

In compliance with the Open Public Meetings Act of the State of New Jersey adequate notice of this meeting has been mailed to The Daily Record and posted at the municipal building.

ROLL CALL:

Members Present: John Cavanaugh (7:55), Joe Fleischner, Rene Gadelha, Nelson Russell, Mayor David Scapicchio, Jim Staszak, Scott Van Ness, Steve Bedell, Howie Weiss

Members Excused: John Mania, Dan Nelsen

Professionals Attending: Chuck McGroarty, Planning Consultant, Eugene Buczynski, P.E., Edward Buzak, Esq., Catherine Natafalusy, Planning Administrator

Professionals Excused: Tiena Cofoni, Esq.

MR. WEISS: At this point I'd like to open the Mt. Olive Township Public Meeting of January 13, 2011.

APPROVAL OF RESOLUTIONS

Resolution #PB 10-28 – Intercounty Paving Associates (Denial of Appeal)

Motion: Jim Staszak
Second: Rene Gadelha

Roll Call:

Rene Gadelha - yes
Jim Staszak - yes
Howie Weiss - yes

Resolution #PB 99-31(A) – ARD Mt. Olive Associates - (Prel. & Final Sub. & Site Plan Approval for 63 lots)

MR. BUZAK: Mr. Chairman if I might just before we get through . . . the next four resolutions are all the ARD resolutions. At the meeting in December we had one single resolution but there were some different positions with regard to the different aspects of it, different votes of yes or no so what we did was we broke it down into four separate resolutions addressing the four issues that were set forth in an overall resolution. So this doesn't change the result of what we were doing it simply breaks it down so members can vote according to their wishes with respect to specific matters.

MR. WEISS: And so we will vote on each one separately.

MR. BUZAK: Yes, yes.

MR. WEISS: Okay so the first one as I read I'll entertain a motion.

Motion: Steve Bedell
Second: Jim Staszak

MR. WEISS: Roll call please.

MRS. NATAFALUSY: This is for an extension of final approval for the 63 lots.

MR. WEISS: Yes for the 63 lots.

Roll Call:

Jim Staszak - yes
Scott Van Ness - yes
Steve Bedell - yes
Howie Weiss - yes

Resolution #PB 99-31(B) – ARD Mt. Olive Assoc. - (Final Major Subdivision & Site Plan for 74 lots on ARD Prop.)

Motion: Steve Bedell
Second: Jim Staszak

MR. WEISS: Conversation, Steve?

MR. BEDELL: This one also is 99-31? Shouldn't there be like a subsection to it or is it just fine the way it is?

MRS. NATAFALUSY: It's all that application number.

MR. BEDELL: Oh okay.

MR. BUZAK: Actually Gene just suggested that perhaps we just put a suffix at the end and just put an A . . . 31A, 31B, 31C, 31D just to distinguish it we all recognize it's the 99-31 as the application I think that's a good idea. Because these will come up again in a couple of years so we need to distinguish among them.

MR. WEISS: So then we're going to call this one 99-31B.

MR. BUZAK: Correct.

MRS. NATAFALUSY: And the first one was A.

MR. BUZAK: Correct.

MR. WEISS: Thank you Steve any further conversation? Seeing none Catherine roll call on 99-31B.

Roll Call:

Nelson Russell	- abs.
Mayor Scapicchio	- no
Jim Staszak	- yes
Scott Van Ness	- yes
Steve Bedell	- yes
Howie Weiss	- yes

Resolution PB 99-31(C) – ARD Mt. Olive Assoc. - (Extension of a Final Major Subdivision and Site Plan approval for 66 lots)

Motion:	Steve Bedell
Second:	Jim Staszak

Roll Call:

Nelson Russell	- no
Jim Staszak	- yes
Scott Van Ness	- yes
Steve Bedell	- yes
Howie Weiss	- yes

Resolution PB 99-31(D) – ARD Mt. Olive Assoc. (Extension of protection of Final Subdivision & Site Plan Approval for 8 lots)

Motion:	Jim Staszak
Second:	Steve Bedell

MR. WEISS: Is there any conversation? Mr. Mayor.

MAYOR SCAPICCHIO: These are the 8 lots that Toll Brothers purchased from ARD to protect those end units is that correct?

MR. BUZAK: Yes that's correct.

MAYOR SCAPICCHIO: So what's the purpose of this extension?

MR. BUZAK: The purpose of this extension is just to bring it to October 14, 2010 because then Toll's, which I believe we did adopt at the last meeting, extended it from 10/14/10 through their date of 2012.

MR. WEISS: It brings it all in line I thought that was the whole idea.

MR. BUZAK: Yeah right.

MR. WEISS: Any other conversation, comments? Seeing none roll call Catherine.

Roll Call:

Nelson Russell	- no
Mayor Scapicchio	- yes
Jim Staszak	- yes
Scott Van Ness	- no
Steve Bedell	- yes
Howie Weiss	- yes

Resolution #PB 09-09 – Mt. Olive MC, LLC (Prel. Major Sub. & Prel. Major Site Plan Approval)

Motion:	Jim Staszak
Second:	Rene Gadelha

MR. FLEISCHNER: Mr. Chairman if I may for discussion?

