

TOWN OF NEWTON
PLANNING BOARD
SEPTEMBER 23, 2015
MINUTES

The regular meeting of the Newton Planning Board took place on the above date. Chairman Le Frois read the Open Public Meetings Act and requested Mrs. Citterbart to call the roll. Board Secretary Mrs. Citterbart stated there was a quorum.

SALUTE TO THE FLAG: Was recited.

OATH OF OFFICE: None

ROLL CALL: Was taken

Attendance: Mr. Marion, Mr. Russo, Mr. Hardmeyer, Mr. Ricciardo, Mrs. Le Frois (arrived at 8PM), Mr. Flynn, Mrs. Diglio, Mr. Hemschof, Mr. Le Frois,

Excused: Mr. Flaherty

THE SUNSHINE STATEMENT: Was read.

CONSIDERATION OF MINUTES

August 19, 2015

A motion was made by Mrs. Diglio and seconded by Mr. Ricciardo to approve the August 19, 2015 minutes.

AYE: Mr. Russo, Mr. Hardmeyer, Mr. Ricciardo, Mrs. Diglio, Mr. Le Frois

The motion was carried.

HISTORIC RESOLUTIONS

None

RESOLUTIONS

**Iliff Camps & Clinics, LLC (#PFSPV-06-2015)
Block 18.02 Lot 31
280 Spring Street**

Resolution granting preliminary & final site plan approval and variances.

Mr. Ricciardo made a motion to approve the resolution. The motion was seconded by Mrs. Diglio.

AYE: Mr. Russo, Mr. Hardmeyer, Mr. Ricciardo, Mrs. Diglio, Mr. Le Frois

The motion was carried.

CONCEPT PLAN

**Sussex County Habitat for Humanity (#CP-05-2015)
Block 19.05 Lot 33**

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82 Mount View Street

The applicant is proposing to erect a pole barn to use the building for warehouse and office use.

Mr. David Soloway stated: Mr. Flynn and Mrs. Diglio should not participate on this because if it becomes an application they won't be eligible to participate in that.

Mr. Marion stated: I wanted to put it on record that I've volunteered for the Morris County Habitat for Humanity. I just didn't know if that would be a conflict.

Mr. Soloway stated: I don't think it's a conflict for this evenings purposes because this is an informal meeting to discuss the plan. The Board does not take any action. Nothing the Board says or does is binding. Nothing the applicant says or proposes is binding. It's just an informal discussion. If this germinates into an application in the future we can decide then. As a volunteer you're not compensated so I don't think there's any conflict in that sense. It would come down to whether there's any factor that you believe would either compromise your ability to render a fair and partial decision or that would cause the public to perceive that your ability was compromised.

Ms. Debra Nicholson introduced herself as an attorney from Sparta, NJ representing Habitat for Humanity.

Ms. Nicholson stated: What we are trying to do is have a win-win situation here. You currently have a site in desperate need of rehabilitation. We have a bank that has foreclosed on this property and is willing to donate this property to Habitat for Humanity. However, due to a complicating factor, you have a utility zone that was created, SD-8 Zone, and it is complicating matters because this property ended up in the zone because of a power station that's located approximate to it. None of the zone criteria permit any kind of uses even though this had been a residential use. Because of this it requires a use variance. We know that you can't give an advisory opinion on a use variance. However, because this is such a complicated situation with lots of moving parts and no real money we need to have a sense if there's any concerns on the part of the Board, your professionals or the public that would prevent us from proposing this kind of a use where it's located. I researched your other zones to see if maybe a zone change would be the better route and what adjoined this property would then become a permitted situation and we didn't get any farther with that. So that's why we have requested to have this time before you. Essentially the area right now has a large junk yard/scrap yard in its immediate vicinity and it has large separations from other adjoining residential and utility use. As was submitted in your package, we are talking about a metal structure pole barn. The Habitat would be using this for storage of donated and purchased building materials and a small office area to coordinate the good work and deeds that Habitat does. We can't make it any more complicated than that. I believe that benefits outweigh the detriments, especially when we consider it a power station zone. But it is definitely not a permitted use. It will require five affirmative votes. We have a significant problem with a potential conflict and other members not being able to sit and vote on a use variance. So we need to see before we go to the expense of having an engineer plan, an application fee, and a presentation that this is something the community would welcome. So we need a sense that this makes sense to you. Even though they're giving it to us, if it's going to cost us more money than we are going to be benefitted by it to go through the process and not have anything, that would not be a good use of the limited resources that Habitat raises through donations.

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Mr. Ricciardo questioned: You stated it's a metal building. It's a wood frame structure with 29 gauge roof and you are going to be storing building materials in it; wood, plywood, other material like that?

Ms. Nicholson stated: It's a pole barn structure and yes.

Mr. Ricciardo questioned Mr. Simmons: Is there sufficient water flow up there for a fire suppression system because they don't mention a fire suppression system at all in their presentation?

Mr. Simmons replied: My recollection is that it is probably a dead end main up there but I would have to check on fire protection.

Mr. Ricciardo stated: Considering the fact that it is a totally wood framed structure and it's going to store flammable material such as lumber and other character that go into a building, I would think it would be.

Mr. Simmons stated: We could get the flows from the hydrants to be tested.

Ms. Nicholson stated: These are the kind of inputs we are seeking to see if this is viable to us.

Mr. Le Frois questioned: Will there be any personnel onsite regularly during the day?

Mr. Bob Piontkowski stated: We would probably be in a couple of times a week for a couple of hours. No one full time.

Mr. Ricciardo questioned: I also have a concern about the framing here. There are 40 ft. trusses, 4 ft. on center with 2 x 4 purlins to sit this extremely thin, 29 gauge metal which is less than a steel stud that is 16 gauge. The higher the gauge the thinner the metal. Is it going to be able to carry the dead load and snow load that is going to be placed on that roof with such a thin gauge?

Mr. Piontkowski stated: The information that we provided in the proposal is the manufacturers specs for that particular building. One of the pages that they gave us was a quote. So that's their specs that they came back with. They provide the engineer drawings by lot type. We have to work under the assumption that yes it would be based on the information that they provide.

Mr. Le Frois stated: Please introduce yourself, sir.

Bob Piontkowski introduced himself as the Construction Committee Chairman and a member of the Site Selection Committee for Sussex County Habitat for Humanity. We are all volunteers.

Mr. Ricciardo stated: I love what you do. It's a tremendous organization. You provide houses to people who can't afford their own. I've seen what you've done in the old juvenile center and that's for senior citizens and it's a great complex. My concern with this structure is fire suppression. And you're tax exempt are you not?

Mr. Piontkowski stated: Yes.

Mr. Ricciardo stated: So that's another piece of property that's coming off the tax roll in the Town of Newton. The Town has a pilot program. Would you consider paying a pilot payment in lieu of taxes?

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Mr. Piontkowski stated: I don't know what that means.

Mr. Russo stated: It means that you would be asked to pay the municipal portion of the taxes. So if the taxes are \$5,200, let's say the municipal portion is \$1,500 or \$1,600, the organization would be asked to sign an agreement with the Town agreeing to a payment in lieu for that portion so that we're made whole.

Mr. Piontkowski stated: If the criteria came down to the fact that that was the deciding factor I would certainly recommend it to my board of trustees.

Mr. Ricciardo stated: It is an important thing to the Governing Body and the taxpayers. We have a lot of tax exempt properties.

Mr. Ricciardo questioned: How accessible are the roads up there? They are going to have to have a crane come up for the 40 ft. trusses. That road tends to narrow and have sharp radius turns. Would a fire truck be able to get up there and a crane?

Mr. Simmons stated: I believe they may have to go around roughly two ninety degree turns at the one end of the scrap yard which will probably have to have vehicles blocking traffic so that they can utilize the entire road.

Mr. Ricciardo questioned: So in your opinion they can make that turn?

Mr. Simmons stated: I believe they can.

Mr. Piontkowski stated: My impression is that the salvage yard probably has tractor trailers come in so they probably make that turn. So I suspect that we would be able to do that.

Mr. Ricciardo stated: I agree with you. I just think your engineer should address it with some kind of engineering report so you don't have to come back half a dozen times.

Mr. Marion questioned: Would you be storing trailers outside of the property?

Mr. Piontkowski stated: We have what effectively is a porch trailer that we take to sites. Part of the proposal mentions that we would request the ability to put a fenced area in the back of the building. We would either store the trailer in the building or in the fenced area. Most times I think we would store it in the building. There may be occasion when we get things donated to us in bulk and it may be necessary to have the trailer outside, but it would be in the fenced area in the back.

Mr. Ricciardo questioned: If you had materials that didn't fit in the warehouse and you had to store it outside would you be willing to put up a mesh that prevents people from seeing in?

Mr. Piontkowski stated: I wouldn't have a problem with that.

Mr. Le Frois questioned: Would you expect some sort of security either by a person or security system that might be connected to the Police Department?

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Mr. Piontkowski stated: This is a relatively new thing for us. We usually rent our spaces. I suspect that putting an alarm system on the building would not be a major problem. We would try to do everything in our power to control our overall costs, with taxes, lighting, and water.

Mr. Ricciardo questioned: I see the estimate in here. That can't include erection?

Mr. Piontkowski stated: No, that's just the kit. Our intent is to erect it ourselves. I believe we have the skills and talent to do that.

Mr. Le Frois stated: You should be prepared with the color of the exterior.

Mr. Piontkowski stated: It is basically a slate gray color. Are you familiar with the building that George is putting up in Branchville on Morris Ave? That's pretty much what we're talking about.

Ms. Nicholson stated: We also respectfully request that you authorize your professionals to work with us to create a list of items that are not necessarily essential, that would be appropriate waivers ahead of time so that we could complete a submission; a one-shot instead of a re-draw. We would need some input on what you can't live without.

Mr. Soloway stated: The Board is very reasonable on that.

Mr. Russo stated: As long as the escrow is in place.

Mr. Soloway stated: Mr. Simmons is usually the lead on that. I've always found him to be an interesting combination. He is very thorough and at the same time very reasonable in terms of not requiring stuff that we really don't need.

Mr. Hardmeyer questioned: What would the estimate of parking be? Do people come and park and go to the site from there?

Mr. Piontkowski stated: The way the property is set up, it's much deeper than it is wide. In the application I had put the frontage setback at 30'. That's roughly where the current gas meter and connections appear to be. That's the only reason we set it there. We can easily set it back a little bit and put some sort of a parking area in the front or parking area in the back. We would be open to whatever would be necessary. When we have a board meeting we have about 10 cars. When we're there to pick stuff up and drop stuff off we might have 3 or 4 and they would most likely be pick-up trucks. With the over-head doors we would most likely pull inside and leave. I don't know how many spaces are required for that building. We are open to whatever is required.

Mr. Le Frois stated: I would like Ms. Caldwell and Mr. Simmons to provide any suggestions on how to go from here.

Ms. Caldwell stated: The main thing we'd be looking at would be any potential impacts to the area. The parking, traffic, trucks to the site, how do you get the equipment there, how are you going to develop the site. If you have lighting, how many people might be on the site at different times. Possibly looking at how you might secure the area. It seems like it might be a little secluded which is good for the use, but you might want to make sure that it is kept safe and won't attract a nuisance.

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Mr. Le Frois questioned: Is there a certain criteria that they would need to look at as far as justifying the variance?

Ms. Caldwell stated: You want use variance criteria so you've got to address the positive and the negative criteria. Being a non-profit with the kind of work that you do the positive criteria is probably easier to see. The negative criteria would just be looking at impacts to the neighborhood. Impacts to the zoning which I think you could overcome. It's primarily just minimizing impact to the neighborhood. I think what was brought up about the roads and fire access makes sense too.

Mr. Simmons stated: The one thing I did was ask Mrs. Citterbart to check on the file from JCP&L which is surrounding the property and had a site plan a few years ago. She was kind enough to dig that out. I have a copy for the applicant to assist them. My recollection from that JCP&L application was that JCP&L's property was almost like a peninsula out in the wetlands. I'm not sure how close to wetlands and/or transition areas are or not.

Mr. Piontkowski stated: I walked the area and I didn't see any indication that they were wetlands.

Mr. Simmons stated: My suggestion is that they should get a consultant to investigate the wetlands thoroughly. They've got two things going for them. Either A, they could be sufficiently far away with the buffers to not have an issue and B, there is an existing structure there which is proposed to be demolished so since there is some development if you do have an issue with wetlands you may be able to use that in your favor as redeveloping in that area and see how you might fit into the committee process.

Mr. Ricciardo stated: Your hours of operation should be considered and be prepared to discuss them. You are going to be close to a residential zone and you've got trucks going in and out to pick up material.

Mr. Piontkowski stated: In that sense it's not like this was a warehouse for some commercial business.

Mr. Le Frois questioned Mr. Simmons: Would there be requirements for some sort of security lighting?

Mr. Simmons stated: Yes.

Ms. Nicholson stated: For the members of the Council that are here, if we could submit a request with your endorsement that there'd be some assistance with the fees that go with a use variance application we'd very much appreciate that consideration.

Mr. Russo stated: Kathy can provide that.

Ms. Nicholson stated: Thank you very much.

Mr. Flynn and Mrs. Diglio returned to their seats

NEW BUSINESS

**Newton Dunkin Donuts (ASPV-08-2015)
65 Sparta Avenue**

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**Block 18.02, Lot 16
T-5 Zone**

The applicant has amended the previously approved plans to reflect changes required by the Sussex County Engineer's Office. The changes include the elimination of three parking spaces and to provide a storm water overflow connection from proposed seepage pits to the County drainage system by the intersection of Sparta Avenue and Railroad Avenue.

