we get into the architectural at the next meeting we will discuss this other building. But that one building, I want to see it moved forward and as far away from the property line that potentially possible. I would even be willing to consider less parking spaces to get it away from the residential properties. Ms. Unhoch stated: Or reducing the size of the buildings. Mr. Donahue questioned: With both of the buildings or just that one building? Mr. Ricciardo stated: I have a concern about both buildings.

Chairwoman McCabe closed the portion to the public.

**Chairwoman McCabe made motion to Adjourn. Mr. White second the motion. The meeting was adjourned with a unanimous "aye" vote. The meeting adjourned at 10:44 pm.** The next regular scheduled meeting will be held on February 20, 2008 at 7:30 pm in the council chambers of the Municipal Building.

Respectfully submitted,

  
**Katherine Citterbart**  
**Planning Board Secretary**