MR. WEISS: Yes as a matter of fact Joe here's how I want to handle the discussion of this issue. We have questions and concerns from the Planning Board that we're going to address and I think we also have issues that the professionals might want to deal with first. So I'd like to deal with the professional issues. Ed I believe that you had informed me or maybe Gene we had some issues that were dealt with off-line, technical issues that I think the applicant was concerned about that you addressed and I thought maybe now is a good opportunity to discuss what those concerns were. Is that something Ed you can review with us?

MR. BUZAK: Yes if you give me one minute to just get the right sheet here. As I pointed out in the email that transmitted this resolution we took into account comments of the various commissions and committees of the Township, Board members, the applicant, and the professionals. Some of the comments of the non-Board members were discussed among the professionals and we drew conclusions from them and either included them or did not include them. The applicant had a number of comments, we probably included most of them, there were others that we did not include and I'd like to just go through them with you so that the Board can be aware of what they were and have an explanation as to why they weren't put in. So let me get the resolution as you have it and try to direct your attention to where we are. The first comment that we did not include is in number two which is on page two in the first full paragraph. I'm sorry in the second full paragraph you'll see at the end there there's a reference to a park, passive recreation area consisting of seating areas and landscaping is also proposed off of the proposed walking path between the affordable housing units and Flanders Park. If my notes are correct they wanted to add that to the first paragraph, we felt that that was just a drafting item it didn't change the substance so we did not make that change. The next change is on page three and it deals with the second paragraph on page three dealing with the time period when the sanitary sewerage pumping station would be constructed. We have in this resolution in the second paragraph of number three that the on-site sanitary sewerage pumping station would be constructed as part of Phase II. They wanted to put that in as part of Phase III instead of Phase II. I talked to Gene about that and I'll pass it on to him.

MR. BUCZYNSKI: Okay. Yeah I spoke to their engineer today regarding that issue and I think they were going to mention to the Board tonight that they have made some changes relative to some concerns they had with storm drainage which also resulted into some revisions with the gravity sewer. So right now there's no pump station required in Phase II it's really required in Phase III for like I think 15 or 17 lots so I think we could go along with their suggestion to put it in at Phase III. Because originally they were going to have the pump station at Phase II but it's not needed in Phase II everything is by gravity in Phase II so we could change that per their request.

MAYOR SCAPICCHIO: Gene are we suggesting or are you suggesting or are they suggesting that the existing plant has capacity sufficient to handle all of Phase I and all of Phase II?

MR. BUCZYNSKI: Oh it does, it does that was part of the study before that's not a question. The question was the design of the system that could have . . . what parts of the sewer system have to be gravity and what parts have to be force mained. So it's not really needed in Phase II it's needed in Phase III to serve some of the units.

MR. BUZAK: So (inaudible) constructed in Phase II would really be of no use because it wouldn't function.

MR. BUCZYNSKI: Correct it wouldn't be needed in Phase II.

MR. BUZAK: Okay. I'll just add that you know the purpose of putting this together in the way that we did was to try to tie the improvements to the sections where they were needed. I mean that's the whole concept here. And I had discussed this with Gene he was not aware of what he is now aware of which is why we did not put it in. Had he been aware of it this resolution would have had that in . . . moved that to Phase III as opposed to where it is. So I just want to pass that on to you.

MR. BUCZYNSKI: And the reason why it's come up tonight is I haven't received the revised plans yet. But we've discussed revised plans and the changes they have to do to the plans.

MR. STASZAK: And so the modifications to the sewerage treatment plant are in Phase I correct not the pump station.

MR. BUCZYNSKI: Right.

MR. STASZAK: Okay.

MR. BUZAK: So I guess Mr. Chairman what we need so we can have sort of a composite resolution here is to see if the Board, if the mover or the seconder is willing to amend the motion to include this amendment and then if they are we can vote just on putting this in or not put it in and then go on.

MR. WEISS: And you think that's a better process if there's other small changes to do it as we go?

MR. BUZAK: I don't know what the reaction of the Board is going to be.

MR. WEISS: Let's try it this way; does anybody have any objection to what the engineer and the attorney have told us? Because I think it might be smoother for us to just approve all of the changes.

MR. BUZAK: That's fine I don't have a problem with that.

MR. WEISS: Okay so this change seems to be more technical and the engineer is okay with it. Okay so let's continue.

MR. BUZAK: In number four there was just a request for a language change. At the bottom of item four on page four where we talk about the environmental impact statement, go on to page five it talks about the EIS referencing several State threatened and endangered species and they wanted to delete the word several we didn't think that was appropriate we thought it was an accurate depiction so we left it the way it was.

MR. WEISS: Let me just review if I can Mr. Buzak. So you're explaining changes that are already in the copy that we have. You're kind of reviewing the conversation that was previously had.

MR. BUZAK: Well there were two things. The ones that I'm going through are ones that did not make their way in here but were requested. Now some were additions to what we had and some are deletions, this happens to be a deletion they wanted us to delete something we rejected that. So all of these are ones that we rejected, some were additions some were deletions.

MR. WEISS: Okay.