Mr. Helefe stated: We last appeared before you back in June and there was a resolution of approval from the Board for the Newton Donuts application, 65 Sparta Avenue. The approval was to erect a freestanding Dunkin Donuts in the Merriam Gateway Redevelopment zone. As part of the approval it had the standard language in it that we need to get County approval as well. Subsequent to the approval from this Board we did meet with the County and the County had various recommendations and a couple of minor changes that they wanted to the application. You correctly pointed them out. They wanted us to remove three parking spaces from up front and rearrange the seepage pits somewhat and also tie an over flow of the seepage pits into the municipal storm water system. They think this will work better than how we had originally had it designed and approved by the Board. So we made those changes and due to the nature of the changes, because there were three parking spaces and the drainage it was deemed that we should come back to this Board and present it to you. We've reduced parking spaces from 15 to 12. Under the ordinance we are required to have 7. So the reduction of the three parking spaces doesn't do anything in terms of affecting the requirements of the municipality. To some degree it may even be better because we'll have 500' less impervious coverage there and we'll have more grass up front so it may actually look a little bit better. We're here today to amend the application with regard to that. We have Mr. Davies here. He was our engineer on the application when it was approved. I'd like to have the Board accept him as our engineer.

Mr. Davies is sworn in. He stated his qualifications and license is current.

The Board accepted his qualifications.

Mr. Helefe stated: You prepared the plans and met with the County. Did I accurately summarize the County's comments in terms of what they wanted?

Mr. Davies stated: That is correct. We met several times with the Board engineer. When you first enter off Sparta Avenue, there are three parking spots on the left hand side on the frontage of the property. They have requested they be eliminated and the seepage pits scattered on the side were to be consolidated into the corner with an overflow connection to the County drainage system. That's where we are. This requires us to come back to the Board so we can continue with the permit with the County.

Mr. Helefe stated: In regards to this amendment we did receive letters from Mr. Simmons and Ms. Caldwell with regard to the application. Mr. Simmons letter asked that we change the seepage tank lids to solid manhole covers and also that they be designed to an HS20 loading standard. Those are really the only engineering comments. We have no problem with that and we will agree to those comments. With regards to the Planners letter, she goes through to explain the parking requirements and that we comply and asked us to confirm that there are no other modifications that we would require in terms of the previous approval and the conditions of that approval that we agreed to. I can confirm to the Board that we do not have any other condition modifications that we will need. So we can adequately address all those letters. That is basically our application.

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Mr. Le Frois stated: Any questions from the Board?

Mr. Hardmeyer questioned: Are there any changes to your landscaping plan?

Mr. Davies stated: With the reduction of the amount of impervious the landscaping plan will be improved based on the prior comments by the Planner. So we will be increasing the amount of landscaping onsite. That will be approximately 500 square feet.

Mr. Hardmeyer questioned: I know there was some talk at the last meeting about taking down 14 trees. Is that still correct?

Mr. Davies stated: Yes. Everything in the surrounding property is still correct. This work is only on the frontage of the property.

Mr. Hardmeyer questioned: How many trees are you putting up? I think last time we talked about 5?

Mr. Davies stated: I believe so. We are actually increasing the landscaping at the request of the Board and we'll be working with the Town Planner in meeting the requirements of the Board.

Mr. Helefe stated: All of the trees that we agreed to at the last application in terms of removal and replacement, that all stays the same.

Mr. Marion questioned: Did you still revise pavements with everything that we discussed as well that we have in front of us?

Mr. Davies stated: No. This would only be the modifications requested by the County. This only reflects those changes.

Mr. Marion stated: If I'm not mistaken we were talking about parking on Railroad Ave. Are we losing a spot to trees?

Mr. Davies stated: We were discussing that. But now with the reduction of the three in the front that will allow us the space for trees in that area.

Mr. Marion questioned: So you're going to put trees in the front with your sign?

Mr. Davies stated: We can make that work.

Mr. Helefe stated: You are going to have more green space at the end of the day and you are going to have a better landscaped look. There will be more landscaping in the front there.

Mr. Le Frois questioned Mr. Davies: Do you feel overall that even though you lost the parking spaces and even though you are still above the minimum do you still feel comfortable that the operation won't be negatively impacted by losing those spaces?

Mr. Davies stated: We'll be fine.

Mr. Hardmeyer questioned: Does the County require you to get Municipal approval first?

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Mr. Helefe stated: This is what they wanted. They requested these modifications. We then spoke to Mr. Simmons, Mrs. Citterbart and Mr. Soloway and asked if we should come in front of the Board. Because it affected the parking spaces, the answer was that we should present it to the Board. So that's why we're here.

Mr. Ricciardo questioned: Do the underground storage tanks capture roof water?

Mr. Davies stated: Yes. Rooftop run off.

Mr. Ricciardo questioned: When you were here the last time, we talked about the sheet flow that is going down the driveway onto Newton-Sparta Road. I had asked why they don't connect it to the sewer system by way of a trench drain. I believe David told me it's a County sewer system and they would have to approve that. Now that you're tapping into the County sewer system, why don't you put a trench drain and stop that sheet flow from going from your property onto Newton Sparta Road.

Mr. Davies stated: During the presentation at the County offices, we are reducing the run off of the property into the County roadway. They felt that the seepage pits with the overflow would be sufficient.

Mr. Ricciardo questioned: How much have you reduced the sheet flow to the dry ground on Newton Sparta Road?

Mr. Davies stated: I would say about 5%.

Mr. Ricciardo questioned: So that's still a substantial amount of sheet flow going out of the driveway onto Newton Sparta Road. Now that you're connecting to the County sewer system I go back to my question, why don't you put a trench drain in to capture that water?

Mr. Helefe stated: The jurisdiction with regard to that is at the County and they didn't ask us for that. They didn't ask for it or want it. They felt this was the right approach.

Mr. Ricciardo stated: It should have been discussed with the County engineer.

Mr. Simmons stated: I did receive a call from the County engineer, John Risko. I explained to him the process that the Board went through and the concerns they had with the drainage. Mr. Risko had observed the site, which is pretty densely developed right now and he didn't have any reports of any incidents of the drainage being an issue. His main concern was with the seepage pits, if something should happen where eventually either the seepage pits filled and failed or the storm intensities and frequencies were such that it over-taxed those dry wells that it had a relief into the County drainage system. That was his main concern. He also wanted some additional soil logs to verify the percolation rate of the soil.

Mr. Hardmeyer questioned: Is there a maintenance plan required on those seepage pits?

Mr. Simmons stated: Basically there's a storm water maintenance plan that's on all the sites. It basically calls for, depending on the plan the applicant's consultant comes up with, a frequency of twice a year to pull the manhole covers to inspect them for the amount of debris that might have collected, to see if they have to be cleaned out and to see that everything is still structurally intact. This would be done by the property owner.

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Mr. Hardmeyer questioned: So there is no Municipal or County official that comes by every so often and checks it?

Mr. Simmons stated: They could submit it to the Town engineering department.

Mr. Simmons continued: The reality is, because this is the clean water coming from the roof area into the dry wells, if they look upon their roof area and see water coming over the gutters because it's not going down, that's an obvious indication that there is something wrong with the system. So it would behoove the property owner to get down there and rectify that to avoid further damage to his building. The other thing Mr. Risko and I talked about, we looked at his plans for the overall development of Sparta Ave. There are plans in the future to widen out that road and as you look at the plan that's revised with the elimination of those parking spaces it does provide some additional area in the front to widen that road if it had to be.

Mr. Ricciardo questioned: And those seepage pits won't be in the area that they're going to widen?

Mr. Simmons stated: They might be. They might have to be relocated and moved up hill under the pavement.

Discussion ensued on who would pay for it.

With no more questions from the Board, this portion was opened to the public.

1st Public

Bob Brown, 11 Woodridge Court, Newton, was concerned with adequate parking and jobs for Newton residents.

Mr. Le Frois stated: Yes. Actually, if you go back to the application Mr. Helefe was in June and you go back to the June meeting minutes you can read all of the testimony. Any comments that you have tonight would only be related to the three parking spaces.

No more public stepping forward, portion closed

Mr. Soloway crafted a motion to approve the application for amended site plan approval with the changes as discussed, conditions being in compliance with the recommendations set forth in Mr. Simmons' report, the additional landscaping in the freed up area be subject to the approval of the Town's professionals and consistent with the amendment, continued compliance with all the conditions and requirements for original approval. Motion was made by Mr. Flynn and seconded by Mr. Ricciardo.

AYE: Mr. Marion, Mr. Russo, Mr. Hardmeyer, Mr. Ricciardo, Mr. Flynn, Mrs. Diglio, Mr. Hemschof, Mr. Le Frois

OLD BUSINESS

Eligibility to Vote: Mr. Marion, Mr. Flynn, Mr. Hemschof

**MNA Newton Realty, LLC (#PFSP-03-2015)
Block 9.01 Lot 1**

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**45-47 Water Street
Block 9.01 Lot 2
8 Hamilton Street
Block 9.01 Lot 3
10 Hamilton Street**

David Wallace, Esq. is representing the applicant. The applicant is requesting preliminary and final site plan approval for several "C" variances for a Taco Bell Restaurant at the corner of Water Street and Hamilton Street and this is a continuation from the July 15, 2015 & August 19, 2015 Planning Board Meetings.

Mr. Gloede handed out Exhibit A10, dated 9/23/2015, plans for the layout of the site and stated: This is the same basic site plan that you had presented to you before, but what I'm presenting here is the basic layout of the site. It shows how we are going to put in a smaller building. It will now be 1,751 square feet. Instead of 40 seats in our original we're down to 30 seats in our building. Because this is a smaller building and it's narrower by 2' we held the drive-thru and pushed the building against the drive-thru curb line as before. Since we lost 2' we pushed everything towards us. It helps with the 2' widening on Hamilton Street. It gives us a little bit more room between the Hamilton Street curb line and our interior curb line. The other thing we did was push the entire site towards Water Street. Before there was 5' from the property line to our curb line. I moved it an additional 5' so now we have the 10' buffer that we were required to have. And now because there is a little bit more room we can landscape a little bit more in there. One problem that did come up with moving everything up 2' is we lost a parking space. We still have enough to cover the ordinance. Also, one of the comments we had before was about a by-pass lane. Since the site does not really allow for a continuous by-pass lane around the drive-thru a discussion came up at our last meeting about possibly putting in an exit which would be just strictly a "right out only". Because of the way the grades work in here, it was going to be very steep. But by lowering the profile grade of the parking lot we can make this work now. So this would be strictly a "right out only". So anyone who would come into our parking area and not find a space directly in front of the building could pull out, go back down Hamilton Street, go back into the site and park on the other side. One thing that did come up after the preparation of the plan a concern about headlights coming out of our site. One of the things I thought about doing is possibly moving the driveway so it's more in line with this drive lane and this parking (showing board) so it comes a little bit farther out. It's a little bit more away from this dwelling; it's more towards the middle of it, too. I think that might help the situation a bit better. It might make it more difficult for deliveries, but again, deliveries are made in the off hours so there shouldn't be cars in the parking lot. The loading area is right in this location. They can back in, back out, and pull out of the site. Again, we will have additional landscaping along the residential property here. With a lot more in this area here for the headlight control and we also put additional landscaping where we lost the parking space.

Mr. Ricciardo questioned: At any time did you consider the smaller building and the by-pass lane?

Mr. Gloede stated: Yes, we did. This is the smallest building they have. I know somebody had mentioned about an endcap? The problem with an endcap unit is it is only used if it's in a shopping center, banks, Dunkin Donuts, and it's the end of the building. Those are the only type that that could be used for. It wouldn't work in this situation because you are not at the end of a building.

Mr. Ricciardo questioned: On that particular side of the building there's no way to adapt a

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building smaller than this one so you can get a by-pass lane? You moved everything back further to the property line and if there was a way to move it out, a building less than 25'.

Mr. Gloede stated: The problem is that the size of the building is controlled by the equipment that is inside the building. You can't squeeze it down. It's got to go someplace. Again this is their smallest prototype building that they have. We adapted this prototype to our architectural plans and we've adapted it to the ordinance here with 2-stories and with the exterior construction.

Mr. Ricciardo stated: I have a very deep concern about not having a by-pass lane. If somebody had a heart attack in the car while they're waiting, how does the first aid squad get to them? If a car catches on fire, how does a fire truck get to them? It is a big concern to me that you don't have a by-pass and that Taco Bell can't adapt a building so that you can provide a by-pass. I don't understand it.

Mr. Gloede stated: The site does not have the width. If this property was another 20' to 30' wider then I could see where we could possibly put the by-pass in. Taco Bell doesn't usually require by-pass lanes in their corporate requirements.

Mr. Ricciardo stated: Taco Bell does not set the standards in the Town of Newton. In every fast food restaurant we have had it's always been part of the site plan approval for an operation such as this.

Mr. Le Frois stated: Mrs. Le Frois has arrived and is now part of the meeting. It's 8:00PM.

Mr. Gloede stated: We also have a traffic engineer with us tonight who will address that issue.

Mr. Flynn questioned: How wide is the aisle from the interior curb line on Hamilton Street to the 9' x 18' stall?

Mr. Gloede stated: It's 19' x 24'.

Mr. Ricciardo questioned: Why did you move the curb line of Hamilton Street? For traffic flow?

Mr. Gloede stated: It was required by Mr. Simmons.

Mr. Simmons stated: In the Town's ordinance it requires a minimum of 22'.

Mr. Ricciardo stated: If they didn't move that and they shortened that island there and they moved the building back out instead of moving it back and eliminated the landscaping and the plants, they might have room for a by-pass lane.