MR. BUZAK: The next one is number 8 under section entitled water. At the end of that section I guess it's really at the bottom of page six this is where we were asking that the applicant or requiring that the applicant donate \$2,000.00 to the Southbranch Raritan Watershed Association for certain baseline testing. We then say in there that if Southbranch Raritan Watershed Association will not do it or cannot do it or are unable to do it then the applicant shall return to the Board to come up with an alternate organization. The applicant had proposed that rather than come back to the Board that they submit a donation to the Township for the environmental commission or an alternative organization to perform the function. We felt that this is an obligation that should fall on the applicant

and if the Southbranch Raritan Watershed Association is not prepared to do it then the applicant has got to find somebody else. This isn't a monetary item it's a functional item so we did not want to just have the donation come to the Township and put the burden on the Township we felt they ought to come back and we ought to come up with another entity. Also in number eight just above that one sorry I missed this one right around the middle of the page we say the extension of the public water supply is subject to approval under the Highlands Act as the property is within the HUC 14 Water Deficit Area. They had wanted to delete that on the basis that, and this is their contention, that the Highlands does not process consistency determinations for water main extensions and since the municipal water utility has sufficient water allocation available it's not impacted by the Highlands. Our position in rejecting that was if in fact there's no need to obtain the approval then they don't have to get it but we'd rather keep it in and be safe then pull it out and wind up not being safe. In number 16 the first sentence under plans, states that the plans shall be revised to include architectural detail for the gatehouse. The plans shall be revised to include details for the trash enclosure pad which shall include sufficient space for trash enclosures for recycling and the same shall comply with (inaudible) of the Code. The applicant wanted to delete those sentences on the basis that the plans were previously revised and reviewed with the Board. Again if the application reflects the compliance with the Code sections and is acceptable to the Board then this is simply superfluous but there's no problem in leaving it in. Gene did you have a comment on that or not?

MR. BUCZYNSKI: No that's what we agreed to.

MR. BUZAK: The next one, and this is probably the most significant one and the applicant may want to be heard on this, involves the Rosewood Ditch. And at the end of that section that's Section 17 which continues onto page 10 we end that section with the language, *in the event the NJDEP revises their present position and allows improvements to be constructed to the existing Rosewood Ditch the applicant agreed to revise the plans to reflect the improvements of the Rosewood Ditch and elimination of the construction of the proposed swale.* The applicant wanted to add to that sentence right after the word swale the following limitation, *to the extent that the total cost of improvements including the design, permitting and construction costs do not exceed the estimated cost to construct the swale as it is presently designed and approved. Since the existing Rosewood Ditch and the proposed swale operates independently of the Marveland Development and the Marveland Development does not provide any drainage to the same any discussions with the township or the NJDEP regarding any changes to the current approved plans shall not delay the construction of the Marveland Development.* After speaking with Gene we injected that largely on the basis that as we recalled the testimony those limitations were not in the offer that was made so we kept it the way it was. We did add at the end that, and this was not the applicant's request but that sentence regarding the fact that any revisions would be subject to review and approval of the township engineer. I believe that those are the changes that the applicant had suggested and that we have rejected be they additions or deletions. And by the way there's companion ones on the conditions section and the rest of it but we don't have to go through that because we'll repeat what I just stated. That's it Mr. Chairman for those.

MR. WEISS: Okay so it sounds like there's one revision correct?

MR. KEMPH: Mr. Chairman if I may we have a small handful of points that Mr. Buzak just went through that we still need to address the Board on.

MR. WEISS: Regarding what?

MR. BUZAK: Yeah I think Mr. Chairman these are . . . and this is a little bit usual, this is a resolution that the Board is considering tonight. This was a lengthy application that went over several months you know we put the resolution together it took a considerable amount of time to get it all together, it went through several iterations in our own office and among the professionals and the applicant did not see it until it had gone through probably seven or eight revisions that we had done internally. And as a result of seeing it the applicant had gone through the proposed changes that some of which we included and some of which we just discussed. I would think that if the applicant has comments on those items that we rejected that I've just gone through it is appropriate for them to be able to make that proper to the Board and the Board can consider it as opposed to just remain in a vacuum of based upon what I've decided and Gene and Chuck.

MR. WEISS: Fair enough. Mr. Kempth if you want to . . .

MR. KEMPH: Thank you.

MR. WEISS: Just to be clear you're not providing any more testimony you're just simply giving a rebuttal to Mr. Buzak's statement.

MR. KEMPH: Absolutely and for that reason I have next to me Mr. Maser who's functioning as the client not Mr. Zelina who is the testimony witness.

MR. WEISS: Wonderful.

MR. KEMPH: If my count is right we are only discussing four of the points of any number of things that Mr. Buzak changed we will not be addressing. The first one that we wanted to respond to is the end of item 8 on page 7 and I think Mr. Buzak appropriately articulated what our request is which is we are prepared to fund that amount of money for that service and we would ask that if the SBRWA is unwilling to perform it that the Board take our funding and do as it sees fit rather than keep us involved in the process. We wouldn't have anything further to add to the process.