Mr. Simmons questioned: Mr. Gloede, why can you not move the parking spaces instead of coming down 2', going backwards 2' to address the by-pass lane. Wouldn't there be additional space then for a by-pass lane going back towards Hamilton Street?

Mr. Gloede stated: Because it was too thick here. And because of this house here we are trying to get as much area within these islands as much as possible. 2' is not enough for a by-pass. It's not enough for a by-pass.

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Mr. Wallace questioned: How much width would you need for a by-pass?

Mr. Gloede stated: A minimum of 10'-12', especially if you're talking about emergency vehicles.

Mr. Wallace questioned: And what's the most you can gain by eliminating the island or trying to shift the building even further?

Mr. Gloede stated: 4'-5'. I haven't measured it all out to see what it would take to put an additional lane right up against the property line.

Mr. Wallace stated: The last time we were here we had provided for parking, according to Mr. Simmons, 2 spaces less than was required. And you've reduced the number of seats by ten so you reduce how many spaces?

Mr. Gloede stated: It's one for four seats.

Mr. Wallace stated: So now you've got the right number of parking spaces once you eliminate the parking spaces at the corner. So you are right where you need to be in compliance with the ordinance.

Mr. Gloede stated: That is correct.

Mr. Ricciardo questioned: If we left the curb line where you have it and we decreased the size of that island. What is the width of the island along Hamilton Street?

Mr. Gloede stated: It is about 10', maybe less.

Mr. Ricciardo stated: So if you reduce that to 5' you've picked up 7' already. Correct?

Mr. Gloede stated: Yes.

Mr. Ricciardo questioned: What is the width of the planting along the back wall here?

Mr. Gloede stated: I believe 5'.

Mr. Ricciardo stated: Now you have 12'. That's your by-pass lane! It only takes a little creative engineering to make this work. It's a little cooperation from Taco Bell and a little cooperation from us. It can work.

Mr. Gloede stated: I will have to have a look at the grades and see what can work.

Mr. Ricciardo stated: Grades can be adjusted as you know.

Mr. Gloede stated: If we can eliminate the 2' extension of the curb line, with a little relief maybe we can.

Mr. Ricciardo stated: Thank you. I think the by-pass is that important that the Board may want to consider granting you that relief if we can legally? Can we legally?

Mr. Simmons stated: They'd have to get a waiver variance.

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Mr. Riccardo stated: So the possibility is there. We've gained the 12' right away.

Mr. Marion: Why would you not want to widen that street with the amount of traffic this is proposing? What's more important, the line going in and out of there and people getting into accidents on Hamilton or the by-pass?

Mr. Le Frois stated: You'd probably want to try and do both. We can't engineer it right now.

Mr. Ricciardo stated: It can't be engineered tonight.

Mr. Marion stated: This is something that has been requested at multiple meetings and I don't know why it wasn't thought of and now here we are trying to reengineer this entire site.

Mr. Ricciardo stated: I'm only showing them that with some thought and creative engineering the possibility for a by-pass lane does exist. And the fact that we've made all other fast food restaurants do it, they have all had to have a by-pass lane. I know the fire departments going to want it. The emergency vehicles are going to want it.

Mr. Marion stated: But they knew that and didn't come here with the by-pass lane.

Mr. Gloede stated: When we were here last time, one of the issues was a by-pass lane and because we were constrained by the site Mr. Simmons suggested that we do exactly what I've shown on the plan. That is what we did.

Mr. Ricciardo stated: That was an escape route for somebody who didn't want to sit in their car in a 10 or 8 car lane to wait for their food.

Mr. Gloede stated: No. It wasn't for that. It was if they couldn't find a parking space here, they wouldn't have to go through the drive-thru they could turn back down onto Hamilton and come back into the site over her.

Mr. Flynn: No. That's not what it was for. We talked about exactly what Mr. Ricciardo said. If the line was backed up and somebody didn't want to wait they could leave.

Mr. Le Frois stated: I think we talked about both.

Mr. Ricciardo stated: The option was that if they came in and were going to go through the drive-thru and the line was backed up they could go out this way and park or they could just leave the site completely.

Mr. Marion: But to leave it from this direction they'd have to go down the one-way. No left.

Mr. Le Frois stated: It's too close to the intersection to allow a left hand turn.

Mr. Ricciardo stated: Believe me. It's a permitted use and it's hard to fight a permitted use. I'm not trying to fight it. I just want it to work for what's best for this community. Without the by-pass lane, in my mind, it's not what's best for this community. I have nothing against this type of restaurant anywhere. I just want to see it work the way we made all fast food restaurants in this Town work.

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Mr. Le Frois stated: I agree completely. Our role as Planning Board is not to decide arbitrarily whether you can build a certain type of a restaurant or whatever the case might be. It is to ensure consistency and safety for customers and the general public and that the standards that we have in place, and our professionals help us do that, are adhered to.

Mr. Hardmeyer stated: I'd like to add that we also have a responsibility to the neighborhood that everything here fits into the neighborhood.

Mr. Le Frois stated: Absolutely.

Mr. Wallace questioned: What is the purpose for the islands? The landscaping there, does it block light to the residents?

Mr. Gloede stated: In this area, yes.

Mr. Wallace stated: So that's one of the factors that has to be weighed against what the other factors would be.

Mr. Ricciardo stated: I did not suggest eliminating it. I suggested making it smaller.

Mr. Wallace stated: I just want to make sure we understand all the factors that are at play. We also have a traffic engineer who can speak to the issue of by-pass lanes and safety issues. If the Board would like to move onto that testimony we can address the by-pass lane now.

Mr. Le Frois stated: Does anyone on the Board have another question for Mr. Gloede on Exhibit A10?

Mr. Marion questioned: Is the parking sufficient for this proposal with the 8 spots for the building across the street.

Mr. Gloede stated: Yes. It is.

Mr. Hardmeyer questioned: Would you explain again what you are proposing on the eastern side of the property next to the residential property?

Mr. Gloede stated: We are proposing a wall, a 6' high board-on-board privacy fence. So that again we go with the wall. At that time because of the wall and the fence there wasn't any room for landscaping in there. By moving it an additional 5' it now gave us a 10' buffer required where we can now put up a wall, and a fence, and landscaping along that area.

Mr. Hardmeyer questioned: What landscaping are you proposing?

Mr. Gloede stated: Shrubs of some kind.

Mr. Hardmeyer questioned: Has the height of the wall changed?

Mr. Gloede stated: It is going to change somewhat. The original plan showed the height at 4'. It might change slightly, but more than likely it will probably still be the same because the wall is in the same location as the original plan.

Mr. Hardmeyer questioned: Is the fence in front or behind the wall?

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Mr. Gloede stated: It would probably be in front of the wall so it will be a continuous height of 6'.

Mr. Le Frois stated: Mr. Wallace, we are finished with Mr. Gloede. We can now move on to your traffic engineer.

Mr. Wallace introduced Joseph Staigar.

Joseph Staigar, 224 Main Street, Chester, NJ, gave his qualifications, stated his license is current and was sworn in. The Board accepted Mr. Staigar as an expert traffic engineer.

Mr. Wallace questioned: Please describe to the Board the nature of the traffic in this facility and how this restaurant will impact public traffic.

Mr. Staigar stated: Yes. We've prepared a traffic impact analysis for the proposal and that traffic impact analysis is primarily broken into three parts. The evaluation of the existing conditions is part number one. Part number two is a projection of how much additional traffic will be generated and assess the impacts of that additional traffic on the existing traffic conditions. The third part is an evaluation of the site plan to determine the safe and efficient flow of traffic, the ingress and egress, circulation, sufficient parking, working hand-in-hand with the site engineer to come up with a plan that is functional, safe and efficient. The first part of our study was to take traffic counts, measurements and inventory of traffic control devices and features surrounding the area. We are at an un-signalized T intersection on Hamilton and Water Street. It's a little peculiar in that the section across our frontage is a 2-way roadway. However to the east, considering that 206/Water Street is North South, it is a one-way going eastbound. There's a stop sign at Moran Street at the other end of Hamilton Street. We have two signals in fairly close proximity to us. There is one at Clinton Street to the north and one at Mill and Trinity Street to the south. There is one lane in each direction. However, there is a center turn lane across the site frontage as well. That center turn lane is not designated as a classic left turning center lane because there is no striping. Normally what you do in a center turn lane, you see the opposing left turn arrows along the lanes. In this case, on either end at Clinton and Mill Street we have the left turn lane. So it's another lane that functions as a left turn lane at the two signalized intersections. However, it is legal to make a left turn from that lane into Hamilton Street as a left turn. The double yellow line stops at Hamilton Street and there is a single yellow line with the dashes indicating the crossing of that line for those left turn movements. A stop sign controls movements from Hamilton Street onto Water Street with 25 mph signs posted. So we took traffic counts during what we consider the peak hours of the roadway coincidental with the peak hours of a fast food restaurant like Taco Bell. Those peak hours are the typical weekday evening peak hours when the roadway peaks. Taco Bell is not at its ultimate peak but is generating a secondary peak at that time. So that's one critical peak hour. The other critical peak hour is the Saturdays. Being the time period where the roadway may not be at its ultimate peak but there's a lot of activity and is a secondary peak to the normal rush hours. But the Taco Bell and any fast food restaurant peaks on Saturday at lunch time. That will be the site ultimate peak. There is a third peak which is the weekday lunch time period. It'll generate a little bit less than Saturday volumes. A little bit more than the peak weekday dinner time periods. But the roadway volumes are very much lower at that time. So we keyed in on the two critical peak hours at worst case scenarios, that being a weekday evening and Saturday midday. We took our counts September 10th which was a Thursday and on September 12th which was a Saturday. We took them between 4 and 6PM. Peak hour occurs between 4:30 and 5:30PM. On Saturday we took our counts between 12 and 2PM and the peak hour occurred between 12 and 1PM. So we have our two ultimate peak hours between 4:30 and 5:30PM, five days a week and on

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Saturdays from 12-1PM. The order of magnitude of traffic volumes that we had was between 800 and 900 vehicles per hour in each direction. We've got pretty heavy volumes on this section of Water Street during those peak hours. Hamilton Street is very light. During the count hours we saw nominal vehicles coming out of Hamilton onto Water Street because of the one-way orientation to the east of us. If there were any movements there were movements either making lefts or rights. Traffic volumes of Hamilton Street were in the order of less than 20 per hour. We were getting 11 vehicles per hour in the peak hour and 8 vehicles per hour on the Saturday. The second part is projecting how much traffic. How much traffic are we going to see and what's the character of that traffic that's going to be generated by the proposed restaurant. In so doing what we utilize are two documents entitled "Trip Generation". It's a manual published by the Institute of Transportation Engineers, which is the primary professional organization of traffic engineers. In that document, traffic engineers such as myself, and I have provided data and participated in the development of trip generation rates in that document, send in trip generation studies. We sit at driveways at times and we count cars going in and cars going out and we develop trip generation rates of actual sites. The ITE very specifically and with due caution statistically analyzes these sites and this data to come up with trip generation rates. And those rates are utilized by the DOT, your County Engineer, and your Town Engineer as well. It's the Bible in terms of utilizing projecting how much traffic future sites would generate. In utilizing that what we've found is that particularly here in NJ the rates are conservative because they are national rates. They are rates throughout the country that are provided. We tested the ITE rates and found them to be conservative. One of the reasons why that is, is we are the most densely populated state in the United States and we have availability not only of mass transit but to be able to walk to many of our sites. Here we are located in a centralized business district here in the Town of Newton. You could very well have people walking to this site. This is not on a state highway somewhere in suburbia or a rural area where the only way to get to the site is by car. So we are expecting a fair amount of foot traffic to and from this site. However, I did not take credit for that in my trip generations. I assumed that all customers would be coming by their vehicles. Using the ITE rates directly during the weekday evening hour, 4:30 to 5:30PM, we see 33 vehicles coming in and 33 coming out of this site. During the Saturday peak hour, that number is 60 in 60 out. So those are the peak hour rates that we would see being generated by this facility. Now although, that will be the line that we see coming in and out of the driveway that is not new traffic. There's one thing about fast food restaurants. It draws from the existing stream of traffic. During those peak hours when the road is loaded up with that many vehicles, we are going to see more than half of the traffic that's going to be attracted to this site already on Water Street. On Saturday when we also have heavy volumes, again we'll see after that traffic being drawn from that existing stream of traffic on Water Street, about half of it. I gave you the number of 33 customers in the afternoon and 60 on a Saturday. So half of those numbers, or 16 and 30 will already be on Water Street on the abutting roadways that are then drawn on the site. Another perfect example of how that works, we took this restaurant and stuck it on a dead end street at the end of town and it's certainly going to generate a lot less activity in and out of the site than putting it on Water Street. This applicant and this operator wants to be on Water Street because of the heavy volumes on Water Street because it's going to draw much, if not most, of its customers from that existing stream of traffic. So this is not a net increase in traffic I'm talking about. At least half of that will be cars that are already on Water Street. However, you'll have new vehicles coming in and out of Hamilton Street given the orientation of traffic. Our projection is that the vast majority will use Hamilton Street to enter, will only enter from Water Street. But as you leave because of the two-way orientation to the west and the one-way orientation to the east, someone can make a left or a right to leave the site. Some will head down towards Moran Street. I still think the majority will head toward Water Street. Can the traffic be processed and what impact are we talking about? There are two traffic lights on either side of us that at times do block Hamilton Street. There are back-ups and