MR. WEISS: And why would it matter who you're ultimately paying? I'm not sure, it's almost like there's a responsibility to get it done and you're suggesting that if the Southbranch Raritan Watershed doesn't do it then let the Township figure it out. I think Mr. Buzak made it very clear that this is one of your obligations we're giving you the first person to contact I'm not sure why this is debatable it seems kind of rather simple actually.

MR. MASER: It's not an ordinance requirement it's something that we volunteered and we thought it was just a cash contribution. At no time did we feel we were responsible to do this there's no ordinance required for the testing, we compromised on it we do not want to get involved in the middle of a dialogue at a future date of what else has to be done.

MR. WEISS: Mr. Maser maybe you know better than I is that a difficult thing to get is to get someone to test the water?

MR. MASER: I don't think it is but we don't want to be responsible for it. We really feel it's just a monetary contribution and we don't want to be involved in the decision making of who does it and how it's done.

MR. KEMPH: The concern Mr. Chairman and to all the Board is a never ending process. For us what we're looking to do is have a point of closure, move on with the project. This was in our view something extra every good application has give and take and I think this application has been reflective of that process. Here the give that we were expecting was to cover this financially on behalf of the town and if the town chooses to pursue it beyond the initial agency it's free to do so but we don't wind up with lingering duties beyond what we would normally have in a project.

MR. MASER: As well as the cost of coming back before the Board is significant.

MR. WEISS: Gene is that a difficult task do you think that in the unlikely event that the Southbranch Raritan Watershed Association can't do it that it would be difficult in getting that done?

MR. BUCZYNSKI: Would it be difficult for the town to get it done?

MR. WEISS: Yeah.

MR. BUCZYNSKI: No my immediate thought is maybe it's something, not to pass it on but something the environmental commission might want to work on if need be.

MR. FLEISCHNER: Mr. Chairman isn't it true though that you didn't even want to test the water.

MR. MASER: There's no requirement to.

MR. FLEISCHNER: Well I understand but this Board asked you to test the water and you didn't want to do it.

MR. MASER: As a compromise we agreed to fund this.

MR. WEISS: Mr. Cavanaugh?

MR. CAVANAUGH: Yeah I think there's compromises all around right? You're basically presenting a, at least, five year maybe ten year development program it's kind of up in the air we've had estimates from testimony. There's going to be construction, there's going to be a horse farm plus some residences on the property so I think it's not unreasonable in fact I'm kind of curious as to why you would take a position not to test it before you do anything. Because you're kind of going into a five to ten year no man's land of change and hopefully nothing gets disturbed that's bad and hopefully nothing gets into the pristine water because it's going to wind up being somebody's problem on that property and I don't know who's going to be owning that piece at the time because it's multiple owners over five or ten years.

MR. MASER: There was extensive testimony about the total tributary area. Our development is an extremely small percentage of the watershed so if there is a problem who knows what caused it. It certainly cannot be correlated to this development it's the entire watershed. So change the dollar amount it's not a matter that we're trying to run away from something, we just don't want this to be an ongoing issue that we have to come back here with an attorney, and engineer, an environmentalist and continue to give testimony and leave it open.

MR. WEISS: You know Mr. Maser actually raised a valid point, what happens if this testing happens 10 years from now and the prevailing rate to test water isn't 2,000 but it's 7,000 we're kind of cut short. Maybe a compromise is to offer to have that paid for at the prevailing rate whether it's through . . . if the Southbranch doesn't do it then we'll pick up that obligation.

MR. MASER: My understanding, and correct me if I'm wrong, was that this was just an initial round of testing to establish a benchmark. That's all that was asked there wasn't any discussion about testing at five years from now or a year from now, my understanding is what was requested of us was to benchmark what currently exists. And that's how that number came up that's my recollection I could be wrong.

MR. BUZAK: Just a follow up on the Chairman's comment. Unless I missed it here I don't think we actually have a time period within which it has to be done. And this is preliminary approval so it would have to be done during preliminary approval but you know it doesn't say that it has to be done before any disturbances, before anything is done.

MR. BUCZYNSKI: But it does say prior to any disturbance.

MR. BUZAK: Oh does it say it? I'm sorry okay.

MR. MASER: 30 days before any disturbance.

MR. BUZAK: I take it back. Gene your point though is that I believe that you know disturbance might not take place for 3, 4, 5 years and the cost may be \$5,000 as opposed to \$2,000.

MR. WEISS: Gene did you want to . . .

MR. BUCZYNSKI: No that was the only thing prior to any disturbance. Maybe what we should do is if you want to test it now change that prior to any disturbance put a time period with the next you know 6 months, 12 months something like that you know?

MR. MASER: That would be acceptable to us.

MR. WEISS: I think that kind of puts away my fear of the escalating cost and in the unlikely event that the Southbranch Raritan Watershed Association doesn't do it then we I think can go find a reasonable . . .

MR. BUCZYNSKI: The only concern as we talk and think at the same time, the only concern with that is you get a baseline now but if what if they don't start for 5 years before they start disturbing.

MR. WEISS: But that's what we asked them to do is develop a baseline correct?

MR. CAVANAUGH: Yes.

MR. WEISS: So I think it would be in their best interest to get that baseline as soon as possible.

MR. BUCZYNSKI: I would yeah.