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we have the left turn lane and the through lane that do extend across Hamilton Street at the tail end of the red indication at both of those signals. The light turns green, traffic then flows again until it turns red again. They start building up and then it gets blocked. I watched traffic as it did that during those peak hours. What happens is that someone will have to wait at Hamilton Street at the stop sign before they can make the turn unless they get a courtesy gap from someone on Water Street. So there's no impact to the Hamilton Street because all, if not most, of the vehicles that are leaving Hamilton Street are Taco Bell customers. As I said before we saw minimal traffic, one or two cars, leaving from Hamilton Street towards Water Street. Most of the cars came in to Hamilton Street and then headed in an east bound direction. So if there are any delays caused by the blocking of Hamilton Street from the two traffic signals, it will be Taco Bell customers that are waiting and they'll wait, just like the traffic on Water Street is waiting, to make that turn. That's the negative aspect of having those two signals there. The positive aspect of having those two signals there is whereas they do shut traffic when the red light comes along, that traffic travels in platoons as opposed to being dispersed over a time period it produces artificial gaps in traffic. Whereas you may have to wait for that traffic light on either side to turn green to make a right or a left, once it does turn green if you happen to approach it at the tail end of the red time, the traffic then moves along, creates a gap in traffic to be able to make that left and right. So there's a positive and negative aspect to the actuation of those two traffic signals on both sides. In one sense there is blocking, but in the other sense it produces artificial gaps in traffic by shutting traffic down and opening it up again. When we calculate the levels of service of Hamilton Street, and I'm sure you've heard other traffic engineers talk of levels of service, when we analyze traffic features, whether they're intersections or stop signs or traffic signals or roadways, there are ways to model this using a computer model. It's based on the methodology of the Highway Capacity Manual. That methodology is a standard the DOT, County, and your Town Engineer utilizes to determine levels of service. What we find is that the Hamilton Street and Water Street intersection will operate with acceptable levels of service, A through C. It's a calculated delay, how much time it takes a vehicle to get through the intersection on average. The ranges of delay are classified in levels of service. If it's a calculated delay of 0-10 seconds we're at A, 10-20 seconds we're at B, and so forth all the way down to F. Once you get to E you're at capacity. Once you're at F, your volume exceeds that capacity. We're in that top level during the peak hours, A through C. A through C being depending on the time of day and the peak hour that we analyzed and which approach to the intersection. So, the intersection will operate safely and efficiently without any undue delays, extended queuing. That's a function of the relatively light volumes that Hamilton Street will still be accommodating.

Mr. Staigar continued: The last and third part of the study we prepared was working hand in hand with the site engineer and coming up with a site plan that works. We looked at ingress and egress and we have clear sight visibility at the two driveways we are proposing and the line of sight is excellent. We have internal circulation of 24' aisles. We have a drive-thru lane that can accommodate up to 8 vehicles without stacking into the parking lot. That's more than adequate. Typically you see 6. I've seen 6 as a maximum. The one thing about Taco Bell versus the hamburger fast food restaurants is that even ITE recognizes that the non-hamburger type of restaurant traffic is much more subdued than the hamburger. If you can visualize the next time at the McDonalds with the attraction of the children and parents and they're very much more active and the trip generation of those types of restaurants sometimes double what we see with the Taco Bell type restaurants. So this is going to see a lot less activity than the typical fast food restaurant. I use that example because ITE differentiates between the hamburger versus non-hamburger. Now the data I gave you is a conglomeration of all fast food restaurants. They don't differentiate when they establish the trip generation rates. But they do recognize that we do generate less traffic at a Taco Bell. So the numbers I gave you are probably high numbers

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and very conservative numbers and worst case scenario numbers. The issue about the drive-thru lane, drive-thru lanes are a matter of convenience. You are going to see some people, one out of very many, who may decide I'm late and I want to get out of here and pull into the pass through lane and leave. In regards to the emergency situation, that very well could happen. We always try to accommodate a drive-thru lane as more of a convenience for our customers. So that their experience of getting in line and then saying I want to get out of line and get out again, doesn't deter them from coming back again. If I'm stuck in that line with three or four customers in front of me and I really want to get out of there, it will probably be the last time I'll want to go to that place. So the function of a pass through lane in my experience is never a function of safety but a function of convenience for the customer. Mr. Ricciardo makes a very good example, what happens if an emergency comes up? It's not that you're isolated from that because certainly if you have two, or three or four people in front of you, by the time the fire engine or the ambulance shows up, they are gone already. So the Town response people will have an idea of the layout. If they see three or four cars behind a burning car or where the emergency is, somebody is going to be there to say somebody is having a heart attack in the drive-thru lane, they are going to know to go around this side of the building rather than that side of the building. I think we could provide a by-pass lane at the expense of loss of more pavement, landscaping, and better aesthetics. In a traffic point of view, I agree with Mr. Ricciardo and members of the Board that lean in that direction. A by-pass lane is better than no by-pass lane from my only aspect looking at it. I think this Board has to weigh squeezing down Hamilton Street, taking away landscaping and the ability to move around the site more freely. There are pluses and minuses and the Board has to weigh that.

Mr. Ricciardo questioned: Do you agree that with some creative engineering that a by-pass lane could be put in? Would your applicant agree to do that with creative engineering and show us a site plan with a by-pass lane?

Mr. Russo questioned: I have a question before that, if I may. The reality is that this is an approved use of this site, so that hurdle has already been overcome for the applicant. From your expert testimony and your perspective we'd be having the same conversation if it was a different fast food company? The by-pass lane would still be an issue, trip generation, access, so it's not like it's unique to Taco Bell. This use generates this type of conversation. Agreed?

Mr. Staigar stated: Yes. I agree. The only difference might be that you can be rest assured that if this was a McDonald's application versus a Taco Bell we'd be dealing with a lot more activity on the site. So you can rest assured the Board that we're not going to see that type of density so that's a plus.

Mr. Marion questioned: This says Union, NJ; it should be Newton, NJ. It's a typo. Also, you did a study of a restaurant that's open for breakfast, lunch, and dinner. You only did the dinner volume and the Saturday lunch. Is there any reason why you didn't do breakfast and lunch?

Mr. Staigar stated: Breakfast for any fast food restaurant, especially Taco Bell, is a very light time for them. The lunch time is a little bit more activity than dinner time. As I said before, we'll have 50 vehicles going in and out at lunch. But the roadway volume is hundreds of cars less. So that's the only reason we didn't look at that. The true test is the Saturday peak hour and in this particular case, I guess because of the retail businesses that are on Water Street, the Saturday volumes were not much lower. It was almost as busy. There was not much difference between the peak hour on week day and the Saturday peak hour. The weekday peak hour volume was 1,721 and the Saturday peak hour volume was 1,634. So lunch time is a busy time, secondary weekday, but not like Saturdays. Saturdays is when the Taco Bell will peak. We looked at those

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two peak hours. You could do the other two as well, but I'm 99.99% sure that we'll come up with better results than the ones I just gave you.

Mr. Marion questioned: According to prior testimony, this establishment is hoping to do 5-7,000 customers a week. If you cut that volume in half and figured that's the cars coming through there does that fit your stats?

Mr. Staigar stated: The trip generation is about 600 car customers a day. So if you multiply that by 7 you get 4,200. My number would be 4,200.

Mr. Marion questioned: And that's 600 cars a day?

Mr. Staigar stated: Yes, on average. Saturday will get about 700. 733 is a Saturday 24 hour volume. Average on a weekday is 500. So an average is about 600.

Mr. Marion questioned: And out of that 600 per day, how much average do you think this is flowing through that section of town? All of it or half of it?

Mr. Staigar stated: About half of it.

Mr. Marion stated: So we could see about 300 more cars a day on average travelling down Water Street if not more depending on if the business is projecting to do what we were told.

Mr. Ricciardo questioned: Out of those 700 cars, they said 75% are drive-thru.

Mr. Staigar stated: When we do our study of existing sites we find that 60-70% go through the drive-thru. Over the years we've become a lazier society.

Mr. Marion questioned: In your opinion grabbing that two extra feet and widening Hamilton Street would be a good idea based on the volume of traffic going in and out?

Mr. Staigar stated: I believe so. That's something you have to weigh. You're better off using it on Hamilton Street than on the site. But you really don't know until you put pen to paper and design it and show the Board and say look this is what we've got. You may see that it may work, but maybe it's not as desirable.

Mr. Ricciardo stated: I don't think an attempt was made to even do that and we had asked for that to be done.

Mr. Le Frois stated: I think what we'd like to see is if it does work, what the percentage reduction in landscaping would be and the percentage reduction in more positive site features would be as a result of having that lane. That gives us and the public some things to weigh.

Mrs. Le Frois questioned: We have many neighbors who are concerned that there's going to be a drastic increase of traffic travelling from Hamilton towards Moran. Based on the numbers you've given and some testimony you started to allude that those might not be as significant. Could you put a little more testimony into the traffic projections for traffic leaving the parking lot heading on Hamilton towards Moran?

Mr. Staigar stated: In our traffic study we had about 10% of the traffic leaving towards Moran. So during that Saturday peak hour we'll see about 10-20%. We may see an increase of 6 cars in the

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PM peak hour and 12 cars on Saturday. Our main draw is going to be pass-by traffic on Water Street. Our customers are already there. That's 1,600-1,700 vehicles an hour. The customers are there and they're going to be drawn to that and then they're going to go back to Water Street. Then that's also the main thoroughfare through your town. There's no reason, other than that you are a neighbor who lives in the Moran Street section of town and want to use the neighborhood roads to get to and from that site, that you would go that way. But anybody from out of town or different parts of town would not go that way. So yes we'll see an increase. The order of magnitude of increase will be 6 during the peak hour during the week and 10-12 on the Saturday peak hour.

Mr. Ricciardo questioned Mr. Wallace: Would your applicant reconsider coming back with some engineered drawings that prove it does or doesn't work?

Mr. Wallace stated: We would be willing to do that, but with a caveat of reservations. One of our main concerns is time. Coming from this meeting with some type of a vote. We don't need a final. It would be unusual to make a change like that a condition to be worked out by the engineer but we're looking for some type of vote based on the fact that perhaps there was some misunderstanding regarding the terms. Mr. Simmons wanted the by-pass lane that Mr. Gloede provided in his plans and we tried to include the other features that had been requested, specifically the additional buffers in the back by the Aberlour building and of course the street widening issue. It seemed in balancing all those features that Mr. Simmons's request was most feasible. In particular, I don't believe the code requires a by-pass lane but we wouldn't use that as the objection. The issue really is time because we have contractual obligations that we'd like to do our best to honor.

Mr. Ricciardo stated: Your contractual obligations are based on the purchase of this particular piece of property and everything else that goes with the sale here?

Mr. Wallace stated: Correct.

Mrs. Le Frois stated: It is contingent on approval anyway.

Mr. Flynn stated: If they're asking for a vote, we should give them a vote.

Mr. Flynn continued: Putting in a by-pass lane would mean that you have to come back for an amended site plan.

Mr. Soloway stated: I don't think it's appropriate to put the decision on whether or not to have a by-pass lane to the Board engineer.

Mr. Russo stated: You can get a straw poll sense from the Board that if the majority don't want the by-pass lane then we precede as is. If the majority of the Board wants the by-pass lane then they know what they have to do.

Mr. Flynn stated: I suggest we vote on an as is.

Mr. Ricciardo stated: I wanted to prove the point that a by-pass lane is possible.

Mr. Russo stated: It is possible. But the reality is, Kent is passionate about landscaping and he's going to lose half of his landscaping. Hamilton Street and the issues with the width of the road and factoring in the safety perspective of the traffic flow. As the traffic expert said, there's

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competing interests here. What the applicant would want is to probably send to the Board one way or the other where we're leaning so they can gauge whether this is the correct application for the site or if we want an amendment.

Mr. Wallace stated: That's a very good point, Mr. Russo. Mr. Staigar can perhaps speak to some of the history of the necessity of by-pass lanes from a historical perspective and whether legitimate emergencies are being created in these drive-thru situations.

Mr. Staigar stated: In all my years of studying and working with the fast food restaurant industry and I've worked for them all, I've never seen an emergency situation arise where the by-pass lane solved it. When I work with the client, the fast food restaurant, if I can put a by-pass lane in it is the preference for the user. The purpose of the by-pass lane is a matter of convenience for the customer. We design it not only for fast food restaurants but for banks also. Some banks have them and some banks don't. The only reasons they don't have them are impervious cover reasons, more landscaping. It's a balance. Do they want more pavement or more landscaping? What do we lose with the by-pass lane? It's a convenience to the customer. A customer who is inconvenienced is unlikely to come back again. So they'll lose a very small percentage, but they'll lose it. That's really the purpose of the by-pass lane, for the convenience of the customer and not a safety issue.

Mr. Hardmeyer questioned: Has data been collected on how many customers use the by-pass lane?

Mr. Staigar stated: In all my years of sitting in drive-thru lanes I've never seen any personally. And no, I don't know of any studies. Quite honestly, it's almost a waste of pavement. It's more black top.

Mrs. Le Frois questioned: I'm a little confused. It sounded like you were in favor of a by-pass?

Mr. Staigar stated: If my customer, McDonalds, wanted it, and they most likely would want it because it will generate a little bit more customer interest and attraction, I'll put it in. But many times I go before the Boards and they say, we'd like to have more landscaping. The first place we look is the by-pass lane. So, I am for them. It makes traffic easier to move around. But it's a convenience issue and not a circulation or safety issue at all.

Mr. Wallace questioned: Do you have any knowledge about how quickly these cars circulate through a Taco Bell site?

Mr. Staigar stated: They strive for one every 30 seconds. That doesn't mean that if I pull in there I'm getting my burrito in 30 seconds. What that means is if I sat at the pick-up window, I'll see a vehicle leave there on average one every 30 seconds. So if I'm the sixth person on line it's still going to take me 3 minutes to get to that point. But that's how fast that line moves?

Mr. Wallace questioned: Does that mitigate the safety issues?

Mr. Staigar stated: Absolutely. By the time the fire truck or ambulance shows up the front of that line will be out of there by then.

Mr. Wallace stated: I think Mr. Russo makes a good point regarding the balancing. The applicants not opposed. We're asking what the preferences would be. Our preference would be to walk out with an approval tonight. But we want to address the Board's concerns.

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Mr. Gloede stated: If we do put a by-pass lane in here, as we shift the site further toward Hamilton Street, we do start to lose additional parking. So it would be a loss of maybe one or two more spaces on the site. It's something to consider as well.

Mr. Le Frois proposed a 10 minute break.

Mr. Le Frois stated: We are restarting the meeting at 9:15PM. Is there any further testimony from Mr. Staigar at this time?

Mr. Wallace stated: No.

Opened to public

1st Public – Wayne McCabe, 125 High Street, licensed professional planner since 1978. I want to clarify some of the statements you made. You said that the weekday peak hour could be 33 in and 33 out.

Mr. Staigar stated: During the weekday evening rush hour.

Mr. McCabe stated: And the weekend peak hour will be 60 in and 60 out. Correct?

Mr. Staigar stated: Correct.

Mr. McCabe questioned: You also stated that the traffic rate right now on Route 206, which is Water Street, is 1,600-1,700 cars per hour during the peak time. Correct?

Mr. Staigar stated: Yes. During the peak time.

Mr. McCabe continued: What we're looking at is 600 customers per day on the average during a weekday and 1,400 on a Saturday?

Mr. Staigar stated: No. It was 600 on average over the 7 days of the week. On the Saturday it would be 700. The 1,400 would be in and out total trips which relates to 700 customer cars that would go in and out.

Mr. McCabe questioned: And you said that 75% of the trips in are for drive-thru. 25% are walk in.

Mr. Staigar stated: We've seen it vary from 60% to 70% in our studies. But that's the ballpark range.

Mr. McCabe questioned: You also stated that there was a minimal amount of traffic observed leaving Hamilton on to Water Street is that correct?

Mr. Staigar stated: Yes.

Mr. McCabe continued: Considering the fact that only two or three houses are in the two-way area, that sort of limits the ability of anybody to come out of Hamilton onto Water.

Mr. Staigar stated: Correct. That is the reason for the low volume.

Mr. McCabe questioned: In terms of your statement that there are positive and negative

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conditions with this intersection of Hamilton and Water once the Taco Bell is in, I found it rather interesting. You said that Hamilton Street, based on you're A-F ratings for 0-10 seconds wait for A and so forth until you get 50-60 seconds to get to the F rating. You said that it would be an A, B, or C rating to get off of Hamilton and on to Water Street. Correct?

Mr. Staigar stated: From Hamilton, the left or right turns, because they're shared lanes were I believe in the B & C range. The left turns into the site would be A range.

Mr. McCabe questioned: How many times have you yourself tried to make that turn off of there on a Saturday? From Hamilton on to 206?

Mr. Staigar stated: One day.

Mr. McCabe stated: You should try it more often, sir. You're A, B, and C rating doesn't hold to that. It goes a lot longer and gets into a D and E rating.

Mr. Staigar stated: It all depends when you hit the coordination of the traffic light. I totally agree with you. If I get there at the very tail end when the light turns red I'm going to wait until the light turns green and for people to clear. However, if they've already cleared and I get to Hamilton I will wait less. It really depends on your timing. You could do it and it might take 60 seconds, I could do it and it could be 10 seconds. The inconveniences to anybody are going to be unfortunately the two homes that live on the street. Or they have the opportunity to go down to Moran Street. The inconvenience will be to the Taco Bell customers primarily.

Mr. McCabe stated: I think also to the people who live on Moran. You said that 10% of the traffic leaving Taco Bell will go east on Moran Street.

Mr. Staigar stated: Let me clarify to your last statement. Because it's a one-way, people who live on Moran Street are not going to go up Hamilton to get to Water Street.

Mr. McCabe stated: Let me clarify that. Ten percent of the traffic leaving Taco Bell will travel east on Hamilton toward Moran. Is that correct?

Mr. Staigar stated: That is my projection. Yes.

Mr. McCabe stated: What is that based on? If you have a really bad back up on Water Street, people are going to make the right hand turn to go down Hamilton. I suspect there may be more than 10%, especially during rush hour traffic. With residency in Town, I have a good idea about what it is.

Mr. Staigar stated: I still believe on the order of 10 to 20% was my projection.

Mr. McCabe questioned: You said that it will take 30 seconds to get each car through that window. Correct?

Mr. Staigar stated: On average.

Mr. McCabe questioned: Say I'm one car away from that window. Are you telling me that from the time I put the car back in gear, drive up to the window, hand the guy the money, he fumbles around, finds food, hands it out to me, hands me out my cash and I drive away. That's 30 seconds?

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Mr. Staigar stated: No. And I clarified that to the Board and maybe you weren't listening. In the transcripts I did explain if you are the first guy at the window, you're not getting your burrito in 30 seconds. If you're the second guy, you're not getting it in a minute. If the line is loaded up with six cars up to the menu board, by the time you place your order at the menu and there are five people in front of you it's going to take three minutes for you to get to that window to pick up your burrito. If you're the first guy it's still going to take you at least 3 minutes. Everything is 3 minutes, up until the sixth person at the window. The 7th person might take 3 ½ minutes. I never said you're going to get your burrito in 30 seconds.

Mr. McCabe stated: But you said it will take 30 seconds per car.

Mr. Staigar stated: Yes. At the window, when everything is loaded up, and you're at the menu board and you place your order, by the time you move up to the window three minutes have gone by. The process of cooking and bagging and get it in the bag is three minutes.

2nd Public – Mike Bezney, One Bartek Lane, Wharton, NJ. Owns 7-7 1/2 Hamilton Street. As far as the second entrance off Water Street there, how many parking spaces are you eliminating on the public road?

Mr. Staigar stated: There may be one. The width of that driveway is about 25'. A typical car parking space is 23'.

Mr. Bezney questioned: So the width of that driveway is only 25' for an exit and entrance into that building. Correct?

Mr. Staigar stated: Yes.

Mr. Bezney continued: Did you take a look on the upper end of that street at how scattered, and how many driveways are there?

Mr. Staigar stated: Yes.

Mr. Bezney continued: What was your consensus as far as residential parking that is currently on that street right now by eliminating at least one to two parking spaces that you're doing right now?

Mr. Staigar stated: I never saw the whole street loaded up where the loss of two parking spaces would be detrimental.

Mr. Bezney questioned: What hours did you come and observe and what day?

Mr. Staigar stated: Late evening on Thursday, September 10th.

Mr. Bezney questioned: Are you aware that only part of Hamilton Street that starts in front of 7-7 1/2 Hamilton Street right now is two-way?

Mr. Staigar stated: Yes.

Mr. Bezney questioned: Did you consider that instead of the one-way proceeding from 7 1/2 Hamilton Street to Moran Street, reversing that, to revert the traffic from going up to Moran Street

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might be a better solution for the residents who are there so they wouldn't get the traffic from this Taco Bell?

Mr. Staigar stated: From a traffic point of view we are going to 10 vehicles per hour maximum using Hamilton Street. I don't see it being detrimental to the operations of Hamilton Street. To me, it doesn't matter if the one-way is either way.

Mr. Bezney stated: I think the residents would disagree with that.

Mr. Staigar stated: Probably. But from my point of view it doesn't.

Mr. Bezney questioned: The building is being shrunk now to 1,700 square feet. By the shrinkage of that building, don't you feel that if they eliminated the drive-thru altogether there would be no need for a by-pass lane because there would be less volume as far as traffic goes through that area?

Mr. Staigar stated: I'm not understanding the question. It works fine the way it is.

Mr. Bezney stated: Let me rephrase that. I think the public was told at the last meeting that with the bigger building, that was the smallest building we could have with a drive-thru. Now the public sees that you've shrunk the building, but you still have a drive-thru. But if you eliminated the drive-thru 100% the Board wouldn't have to worry about the by-pass lane because the property is so narrow. We wouldn't worry about how close things are because the volume of customers would be cut down on the property, correct?

Mr. Staigar stated: Yes. You would have less customers coming to the site and less traffic.

3rd Public – Ed Muller, Wood Run, Hampton Twp. You said about 10-20% of the cars will be going towards Moran Street. So 80-90% would be going towards Water Street. And the peak on the weekend was 60 cars. So that means one car every minute is going to be trying to get out of that intersection. 45 cars over the hour are going to be trying to get out onto Water Street?

Mr. Staigar stated: Yes.

Mr. Muller questioned: Has your study considered what the ripple effect is through the other streets in Town? Because I can tell you, having lived here my entire life, everyone is going to find another way around and they're going to avoid it and it's going to cause other traffic problems throughout the Town. Have you looked at that or are you only worried about your own little island?

Mr. Staigar stated: No. I've looked at the other possibilities of traveling in one direction or the other direction.

Mr. Muller questioned: So you've looked at people by-passing it completely to go down Clinton Street. Or to go up and go the other way around to avoid the intersection altogether and what the ripple effect is on the traffic through the rest of the community. And the back-up of the traffic up onto Spring Street because as cars are coming out someone has to let them in. So there is one less car able to get through the light, and more backing up the hill all the way up 206. Have you considered the impact? Do you know how far that backs up today?

Mr. Staigar stated: I have never measured the absolute maximum, but it does back up.

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Mr. Muller stated: I can tell you that there are times on the weekend that it is backed up to Lowes and beyond by the auto dealerships. Now you are going to back up even farther. And that's ok to you?

Mr. Staigar stated: The addition of vehicles we are going to see is on Water Street. Half of them are pass by traffic. So on a Saturday we're talking maybe 25 out of 1,700 cars already on it. The impact of that is not going to be perceivable. You're not going to notice the back-up. You won't say you used to see it a half a mile and now you see it ¼ of mile because the Taco Bell is there. The amount of additional traffic is not going to have a perceptible difference in back-ups because of an additional 25 cars an hour on a Saturday.

Mr. Muller questioned: So you're telling me to get out of Hamilton Street and make a right or a left on Water Street I can make that turn and get the same number of cars through the light as I do now?

Mr. Staigar stated: I didn't say the same number.

Mr. Muller stated: So it's going to take longer because you're going to have cars that will be making turns out of Hamilton Street that aren't making them today. So you are going to have an increase in traffic.

Mr. Staigar stated: Yes. I agree with you.

Mr. Muller stated: So it's going to create a bigger problem of traffic.

Mr. Staigar stated: But that difference is immeasurable. It's going to be so small because the increase in traffic is such a small percent.

Mr. Muller stated: I would beg to differ.

Mr. Staigar stated: The volume of traffic that's already on Water Street is 1,700 vehicles per hour during peak hours. We are increasing it 25 cars.

Mr. Muller stated: It's not just the cars. It's the time you take to turn that causes back-up. Correct?

Mr. Staigar stated: I agree. But once you take the time, somebody waits for me the light is red, they catch up. So the traffic back-up is not on Hamilton Street.

Mr. Muller stated: I understand what's going to happen to Hamilton Street.

Mr. Staigar stated: The back-ups are at the traffic signals. We are adding an additional 25 vehicles per hour at the peak hours. Half of them go left and half of them go right. The differential of what you'll have before and after is immeasurable in terms of the increase in delays and queuing delays.

Mr. Muller stated: Not living around here you don't really appreciate the challenge it is getting around here. Regarding the by-pass lanes, you said they are not there for safety, correct?

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Mr. Staigar stated: Correct. They are not there for safety. Does it add a safety enhancement? A lane was broke down and you needed an emergency truck. There's probably a tiny bit of safety enhancement with a by-pass lane. They are put in for the convenience of the customers.

Mr. Muller stated: I would think safety would have to be a top priority.

Mr. Staigar stated: I agree. It always is. A by-pass lane is not going to make the difference between a safe site and an un safe site.

Mr. Muller stated: I certainly wouldn't want to be the one in the car waiting if I had a heart attack going on.

4th Public – Karl Lanz, 42 Cherry Lane, Hampton Twp. What was done to study the foot traffic? It's going to be a busy intersection. There's already been a few people hit crossing that street and this is going to bring a lot more people walking to Taco Bell.

Mr. Staigar stated: Yes. I agree. You are going to have more people walking to Taco Bell.

Mr. Lanz questioned: What kind of a study was done on that?

Mr. Staigar stated: I took a look at the area to see if there's adequate pedestrian connectivity, clear site visibility and there absolutely is.

Mr. Lanz questioned: What affect will people crossing the street have on backing traffic up? People won't be able to turn while people are crossing and if there's more people crossing the street.

Mr. Staigar stated: It's going to have a positive effect. In downtown areas you want to promote walking. If people are going to cross the street, it's a good thing in Town's overall. They are not getting in their car to get to the site. They are crossing the street or walking down the sidewalk. This is what you want to promote.

Mr. Lanz stated: True. But our problem is with traffic flow and the pedestrian traffic walking across the street to the Taco Bell is in the rat's nest. So you're introducing people into this traffic mess and it doesn't seem like you're taking it into account.

Mr. Staigar stated: Well they're walking to the 7-Eleven. You want businesses to have foot traffic. I can see your point and I understand your point, but I can't see it, because pedestrian traffic for business areas is an absolute positive. With clear visibility and sidewalks and handicap ramps that are all available. It's a good walkable area.

Mr. Lanz questioned: So do you think the only problem people are going to see here is turning left coming up and they have to wait to do a left hand turn?