MR. WEISS: I think if we come to an agreement then, tell me if I'm wrong, that if we can get you to agree to do it within the next Gene would you say 10 months or . . .

MR. BUCZYNSKI: By the end of the year.

MR. WEISS: By the end of the year then I suppose it's okay to just give you that option if the Southbranch Raritan Watershed Association can't do it then we'll probably take it in house and have the environmental commission handle it. Would that work?

MR. MASER: We just want to quantify what our obligation is that's all we're asking.

MR. WEISS: And I understand and your initial concern is that if the Southbranch Association didn't want to do it you don't want to worry about it.

MR. RUSSELL: Howie?

MR. WEISS: Yes.

MR. RUSSELL: The Environmental Commission has been working with the Southbranch Watershed Association so that would be our course. If they refuse to do it handing it to us, handing it to the Environmental Commission goes back to the same agency.

MR. WEISS: Yeah I thought it was through your Environmental Commission presentation that the Southbranch Raritan Watershed Association was asked to do it. So I can't imagine they'll bail out of it so I suppose we can compromise in that we put a time frame on it.

MR. BUZAK: Well we can say prior to any site disturbance but not later than December 31, 2011 the applicant shall donate and then at the end insert the language as the applicant suggested that if the SBRWA is unwilling or unable to do it the applicant shall submit the donation to the township for the Environmental Commission or an ultimate organization.

MR. WEISS: Mr. Buzak did you mention the 12 month?

MR. BUZAK: I said prior to any site disturbance but not later than December 31, 2011.

MR. WEISS: Okay I think that's a fair compromise.

MR. MASER: Thank you.

MR. WEISS: Rene?

MS. GADELHA: I just have a question if we're only doing a baseline and we're never going to look at it once they disturb the ground . . .

MR. FLEISCHNER: We're not saying that.

MS. GADELHA: Well that's what I'm trying to . . .

MR. WEISS: No the water will be tested in the appropriate manner at the time.

MR. BUZAK: But we will do that as opposed to the applicant I think.

MS. GADELHA: Okay.

MR. MCGROARTY: Could I?

MR. WEISS: Chuck.

MR. MCGROARTY: Just to make sure I understand it. If the Township does take the responsibility, does the Planning Board have the authorization to commit township funds for that?

MR. WEISS: You know I know you're looking at me but I'm sure it's bouncing off of me to Ed.

MR. BUZAK: No I think your point is well made I mean we really don't have the right to do that we talked about that with some other applications as you recall. But I think the idea is that the township will have the opportunity to do it, if the township feels it doesn't have to do it or you know doesn't have the funding to do it it won't be done. So I mean I think your right we don't have the right to compel that the township do it.

MR. WEISS: But I'm sure that the Administration could kind of give us a little bit of support right now that that fund would become available to the Environmental Commission.

MAYOR SCAPICCHIO: So long as I'm there it will.

MR. MCGROARTY: I don't know if you want to put some kind of a qualifier in there that you know absence subject to the Governing Body or whatever.

MR. WEISS: Well it would be through the end of this year so I would imagine (inaudible).

MR. FLEISCHNER: Or a snowplow.

MAYOR SCAPICCHIO: That's why I said that.

MR. WEISS: Subject to our township ordinance?

MR. BUZAK: Well we don't really have . . . you know Rene's comment was well taken and that is this provision simply establishes an obligation to create the baseline. We do not go beyond that, the thought is that that baseline will assist the township if they desire to continue to monitor it. So anything past the baseline we don't address in the resolution nor can we request the township to do it and I think the answer to Rene's question is yes you're right but all we're doing is establishing a baseline here and then it's up to the township or the environmental commission to pick up the ball and go forward. And I don't think we can do anything else in this resolution to compel that.

MR. WEISS: So with those changes made any other conversation about that? Mr. Kempf is that acceptable? Mr. Maser?

MR. MASER: Thank you.

MR. WEISS: Okay.

MR. KEMPH: Next would be item 12 on page 8 and we were looking for a clarification that our maintenance obligation will be limited to our frontage, in other words the property that we own.

MR. WEISS: That was the way I read it. I think we made that clear I know we spoke about that when I first . . . or I know I did I'm trying to define what part of the sidewalk would be your responsibility the developers. And it's that property in front of your . . . your front property . . .

MR. VAN NESS: It should be in front of their complex.

MR. WEISS: Right the property in front because we asked that, not all the way to the corner.

MR. KEMPH: Thank you.

MR. VAN NESS: I even noted the same thing on my notes questioning what the intent was.

MR. WEISS: Right because originally it was a little bit gray. Catherine I think you and I had that conversation about . . . we said along the front of Pleasant Hill Road but I didn't think that was fair to have you be responsible for the sidewalk that's not in front of your property. All right so in general the answer is the sidewalk in front of your property.

MR. MASER: That's our understanding thank you.

MR. WEISS: And that's how it's written out.

MR. KEMPH: Okay third on my list of four is the end of item 13 which is on page 9 and again we think it's in nature of a clarification that we will be dedicating an easement but not doing the building.

MR. WEISS: I think that's correct. Gene we weren't asking the developer to build the trail right?

MR. BUCZYNSKI: I believe that's correct.

MR. MASER: That's what we thought.