Mr. Staigar stated: From Hamilton to Water Street.

Mr. Lanz questioned: So how many people might stack up while someone is trying to make a left hand turn and nobody is letting them go through?

Mr. Staigar stated: One or two vehicles.

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Mr. Lanz questioned: Did we look at anything about buses to have to turn in behind the County Seat and the business to car business behind there?

Mr. Staigar stated: I don't see how this application would affect that.

Mr. Lanz stated: Well if there are cars waiting to turn in and other people have to use the left hand turn lane then they may not be able to get in.

Mr. Staigar stated: If they don't drive safely, yes you could have an accident. I agree.

Mr. Lanz stated: The more things you introduce, the more chance of an accident.

Mr. Staigar stated: Not necessarily. If it's designed properly and safely and not increasing the propensity for accidents.

5th Public – Bob Brenzer, 11 Woodridge Court, Newton. Did you take in to consideration the shoulder that runs from Trinity to Hamilton Street? It's quite wide for a shoulder and you have the center lane. I believe this was a widening project in the late 90s where they widened 206 to put the center lane in and because of that factor there's a possibility it's going to be 2 lanes each way with jug handles but the shoulders are very wide. I'm concerned that people are going to zoom down 206 North, in the shoulder, to get into this Taco Bell when the traffic is backed up to Clinton Street. Also, did you take into consideration on Hamilton Street how the width of it is very small? There's no room to put two cars on each side of the street and what I'm afraid of is when negotiating a right turn onto Hamilton with the Taco Bell traffic coming out onto Hamilton where it is two-ways for 150', you are going to have cars coming out of Hamilton Street making a right and possibly a left turn, and you're going to have egress into Hamilton Street for the residents going to Moran. Are you going to widen the street?

Mr. Staigar stated: Yes. That is something that we were debating before. Do we add a by-pass lane at the expense of doing some widening on Hamilton Street? I think that widening Hamilton Street, as you pointed out, is a better alternative.

Mr. Brenzer stated: Did you take into consideration on Trinity Street going north on 206, the convergence of the two lanes before Trinity Street happens after Trinity Street? Most of the time people are jockeying in that shoulder and trying to come in. Did you take that into account? The Aberlour driveway egress, that's where most of the traffic starts jockeying. You've got a lot going on as a driver. You'll have drivers going right into the Taco Bell. We had a fatality already on Trinity Street.

Mr. Staigar stated: We are a permitted use. We are not asking for a use variance that creates more intensity that we are allowed by rights. Anything you do on this site, unless you keep it a blank lot with weeds, is going to generate some sort of traffic. But if we're in the confines of being in a permitted use those off-site impacts have already been taken into account.

Mr. Brenzer questioned: So you didn't include that in your study?

Mr. Staigar stated: I don't have to. I can make the assumption that beyond the site property, as long as you can get in and out, that the roadways have been designed properly in accordance with your Master Plan. So we are a permitted use. We are not asking for something that we're not permitted to put there.

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6th Public – Earl Schick, 14 Kory Road, Newton. You made a comment before that the restaurant traffic is going to be based on current traffic flow and out of that traffic flow the number of customers you indicated would be going in and out of the Taco Bell. Has it occurred to you that Taco Bell is one of the more desirable fast food eateries for the young children of the County who may be driving from Sparta, Hampton, Stillwater, Fredon over here to get a Taco Bell meal?

Mr. Staigar stated: If somebody wants a burrito we're not going to lock the door if they aren't from our Town.

Mr. Schick questioned: You stated before that you are not going to increase the traffic very much because the traffic flow going into Taco Bell is going to be from the current traffic flow.

Mr. Staigar stated: Half of it.

Mr. Schick stated: That being said you're not taking into consideration that there's a Taco Bell in Franklin that is just being opened and there's a Taco Bell in Ledgewood. People in Newton go to Ledgewood to eat Taco Bell. Kittatinny kids go to Pennsylvania to eat Taco Bell. So they are driving 20 to 30 minutes. You have people coming from Sparta, Stanhope, and Byram. They can come from Stillwater, Green. In 20 minutes you're doubling that traffic with the 17-21 year old mindset. They've only got \$5 so they want to get their 5 bucks worth of food. So you'll have four kids in the car, you're going to double or maybe triple that traffic. Not traffic that you're saying based on traffic flow. Second thing, the projections in the last meeting was 1,000 customers a day. Your projections are half of that 4,200. Which is the right number?

Mr. Staigar stated: To me the daily volume doesn't matter. I work during hours. I work during peak hours. How many vehicles are generated on a daily basis or weekly basis or monthly basis has no meaning to me. It's what happens during the peak hours because that's the study period that we work with. My statistics say that the number is 4,200. I haven't looked at any other statistics. But I found that the ITE trip generation is the right number. There's a difference, and maybe the testimony I hear of all the time, the number of transactions. As you pointed out, one car may equal four customers. So there are four orders. The operator is not counting cars every day 24/7. They know the number of transactions a day. So the differential between my numbers and what the applicant may have said is that difference. How many orders are put in and how many cars come in? My number is always going to be less than that number.

Mr. Schick stated: If we're both in the car in the drive-thru, they're not going to take two separate orders.

Mr. Staigar stated: When I was 18, I paid for mine and my buddy paid for his.

Mr. Schick stated: If you and I go to Dunkin Donuts today and order two coffees are we going to get two orders or one order?

Mr. Staigar stated: I don't know.

Mr. Schick questioned: Why did you choose Thursday evening for the study?

Mr. Staigar stated: Because that's a typical day and that's when we do our studies. Typically going from one day to the next, we have DOT counts from Route 206 corroborating our data as well. So going back a third, fourth, or fifth day didn't make any sense at all.

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No more public stepping forward, public portion closed

Mr. Le Frois questioned Mr. Staigar and/or Mr. Russo: I'm a little confused myself and maybe the public is as well, regarding the status of Hamilton Street once the Taco Bell is constructed and open. It's my understanding that the two-way designation on Hamilton would be extended to the far east end of the subject property. I was not aware of any parking on either side of the street that would be allowed at that point in time.

Mr. Russo stated: The decision to move the two-way/one-way configuration falls within the purview of the Council. Even if the application passed the Planning Board the Council could still reject that opportunity to move that. I'm not going to speak for them and they are certainly not going to say anything tonight. But a draft ordinance would have to be presented. We already had something based on the original application. If things change, Dave and I would work together to modify that. But that would be a discussion and a conversation for the Council where they move the two. What kind of parking is or is not allowed.

Mr. Le Frois stated: So all of that is not up to the applicant but up to the Council potentially as a result of what ends up happening on the site.

Mr. Wallace questioned: Is there currently on-street parking on the left or right hand side of Hamilton Street? In front of the first several dwellings?

Mr. Le Frois stated: Yes.

Mr. Hardmeyer questioned: How many seconds does a person have to cross the intersection along Trinity and 206?

Mr. Staigar stated: I don't know. But it should be based on the distance and the travel speed of 3 ½ feet per second. I didn't time them. It might be dependent upon if you push the buttons, if there are push buttons.

Mr. Hardmeyer stated: I'm curious if we're going to get this increase in foot traffic, is there going to be enough time?

Mr. Staigar stated: There has to be enough time. Unless the State screwed up, it's designed properly to accommodate the green time for pedestrian crossing.

Mr. Ricciardo stated: Even if they get an increase in foot traffic, it's not like they're going to be a herd coming all at once. They're going to come periodically and the traffic signals all have buttons on them so you can push them to get across and they are all timed properly. It's all sidewalks.

Mr. Staigar stated: The State is pretty on top of that. The last thing they want is an accident that happens. If they're to blame because it's not timed properly and their standards for crossing a roadway, they are to blame. They are at fault.

Mr. Le Frois stated: Mr. Wallace, I'd like to open Mr. Gloede's testimony to the public for questioning.

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1st Public – Wayne McCabe, High Street, Newton. You were talking about having somebody drive out of the western most entrance going right onto Hamilton Street and going back in. Based on the layout and the projected number of cars that are projected to be coming in here during peak hours and the flow through there with what you have described, would that not create a major congestion point on the site of people trying to back in or get out of parking spaces as well as trying to come through the line for service on the drive-thru and exiting the site. Based on what the traffic engineer has testified to and projected for the hourly rate of use, it seems to me that much like where the Newton Dunkin Donuts is, which is an incredibly poorly designed site, you are going to have conflicts between your vehicles and the flow. I would appreciate your thoughts on that.

Mr. Gloede stated: The idea for the amount of cars stacked to the window is 8 cars. I presented this at the last meeting in Exhibit A6 which shows the cars, 8 of them in the stack. In the entire testimony of how long these cars will stay in the stack. We believe this never really backs up into the site. The reason that this was added was in lieu of the by-pass lane. The reason for that is if somebody pulls in here and wants to go inside the restaurant and finds that all the spots are taken they have this way to come back out and come back in over here. It's an alternate way to get around to a parking spot.

Mr. McCabe stated: But as cars are starting to pull out of the driveway and you have cars trying to back in or out of the parking spaces on the far eastern end and if you have a car coming back in on Hamilton trying to get parked in there you're going to have a conflict.

Mr. Gloede stated: I totally agree with you. But it's like any parking lot you go to, Shop Rite, CVS or anything else. There are always going to be people backing out and people trying to drive by.

Mr. McCabe stated: The only difference between that and Shop Rite is that Shop Rite has a whole lot more aisles. You are really a captive audience coming out of that drive-thru. There is no other way. I suspect that your analogy is not quite on target.

Mr. Gloede stated: My point there was the fact that no matter where you go you're going to have people driving by and people backing out. It doesn't matter whether it's a 1,000 car parking lot or a 10 car parking lot. You are still going to have those conflicts.

Mr. McCabe stated: It's just from experience seeing sites being developed in and around Newton and saying "repeat performance". Thank you, sir.

2nd Public - Bob Brenser. Where will you put the snow?

Mr. Gloede stated: It will be removed from the site. We have addressed this before at Taco Bell and Dunkin Donuts sites and it's always the same way. When you're in a tight spot there is nowhere to put snow. When you have a significant snowfall you have to get it up because business is affected if people can't park. They're losing customers.

Mr. Brenser questioned: And it will be done in a timely fashion?

Mr. Gloede stated: Absolutely. Whatever's plowed on Hamilton Street has nothing to do with us. We take care of our site.

3rd Public – Ralph Porter, 12 Pine Street, Newton. With the secondary driveway you added I

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know you're supposed to make a right hand turn. What they do at Weis and Dunkin Donuts right now they ignore the signs and try to make a left hand turn. If they make a left hand turn, how much is it going to impact traffic when they're trying to come in? What kind of enforcement are you going to have to stop that?

Mr. Gloede stated: The purpose of having this one-way a right only is we don't want people coming this way.

Mr. Porter questioned: But what enforcement are you going to have? I've seen it happen at Weis and Dunkin Donuts several times.

Mr. Gloede stated: The purpose of the design at the intersection is to try to prevent somebody from wanting to go. We're trying to get it turned in this direction. If we go back to some comments from earlier about reducing this island here, it's even going to prevent less. It won't allow for that even more so because we can't get the direction pointed towards the right side.

4th Public – Mike Bezney, One Bartek Lane, Wharton. Owns 7-7 1/2 Hamilton Street. In your parking area for County Seat residents versus the Taco Bell customers, outside of the signs that you're going to have is there any way to stop anybody from parking in that area?

Mr. Gloede stated: We talked about putting signs up.

Mr. Bezney stated: Is there any way to enforce it?

Mr. Gloede stated: We talked about it quite in depth last time about providing spaces.

Mr. Bezney stated: I understand that. But is there anything to stop a Taco Bell customer and there's a vacancy on the County Seat parking area to pull in there and park his car there and everything is full and a County Seat person comes in and they have no parking? Is there anything to stop that?

Mr. Gloede stated: I can't answer that question. I don't know. I suppose somebody could come in here. But because of the different hours that we're dealing with we don't feel it's going to be an issue. We have enough spaces for the restaurant. We've cut down on the number of seats in a restaurant from 40 to 30. Therefore the Taco Bell restaurant requires less parking so that provides more space for the residents.

Mr. Bezney questioned: The Board's concern also is for the by-pass lane. As far as the last testimony that was made when we had the last building that was bigger than this building was and the public was told that this is the minimum size building that we can have for a drive-thru. Why don't you just eliminate the drive-thru?

Mr. Gloede stated: That was never said. Taco Bell has a series of prototypes. They are based on different sizes and different seats. So what was the original idea was to go with the 40 seat restaurant because we felt, and corporate also felt, that that's what would be required for this particular area. Based on the Boards comments to reduce the size of the building, we've gone down to the small prototype which is a 30 seat restaurant. The building is smaller in square footage and less parking is required.

Mr. Bezney stated: It's not the Board's problem to worry about the applicant's profit because they are going to get 70% of their business through their drive-thru. Am I correct?

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Mr. Gloede stated: Of course not.

Mr. Bezney questioned: As far as the entrance and exit that goes on Hamilton Street in front of my property at 7-7 1/2 Hamilton, you said that you are moving the driveway slightly so that it is within the line with the other driveway there?

Mr. Gloede stated: I said we could do that. Yes.

Mr. Bezney questioned: How much is that going to help with as far as lights shining on my property as they come in and out?

Mr. Gloede stated: Coming straight out of the building, the lights would go straight between the two houses. If people are turning, lights are going to go right or left. People coming from Water Street turning back here, lights are going to hit the houses. So car lights are car lights.

Mr. Bezney stated: And it was tested with that 90% that will go on Water Street and get the lights anyhow.