MR. WEISS: Anybody on the Planning Board have any other memory of that?

MR. FLEISCHNER: I thought the developer was going to put in the path to the field.

MR. WEISS: I don't think and I'm looking across I don't think anybody . . .

MR. STASZAK: I recall them just asking for an easement not for any construction.

MR. FLEISCHNER: Then who's going to build it?

MR. MCGROARTY: There is a path to the park that the applicant is responsible to put in. The trail is separate though.

MR. FLEISCHNER: Yes I stand corrected.

MR. WEISS: Go ahead Mr. Kempf.

MR. KEMPH: Okay and what I believe is my final comment other than some conforming toward the end of what we've talked about is item 17 on page 10 on the ditch. Again not atypical for a developer we're looking to know we have finite obligations. We put on the plans what it is that we would intend to do with the ditch and want the Board to accept that as our obligation with respect to the ditch. Our understanding, our analysis is that what we've done on the plans complies with any legal obligations that we have and we can't have an open ended, we don't know where it goes or how long the obligation travels sort of a contingency. So we would like language in reflecting that our plans as submitted include our obligation with respect to the ditch.

MR. WEISS: It sounded to me though the way it was read to us by Mr. Buzak that it sounds like you have the option or the escape if you will that come time of construction if there's no word from the DEP then you can continue with the plans as submitted. I think that's the way . . . I'm certainly taking liberties as to how it was said but I don't think it's going to be finite because at the point that you're ready to move forward with that portion of the plan if the DEP has not given an opinion or ruled differently then you certainly have the approval to go forward as planned.

MR. MASER: I think the concern is cost quite honestly. For instance an extreme position which I don't think will ever happen by the way, is that the DEP says you can pipe this ditch. The cost in doing that would be extraordinarily more than our obligation right now. So all we're saying is we'll cooperate with the township and if the funds that are currently our obligation that are part of the ordinance requirements and meet you know all of your stormwater management rules as well as your ordinance rules we'll shift those funds and dedicate those costs to whatever the town wants implemented. But we don't want to leave it open that if there is a solution i.e. property acquisition or something like that that is needed to implement a change that could skew the numbers tremendously. Knowing that as the testimony that was given we do not contribute any water to that ditch so that's an off-tract item all we're saying is we will work with the town as we said we would but we want to control our costs and we don't think there's an issue here but we just want to . . .

MR. WEISS: I think I remember testimony saying that in the event that the DEP allows you to come in and fix the ditch it comes at a tremendous savings to the applicant, to you.

MR. MASER: We're not looking for a savings we're just looking to cap our costs.

MR. WEISS: I understand that but I think that's what the testimony was that if you're given that option that's a great option and I don't want to put words in Mr. Zelina's mouth but I think that's how it was presented.

MR. MASER: I'll tell you what we'll only give you the up side. If we're able to change the ditch and it saves money we're willing to dedicate that to your stormwater management fund.

MR. WEISS: Mr. Mayor did you have a question?

MAYOR SCAPICCHIO: The question I had is what's the cost of that obligation that you have? Maybe Gene needs to answer that.

MR. BUCZYNSKI: I don't have the estimated cost for them putting the swale in I'm not sure if you have that.

MR. MASER: Mayor I don't either by the way but I'm willing to say subject to the, I think your professionals have been fair to a mutually agreed upon cost. But we're not looking to save any money we're just looking to . . .

MR. WEISS: Gene (inaudible) compare?

MR. BUCZYNSKI: Oh yeah we can come up with something we can work with them to come up with the numbers there's not a lot involved other than excavation and top soil and seeding so it's not a big deal.

MR. WEISS: Mr. Buzak (inaudible) you could reword that?

MR. MASER: As I've said also we're willing to say that we're not looking to save money here we're just looking to control what is expected of us.

MR. BUZAK: The first sentence of the two that they proposed perhaps addresses it but I'll read it and then I think the Board should just think about it. It requires the applicant to revise the plans to reflect the improvements to the Rosewood Ditch and the elimination and construction of the proposed swale and now the limitation is to the extent that the total cost of the improvements including the design permitting and construction costs do not exceed the estimated cost to construct the swale as it is currently designed and approved. It's that limitation I guess that if I understand it correctly is the proposal that's being made. And I guess the only question that I have and why I prefaced my remark was that I don't know the design permitting and construction costs at least the design costs right now they've already been incurred by the applicant and that's going to eat into whatever is left here. So I mean if I were doing it in that fashion I would leave out design costs. Permitting hasn't been done so that would have been a cost that they would incur anyway and construction obviously hasn't been done so

MR. MASER: Let me clarify that. That would be new design costs. We're obviously not looking for . . .

MR. BUZAK: No, no but I mean the new design costs in my mind should not be part of it. If that's what's going to happen then that should all be picked up and when you come to the evaluation that should be eliminated from the second end so to speak. So we're just talking about construction costs or permitting costs and construction costs not design costs.

MR. MASER: We can live with that as a compromise we can live with that.

MR. BUZAK: That was my only comment.

MR. MASER: That could be a substantial number just as Gene could tell you yeah it's not a small number but we're willing to compromise on that.