No more public stepping forward, portion closed

Mr. Wallace introduced Gordon Cameron as their construction professional representing the applicant in architectural and the appearance of the building.

Mr. Cameron is sworn in.

Gordon Cameron - 1790 Broadway, NY, NY. He gave his qualifications as a construction engineer. He has over 40 years of construction experience from highways, bridges and tunnels and for the last 8 years mostly retails, Dunkin Donuts, Taco Bells, etc. The Board accepted his qualifications.

Mr. Wallace questioned: Are you familiar with the nature of the construction of the Taco Bell sized building we are involved with here today?

Mr. Cameron stated: Yes. I am. They have actually gone with a hybrid based on the Board's request and working with the applicant to reduce the size of the building. What they've done is they've reduced the width of the building, brought it down to under 1,800 square feet. But what they've done is they've added a second floor partial to accommodate what they're going to lose at the back of the house. I know there were questions before about why you can't make it smaller. Generally speaking in my experiences in end caps we do see a smaller width store. Generally speaking, I've never built a store as narrow as this. The reason being is they have these lines and they need so many feet for operators and the people to get to the equipment. So in this case they're losing space, storage space and office space. So what we've done here in working with the architect at Taco Bell, we've created an upstairs to take some of the back of the house non-essential equipment and get the storage upstairs and the office upstairs. Unusual. I've never had the opportunity to build one of these before. It's not a big deal. It's just adding a partial second floor. So our elevations now changed.

Mr. Soloway questioned: You are adding a second floor?

Mr. Cameron stated: It's not adding a second floor. You already had the height.

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Mr. Soloway questioned: What's going to be on the 2nd floor?

Mr. Cameron stated: In the front of the building, approximately 800 square feet there is going to be a staircase that goes up to an office and dry goods storage. Behind that area is just a standard roof deck that is going to have the mechanicals.

Mr. Soloway questioned: Was this submitted to the Board yet?

Mr. Cameron stated: I don't think so.

Mrs. Le Frois stated: We have a version of A2. Not A1.

Mr. Soloway stated: I want to remark this for identification A11. It's sheet A2.

Mr. Wallace stated: Yes. Sheet A1 and A2, dated 9/23/15 both would be A11.

Mr. Ricciardo questioned: Why wasn't this put in the packets?

Mr. Wallace stated: The architect made a mistake with the floor plan. It had the wrong number of seats. It had to be corrected. We also made some corrections to the building height and the second floor features that need to be clarified based upon what the architect had given us wasn't correct. We apologize, but that was the reason for the late submission. The impetus for these changes was to try to make the building smaller and reduce the number of seating.

Mrs. Le Frois questioned: Is this the first time our professionals are seeing these plans?

Mr. Soloway stated: Yes. They are dated today.

Mr. Le Frois stated: It's ok. We know we can't approve it.

Mr. Cameron stated: Essentially what they've done is they've raised the front portion of the building. We have what we call these towers. They are artificially high because they are always above the parapet that cuts across. We're showing an elevation of 26'. We have a parapet that is approximately 2' below that. Again, that's not building space behind it. That's just a façade. My understanding was they wanted to prevent the public from seeing anything on the roof top. So they generally use the parapet walls to conceal anything that is on the roof. So we have a 24' high parapet front. And then that is to cover the front half of the building. I can explain to you why that was raised. You can see on page one which shows the second floor. This is the front of the building. So we have an office and we have storage. We have stairs and we have the dumb waiter. Essentially it's just non-essential storage area. All the cooking, food preparation, washing, walk-ins, everything else is exactly the way it was before. It's really a non-essential space but they need it for storage. Then with regard to Exhibit A1 the rest of the top of the buildings are hvac and compressors. What I like about this, and speaking with the architect, we've raised the elevations so on the back half of the building the parapet walls are essentially at 20'. So we have more than 5' above our roof deck that usually comes in at about 15'. That's important for drainage. Essentially we have more than 5' to hide the curbs. It's a much more concealed package. The other interesting component about this and I don't think this is a change, just a clarification. They are showing this brick to match the existing neighborhood, the building next door. So although this is a black and white detail it's essentially a time match to the brick up top that's where you see half way from the top of the parapets to half way down

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it's going to be a red and then underneath that it's going to be patterns of tan and earthy colors to match the building next door relatively speaking. Then we have the cultured stone towers. It's a beautiful cultured stone that's going to rise on the tower in the front of the store. Then we have the slat walls and we can see that to the left of the cultured stone. And we have fake, essentially non pass through windows. We didn't want to make it look like just a wall with slat walls. So what the architect did was introduce some windows. It has no purpose to the interior. It's just to make it look like there's some space. The Taco Bells have a really cool design. I think they really tried with the applicant to make it fit in with the neighborhood and be really subdued. The slat walls have some lighting. Behind it there is a light with a purple hue. It shines on to the wall itself to give it a nice thin cover. It's very subtle. That's about it. The changes were really to accommodate the reduction in seating and making this foot print a little bit smaller.

Mr. Soloway questioned: What is A12?

Mr. Cameron stated: The colored rendering. I don't know if the Board can see this, but the colors are a little bit deeper. The cultured stone. I think it's more of a sophisticated and rich look. The red brick type that we're going to have is going to be the upper half of it; the more earthy color to match the other building next door is going to be gray color. It's all going to be cultured stone. This is a slot wall with just a hint of purple behind it. It will give it a really nice affect. And like I said we'll have the faux windows up on top. We do have the wall sconces on the exterior. My understanding is they only give directional at least on the apartment side. They're only going to point downward. They are not going to allow any light to go up. That's pretty much it. As far as the building, those are the changes.

Mr. Ricciardo questioned: What material is the slat wall?

Mr. Cameron stated: It's a metal. Its u/l approved. It's got LED lights behind it. But its metal slats. It's a dark bronze.

Mr. Ricciardo questioned: Is it powder coated or just spray painted?

Mr. Cameron stated: Its powder coated. So it's a long durable material. Like I said it's got the U/L LED lights behind it. On the drive-thru side there's a mini slat wall. It's just a mini slat wall to tie it all in. There's absolutely no detail on it. The publics not going to see it and you don't want to do anything to the apartment people. They've eliminated it and I don't even know if it was ever considered. There's no signage on that side. The only thing they have there is a canopy with canopy lights, but they focus down.

Mr. Ricciardo questioned: In that far back corner is your gas meter?

Mr. Cameron stated: That's going to be subject to the final approval of where they tell us we can put the gas. As you know, we have the CT meter on one side and the gas meter on the other side. I think there was some testimony about the speaker system and obviously some concerns from the public. I do a lot of Dunkin Donuts and Taco Bells and the HME headset system that they have today is unbelievable. It adjusts to the end of your background. It's self-adjusting. This applicant is trying to be sensitive to the neighborhood. A lot of times I see franchises put the speaker in the menu board. The menu board because of the orientation you would generally have people shouting in. What the applicant has done is she has a speaker separate, not on the menu board, right after the curb. So there is very little distance from the driver to the speaker. Maybe a foot. The other advantage here I think, if you are ever going to

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really have any noise it would be the exchange at the order speaker. Here it's at the main road, not on the apartment side. So it's really not open to the residences so it shouldn't affect them at all. You do have the pick-up window where you do the exchanges but it's right there. So these are the couple of things I wanted to mention to the Board.

Mr. Ricciardo questioned: The lower windows. Are they also an anodized aluminum?

Mr. Cameron stated: Yes.

Mr. Ricciardo questioned: Is it a tinted glass or is it clear?

Mr. Cameron stated: Those are generally a 1" double insulated windows. They are usually clear. They don't like to put the tint in because that usually breaks down the glass over a period of time.

Mr. Ricciardo questioned: No signs in the window of any type?

Mr. Cameron stated: I can't say. Sometimes they have a sign, but it's nothing like Dunkin Donuts.

Mr. Wallace questioned: Please describe the wall signage. Exhibit A11.

Mr. Cameron stated: It is 1' high by 12' long. The length of the building is 72'x 25'.

Mr. Wallace questioned: So the square footage on the Taco Bell lettering is 12 square feet. Do you have square footage on the bell?

Mr. Cameron stated: It's 54" x 58" total if you put it in the box. The overall square footage is 22 square feet. Square, actual is 14.

Mr. Hardmeyer questioned: Do you have something like that to pass to the Board?

Mr. Wallace stated: I can pass this around.

Mr. Marion questioned: Do you have only one way of going in and out for customers?

Mr. Cameron stated: We have one for the guests and one for the employees. It's a double door for the guests and a single door for the employees. We have two points of egress.

Mr. Marion questioned: Is there any way to put an emergency exit door where the hallway is for the restrooms? It doesn't have to be an entrance. It could be an exit only.

Mr. Le Frois stated: What is required by the building code?

Mr. Ricciardo stated: It depends on the footage away from the farthest point to that door. So if it's 75' you only need one exit.

Mr. Marion stated: We are making an awful lot concessions here, with the parking, the doors, and the window.

Mr. Le Frois stated: We could ask for more than the code requires.

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Mr. Marion stated: I'm thinking safety. If the code says we don't need it the code says we don't need it.

Mr. Le Frois stated: Well the code is based on safety.

Mr. Cameron stated: If you were going to have a door that would be a great place.

Mr. Wallace questioned: What's your view on stacking at the drive-thru?

Mr. Cameron stated: I don't think I can say anything better than Mr. Staigar. I build them and then I'm gone. As far as what I see coming back, we have more problems in the drive-thru with the snow plow than anything else. The snow plow is our biggest enemy. In the winter time they don't see the curbs and everything else.

Mr. Hardmeyer questioned: You said that it's all brick?

Mr. Cameron stated: Its veneer brick. It's 2 ½ " from the base. It's a full brick size, but not the thickness.

Mr. Hardmeyer questioned: And the metal slats that was what again?

Mr. Cameron stated: The slat wall that goes around is metal and almost like a U channel.

Portion opened to Public

1st Public- Wayne McCabe, High Street, Newton. I am outraged that these documents were just submitted tonight and distributed to you and we haven't seen a damn bit of it. How are we supposed to ask him questions? He is making a presentation holding up drawings to you and we don't see anything. I thought that we had a requirement of 10 days ahead for marking things in for evidence. I saw Kathy last week on Wednesday and asked to see what new had come in. There was nothing new. It turns out that the architectural came in or some of them, obviously more tonight. The plan that we just saw tonight for the revised site plan came in and wasn't available to us. And the traffic study wasn't available last week within 10 days. I'm asking, at what point do you say to the applicant, this was supposed to be here 10 days ahead? We haven't had a chance to look at it. How can we ask him a question?

Mr. Le Frois stated: I have a comment regarding that. We take into account the materials that are presented at the meeting. We listen to the testimony. I can tell you right now, there is no way we are going to be able to have a vote tonight on this application.

Mr. McCabe stated: I didn't think you could. I'm asking how can the public comment or ask him a question when we haven't even seen it. Yet, at the end of this he's off the hook for additional testimony.

Mr. Le Frois questioned: How does the public have access to the material submitted to us as the Board?

Mr. McCabe stated: By going to Kathy's office to look at them.

Mr. Soloway stated: It's sent out to everybody on the list. As long as the public notice advises the public that the documents submitted for the application are available for inspection in the

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office. Sometimes, A12 for example, I think could properly come in as an exhibit. They didn't have that ten days ahead of time. I think the point is well take on Mr. Gloede's revisions and on the architecturalals.

Mr. Le Frois stated: I wholeheartedly agree. I can promise you that we wouldn't have taken action as a result of that. The point is that the information is being presented right now. So prior to the next meeting it will all be available for inspection.

Mr. McCabe questioned: Will Mr. Gloede be back?

Mr. Le Frois stated: Absolutely.

Mr. McCabe stated: I just didn't want to have you, the Chairman, cut off the public testimony on him tonight when we haven't had a chance to look at the documents.

Mr. Le Frois stated: I agree.

2nd Public – Michael Bezney, Wharton, NJ. Based on what Mr. McCabe said, are we still going to be able to ask questions when these experts come back?

Mr. Le Frois stated: Yes. We need the same amount of time to review and comprehend the new information that is being presented as you do.

Mr. Bezney questioned Mr. Cameron: On the second floor is there going to be a change of illumination on the building?

Mr. Cameron stated: No, sir.

3rd Public – Ed Muller, Hampton, NJ. I'm concerned with the exhaust coming from the kitchen. What is built into the design or construction of that equipment to minimize the odors and how frequently would that have to be done and who performs that maintenance to make sure that it's done at the right intervals.

Mr. Cameron stated: That's an excellent question. Taco Bell doesn't emanate odors like you would think. Most of the food is hot steamed. It's not an open grill situation. They do have a mantle system and a fan system. The interesting thing about the fan system is it has an updraft and a down draft. So it takes make up air. It's going to channel up air and it's going to shoot it back down. It's a variable speed and it has to be serviced and inspected. Sometimes I have a requirement of once a year certification to go with that. So it is on the roof top. I don't believe anybody will have any objections to or realize any odors. However, it is serviced and I believe there is a certification process once a year. As a matter of fact, Taco Bell does take some of the air that it's pushing out and pulls it back in.

Mr. Muller questioned: The soffits are on the top of the building. When they get covered with snow how will the exhaust fan function properly? How will it get cleared away?

Mr. Cameron stated: In my experience, the hood fan on the roof deck is on the high side. So we generally have a 6" pitch from one side, this side of the 25' to the other side, it's usually 6'. Then they have scuppers. So you're right. Snow will accumulate in there because we have walls that are 5' up. It's incumbent, and there's an access door out of the building and into the roof area that they are going to have to maintain. Generally speaking with the hood fans, I don't see any

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issues because it's an air that's coming out so I don't see any accumulations. However, they will have to be responsible for the HVAC units because you don't want to back up and block the compressors. Generally I have not seen any issues with regards to snow removal, but it is a very good concern. There is an access door from the second floor that they are going to have to maintain. It's a cost of operating business. But it's a very good question.