MR. BUZAK: Well I figured you guys do it in house so you know you . . .

MR. MASER: It's still a cost.

MR. WEISS: So is that an acceptable change then in your mind Mr. Buzak?

MR. BUZAK: Yeah I don't have a problem with it I mean that's really a policy position.

MR. CAVANAUGH: Is it past practice though to put an amount into the resolution so there's no surprises? Even if it's a range? I mean Gene I would assume that in your profession people have ranges for some type of stuff.

MR. BUCZYNSKI: I couldn't give it to you right now without looking at the plans.

MR. CAVANAUGH: No, no I'm not looking for it tonight but is that feasible?

MR. MASER: That would actually be preferred to be honest with you, then we're not arguing about something later on.

MR. BUCZYNSKI: (Inaudible).

MR. MASER: I don't know what the number is as I sit here though.

MR. CAVANAUGH: I don't think we need it tonight but I'm just asking is that something you've done in the past Howie?

MR. WEISS: We've never done that before in the past.

MR. BUZAK: Well I understand the benefit of that because now you're just talking about specific numbers and there's not an argument afterwards. However right now we don't have any of those figures so I don't know how we would exactly change the resolution unless we kept it with the language that I proposed and then added that the engineer shall establish a number that shall be . . .

MR. BUCZYNSKI: Well here's my concern as far as establishing the number. Either they pay me or they do it themselves because let's face it it's going to come out of the escrow so I would recommend that their engineering firm provide us with a cost estimate and we'll review it and see if it's acceptable. No use paying me to do it through the escrow account.

MR. MASER: That's fine.

MR. BUCZYNSKI: And then if you want to add it that will delay the resolution being approved tonight that's the only thing.

MR. MASER: We don't mind that that's . . .

MR. STASZAK: My concern is that we finally come up with a solution for the ditch and the cost of the swale doesn't cover this solution and who is going to be left with the remainder of that cost. Who bears that that's my concern?

MR. WEISS: We also have to keep in mind this is an off-site improvement.

MR. STASZAK: I understand that.

MR. WEISS: So as much as we'd all like them to fix the entire thing. Nelson?

MR. RUSSELL: That was one of the principal things that came up in the very beginning that this was going to be a solution for our Rosewood Ditch problem. That was the first session.

MR. MCGROARTY: Mr. Chairman on that point I mean that was one of the rationales that was specifically cited in the rezoning as well, in the Master Plan Amendment that it would deal with that problem with Rosewood Ditch. Obviously subject to, as we've learned, the DEP has jurisdiction and certain things didn't happen the way (inaudible).

MR. MASER: Well we are taking water that currently will go to the ditch into the new swale just so we are improving the situation.

MR. WEISS: So if they were to just go forward and build a swale Chuck does that . . .

MR. MCGROARTY: Well as a matter of fact it was even codified in the R-7 zone district the language about Rosewood Ditch. That it would be improved in accordance with the guidelines outlined on the environmental . . . again subject to the enforcement of the DEP. So while it's recognized its off-tract it's certainly an essentially component of this development.

MR. WEISS: So why are we talking about it?

MR. MCGROARTY: I'm not sure. I'm mentioning this in that although it's adjacent to the tract and not within the tract it's not only in the Master Plan Amendment but it's in the ordinance that it was recognized that this would be improvements that would be done.

MR. WEISS: Well maybe with that being said

MR. BUCZYNSKI: In reference to the Omni Report now on the report it never talked about improvements to the ditch it always talked about the alternate swale.

MR. MASER: Yeah just for clarification in the rezoning it does talk about a parallel ditch and that's what we've done. That is actually shown in all of the concepts and what was part of the ordinance change.

MR. MCGROARTY: Well what it says is the existing stormwater drainage channel commonly known as Rosewood Ditch should be improved in accordance with the guidelines outlined in the TCR Omni Environmental Report and it goes on. This is in Section 400 in Subsection I.

MR. WEISS: I don't know what that report is.

MR. MCGROARTY: This was early on in the process.

MR. BUCZYNSKI: In the conceptual process actually but that report referenced the parallel ditch as the improvement to Rosewood Ditch.

MR. MASER: Correct.

MR. FLEISCHNER: If I may my memory is pretty clear on that and although I hate to agree with the applicant Mr. Zelina did stand up there and present that there would be another ditch, I call it another ditch but a swale call it whatever you want, that would relieve the water flowing into the Rosewood Ditch. And therefore it would create an improvement to the ditch. While I hate to agree with you but that's what was said.

MR. MASER: And that's what is provided.

MR. FLEISCHNER: Right so that was . . . how it turned out in the ordinance I don't know but that's what was discussed and that's one of the reasons why I voted to approve that change of zoning.

MR. BUCZYNSKI: Well the ordinance references the Omni Report and that's what they're doing.

MR. WEISS: Have you worked up some language Ed that we could come to a conclusion on this? I don't really like putting a dollar amount on it I don't want to delay this on a number that we don't have control of anyway.

MR. BUZAK: The language in item 17 on page 10 just in the end of the first paragraph just before the red ink, I don't know if yours is color.

MRS. NATAFALUSY: No.