Mr. Muller questioned: There is only one way to the second floor?

Mr. Cameron stated: Yes. There is only one way. But it is a wide staircase.

Mr. Le Frois questioned: There's exit to the roof and exit to the downstairs?

Mr. Cameron stated: Yes.

4th Public – Bob Bresner, 11 Woodridge Court, Newton. Is that ADA approved? Can a handicapped worker get up there?

Mr. Cameron stated: I can't answer that question. I'm not going to give an opinion for the ADA.

Mr. Wallace questioned: Is the second floor open to the public?

Mr. Cameron stated: No.

Mr. Wallace questioned: Is there an office on the second floor?

Mr. Cameron stated: Yes.

Mr. Wallace questioned: And who is that for?

Mr. Cameron stated: Usually the owner or the owner's rep.

5th Public – Earl Schick, 14 Cory Road, Newton. So we're shrinking the building this way and we're raising it this way. How high are we going? Is that a change to the plans that we had as far as view and the aesthetics of the neighborhood.

Mr. Cameron stated: I believe the building in the front grew 4' higher. So the tower, this stone tower, that also grew and additional 4'. Overall, the building shrunk 2' in the front and on the sides. But the deck was always going to be 15'. It's a low ceiling on the second floor.

Mr. Schick questioned: Just for my clarification is that a photo of 8' with the 4' and then the tower or is it 4'?

Mr. Cameron stated: Four feet more than the original.

Mr. Schick questioned: How does that affect the Aberlour people and any of the neighboring community?

Mr. Cameron stated: I believe it was raised to make them happy. Where it was before the elevation was too low.

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Mr. Schick stated: The building size has changed. It's been brought higher. So all of the concerns that we originally had with the neighborhood, the aesthetics, and maybe this is going towards the Board as opposed to you, sir. The change in 8' now is a drastic change in the building.

Mrs. Le Frois stated: Just as a reminder, the originally plan called for a story and a half because there was additional façade going up half the elevation to create what appeared to be, similar to the Dunkin Donuts, almost a second story. So by actually adding a second story you're not adding a full 8 to 10' elevation you're adding a half an elevation above what was already presented.

Mr. Schick stated: That's what I was trying to get. That's what I thought.

Mr. Cameron stated: Maybe I wasn't clear. I believe originally the top of the building was to appear as a two story building.

Mr. Le Frois stated: Just to confirm the zoning requires a minimum of two stories.

Mr. Schick stated: So nothing's changed although there really is now a second floor.

Mr. Le Frois stated: That's right. It appeared to be a two-story building but there was only one story. Now there really is a second story. In order to accommodate it they did have to raise it 4'.

No more public stepping forward, portion closed

Mr. Wallace stated: We have no further testimony to present tonight. Mr. Russo suggested that it would be helpful to have the Board's straw poll for issue of the by-pass. Which we've tried to address as best we can after it was raised by the Board. I think the Board is cognizant of the various off-setting features that would go into the decision of whether to go with the by-pass or not. So looking for direction from the Board we'd like to come back as soon as we can for a special meeting. But we'd like to get the Board's direction on that particular issue.

Mrs. Le Frois stated: It's not clear without renderings of what we're really giving up. We don't have plans to compare. By-pass or no by-pass. How much we're giving up on the expansion to Hamilton. How much we're losing on the planting area. I'm not clear with what the options are without an accurate rendering in front of us.

Mr. Wallace stated: We're giving up the island space.

Mr. Russo stated: You have to make an assumption here. You're giving up a part of the island, the width of Hamilton, and the landscaping. The professionals represented, Dave you can tell me if I'm wrong.

Mrs. Le Frois questioned: Are we definitely widening Hamilton?

Mr. Ricciardo stated: I don't think so. You need a 10' drive-thru lane for a car to get through. Right now it's 12'. Taking 2' off Hamilton you've got 12'. So you don't have to reduce that 2' and still get enough lane.

Mr. Russo stated: Worst case scenario, there's an impact on Hamilton, there's an adverse impact on landscaping and there's an adverse impact on the island out front.

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Mr. Ricciardo stated: Helen is exactly right when she's saying that it has to be put on drawing.

Mr. Russo stated: Of course it does. But that's for the next meeting. But they need direction to know what they're going to do.

Mr. Ricciardo stated: So what you need is for the Board to make a determination as to whether they want this information or they don't want it on the by-pass?

Mr. Russo stated: If we don't agree on a by-pass, if I'm the applicant I'm going to say judge my application for what it is and we'll schedule a special meeting for questions from the public for Mr. Cameron.

Mr. Soloway stated: I think the request is to see a by-pass design. For those who are interested in exploring the topic, to see if it's even feasible.

Mr. Marion stated: I would ask that if we're going to go about a by-pass I also want them to put Hamilton widened. So they will have to figure it out.

Mr. Ricciardo questioned: So do we want to see if it can be done?

Mr. Le Frois stated: So based on what I've heard I'll try to summarize for the Board. A couple of comments I'd like to make first of all. The late delivery of the plans, the architectural sheets and all that, I understand. But I want you to understand that we're not going to act, certainly until we have our professionals look at those, and we need to be able to study them, and Mr. McCabe had a good point that the public should have the opportunity to look at them in Mrs. Citterbart's office before the next meeting. As far as things to consider, I think it would behoove all of us for you to take a look at the engineering feasibility of adding a by-pass lane, while trying to minimize the impact on other amenities. What I would do is prioritize that with Hamilton widening, priority number one. Landscaping, priority number two. Other issues as a lower priority. Trying to get an extra 2' on Hamilton takes care of a lot of issues relative to the design criteria that the Town has for the width of the road. If we get that to design standard, then future liability down the road isn't an issue because we designed it to the standards. The width of the island again and landscaping. The more we can do on that is a good thing to do. Try to keep that to a maximum to the best of our ability. Yet at the same time add the feature of a by-pass lane and see where we end up. Do a quick little assessment. You're going to decrease landscaping by 20% or whatever that number might be and we can maintain the width of Hamilton to design standards and here's what it might look like. Then we have a choice. We can talk about the pros and cons and decide as a Board and have input from the public relative to the two options.

Mr. Soloway stated: Are they coming back with two sets of plans?

Mr. Le Frois stated: I think we generally have without but not totally complete. I think Mr. Gloede did well putting in the second driveway and showing that modification. But it is not as complete as the original plan. Eventually it will have to be taken to that level of completion.

Mr. Gloede stated: I just found out about putting that plan together about a day ago. So I've been working on it from yesterday morning until day. I just wanted to give the schematics of what we are trying to produce.

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Mr. Le Frois stated: Understand. I don't think it's prudent or necessary for you to take both options into high detail. In my mind it's not necessary to take it to that degree. All we need to do is take it far enough so that we know what the impacts will be and if it's feasible. You don't need all the dimensions, and to cross every "T" and dot every "I".

Mr. Gloede stated: We already did all that anyway on the original plan. It will stay pretty much the same thing. It will shift around a little bit, but at least once we get the plan locked in the rest we'll just drop right in.

Mr. Le Frois stated: Correct. A lot of it is just basic engineering calculations that need to be done and our professionals can work with you on that as we go forward.

Mr. Flynn stated: On that case, we wouldn't be voting on the full set of plans. It would still have to be worked out in the details with Mr. Simmons.

Mr. Ricciardo stated: We could give them preliminary approval and then they can come back. Which would allow them to consummate the deal then they can come back with their final site plan for approval.

Mr. Le Frois questioned: We'd be comfortable with the preliminary based on that level of completion on the design work?

Mr. Marion stated: People have done that before and then they've come back.

Mr. Le Frois questioned: The applicant would like to have a special meeting in a week. The work evidently can be done that quickly. The question will be the availability of the plans for review prior to the meeting for the public, for us, for our professionals. How would you see those logistics working out? It would be pretty difficult to try to do it in a week. Because we are probably just going to get the information the day before or the day of. Then that puts us right back in the same position that we are with no opportunity for anyone really to take a look at what this will look like and what the implications are. We would be trying to decide on the spot. I think for a lot of folks, including the folks in the public, that's a bit of an issue. If you want you can take a few minutes to caucus with the applicant to think about that.

Mr. Ricciardo questioned: Have you made an attempt to speak to the owner who you're purchasing the property from if they'd be willing to extend the contract date because the Planning Board is having difficulty?

Mr. Wallace stated: That's a good question. There's a technical issue with the tax election that needs to be made. They have some limitation on their flexibility, but I can call the realtor and I can probably get a pretty good read on that in 30 seconds.

Mr. Le Frois questioned: What would we do? Suspend the application? Carry the application?

Mr. Soloway stated: We carry it for 10 minutes. You can do something else while we're waiting. There is something else on the agenda.

Mr. Soloway stated: There's a proposed ordinance on wireless telecommunications that has been referred by the Council to the Board for comment. I have to recuse on that because I represent carriers who would be impacted by that. So I'm going to step away while you consider that.

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Mr. Le Frois stated: I'm not really familiar with this at all. Ms. Caldwell, if you could, please summarize what this ordinance is. And our job is to read the document and listen to what Ms. Caldwell has to say. Our job is to make a recommendation to the Council that it is not inconsistent with the Master Plan. Is that correct?

Ms. Caldwell stated: That's correct. This is a referral from the Town Council. The Municipal Land Use requires any Land Use Ordinance be referred to the Planning Board for review of consistency with the Master Plan. Then you also have the opportunity to make any comments based on your expertise as the Planning Board. What this is is an amendment to a wireless communication facilities ordinance; basically bringing it into compliance with recent changes in Federal law. These changes impact small changes to wireless facilities where we're not really permitted to have a site plan review. They're permitted automatic approval. If it's a colocation, they're not expanding, the facilities by a certain amount, they're allowed to get approval and we are not really permitted to have them come in for a site plan approval. The Federal regulations to try and streamline some of these wireless communications improvements and they are spelled out in the ordinance; basically to comply with the Federal standards.

Mr. Le Frois questioned: Is there anything major that sticks out in your mind that we should pay attention to?

Mr. Flynn questioned: These are basically cell towers, right?

Ms. Caldwell stated: Yes. A lot of times the colocations that we were reviewing before and essentially it's the existing towers where they are just adding antennas. We are not going to be able to review it unless they are really expanded at the base of the tower, the facilities there beyond a reasonable amount essentially. There's not a lot of impact because it's not a new tower. It's just adding existing antennae's onto an existing tower. Usually they're really minor in nature and that's why they are by-passing this review so they make it easier for the wireless carrier.

Discussion ensued.

Mrs. Le Frois made a motion and Mr. Ricciardo seconded it to recommend to the Town Council the wireless communication is not inconsistent with the Master Plan.

Aye: Mr. Marion, Mr. Russo, Mr. Hardmeyer, Mr. Ricciardo, Mrs. Le Frois, Mr. Flynn, Mrs. Diglio, Mr. Hemschof, Mr. Le Frois

Returned from 2nd break

Mr. Wallace stated: I can get you a sight plan revision on the 28th. We want a special meeting as soon as possible after that.

Mr. Le Frois stated: What we would want to do in advance of any other meeting would be to get sufficient copies of the new information that was handed out this evening, the new site plan from Mr. Gloede and the architectural plans, A1 and A2. And then the materials relative to the by-pass lane with the analysis of the impact on the site we would need 10 days before any meeting.

Mrs. Le Frois stated: That would be 10/8.

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Mr. Le Frois questioned: Is waiting until the regular October meeting out of the question?

Mr. Wallace stated: Given the pressure I have with our buyer, it makes it tough.

Mr. Ricciardo questioned: The pressure is not from the seller it's from the buyer?

Mr. Wallace stated: There is another deal on which our purchase depends. In other words, our seller is also a buyer of another property where there is a 1031 exchange involved.

Discussion ensued on the date of the special meeting.

Mr. Le Frois stated: We are tentatively scheduling the meeting for 10/8 with the documents required by 9/28.

Mr. Soloway stated: The meeting is being carried until Thursday, October 8th 2015, 7:00PM, no further notice. To the extent required does the applicant consent to any necessary extension of the statutory period of time for the Board to decide the application.

Opened to Public – not having to do with this application

1st Public - Wayne McCabe, High Street, Newton. When you were talking about the cell towers, there have been two proposals. One on top of the old bank building and one on top of the tower at the old Merriam Shoe Factory. The Historic Commission has reviewed both of them and given conditional approval to both of them. What they are doing at the Shoe Factory is something rather unique. They are recreating the old water tank up there so it will look like a complete reproduction of what was there originally. They are putting the antennae's inside of that.

DISCUSSION - None

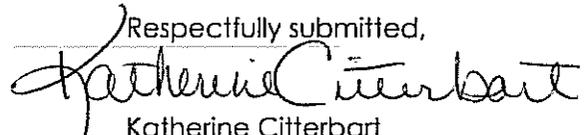
CORRESPONDENCE - Reviewed

EXECUTIVE SESSION - None

PUBLIC PORTION - None stepping forward

ADJOURNMENT

Mrs. Le Frois made a motion to adjourn the meeting. Motion seconded by Mr. Ricciardo. The meeting was adjourned at 11:20 PM with a unanimous "aye" vote. The next special meeting will be held on October 8, 2015 in the Council Chambers of the Municipal Building.

Respectfully submitted,

Katherine Citterbart
Planning Board Secretary