MR. BUZAK: Oh okay just before the last sentence of the continuing paragraph of number 17, it will read, and I will read the line: *And the elimination of the construction of the proposed swale to the extent that the total cost of the permitting and construction costs only of the improvements do not exceed the estimated cost to construct the swale as it is currently designed and approved.*

MR. MASER: Would it . . . that language is acceptable, how about the remaining language about not holding up any . . . like Phase I doesn't touch the, for instance the ditch.

MR. BUZAK: The language that was proposed, the next sentence was somewhat explanatory with the operative language at the end it said; *Since the Rosewood Ditch and the proposed swale operates independently of the Marveland development and the Marveland development does not provide any drainage to the same any discussions with the township or the NJDEP regarding any changes*

to the current approved plans shall not delay the construction of the Marveland project. I think that was probably understood anyway.

MR. MASER: And then maybe just say Phase I or something like that.

MR. WEISS: Was it your suggestion to take that out?

MR. BUZAK: We did not add that, we did not have that in the (inaudible). So I thought that was understood you know the project is going to go forward if they're ready to go tomorrow and come in for final approval and then you know start in July and we haven't been able to get anything out of the DEP we can't say to them hey look you know you've got to hold up because we're trying to work with the DEP or we're trying to get something from the DEP. I mean I think that's sort of self evident which is why we didn't put it in. It's not like we disagree with the concept I just didn't think we'd have to put it in. But again that's up to the Board.

MR. WEISS: Is everyone following what the conversation was, I mean although implied I guess the applicant . . .

MR. STASZAK: We can't expect them to wait forever for the DEP basically.

MR. BUZAK: Right.

MR. WEISS: And that's the reality so you prefer that it's in there.

MR. MASER: Yes please.

MR. WEISS: I tend to agree I don't think it matters it's an implied . . . we can put that back in.

MR. MASER: Thank you.

MR. BUZAK: Okay.

MR. WEISS: Any other comments, anybody have any conversation about that whole paragraph?

MR. STASZAK: Can you just read it to us one more time Ed?

MR. BUZAK: Yes. The paragraph will read after the work swale, and I'll read both additions.

MR. WEISS: This is paragraph 17 on page 10.

MR. BUZAK: Paragraph 17 on page 10 after the word swale it will read: *To the extent that the total cost of the permitting and construction costs only of the improvements do not exceed the estimated cost to construct the swale as it is currently designed and approved. Since the existing Rosewood Ditch and the proposed swale operates independently of the Marveland development and the Marveland development does not provide any drainage to the same, any discussions with the township or the DEP regarding any changes to the current approved plans shall not delay the construction of the Marveland development.*

MR. WEISS: Okay. Does anybody have any other comment about that? Okay any other issues?

MR. KEMPH: Those are the issues I would just like to give Mr. Buzak the courtesy of pointing out that on pages 15, 16 and 17 there are conforming changes to each of those per what the Board has decided in item Q, T, U and Y. And obviously all we ask is that whatever the Board has decided on previous issues be conform to the back sections that . . .

MR. WEISS: Make sure those conditions are in sync with the changes that we made.

MR. BUZAK: Yes.

MR. WEISS: That's not unreasonable that's common sense.

MR. BUZAK: Yes that's what will be done. But thank you for pointing that out.

MR. KEMPH: Of course.

MR. WEISS: Mr. Kempf did you have any other comments?

MR. KEMPH: That completes it.

MR. WEISS: Okay thank you gentlemen. What we'll do now is let's move to issues from the Planning Board and I know Joe you had a couple of issues you want to talk about.

MR. FLEISCHNER: The first of which I think is the most important is the construction of the traffic light. I think it's totally unsuitable to first begin construction in Phase III because I question whether Phase III may ever be built. And if it is built it could be 8, 9 even 10 years from now considering everything that's going on in the economy. And I would propose as an alternative that in Phase II when COAH housing is triggered, at that point in time that the traffic light be put in place.

MR. WEISS: Joe I think just as a matter of . . . I think at this point we're discussing amongst the Planning Board not so much with the applicant. I think that your concern really is between the Planning Board at this point. I think the applicant has rested and I think he's here in case we have a question of him but you raise an issue that the Planning Board needs to discuss.

MR. FLEISCHNER: Well I don't live in that area you actually live in that area.

MR. WEISS: Right.

MR. FLEISCHNER: That intersection is a dangerous intersection at times. When you add additional cars and traffic and your also speaking to the fact that it's a 55 and older community I really believe that you cannot wait until the last phase to put in that traffic light.

MR. WEISS: Here's my thought to this, and I agree with you 100 percent I think it's potentially a very serious and dangerous intersection. That being said and our opinions put aside I think we heard testimony from the applicant, from the traffic engineer and I think he has an approval from the DOT based on his traffic studies. And whether we like those numbers or not, or agree with them I think that the testimony was given that the right time to put in the light is at the beginning of Phase III. And whether we agree or not I think that the testimony at the time and of course we didn't have any questions for the engineer I don't know if now is the right time to do it.

MR. FLEISCHNER: Well a lot of testimony is given at a lot of (inaudible) cases. We heard plenty of testimony from Wall Street executives that said they had no clue what was going on. We heard Barney Frank tell us that Fanny and Freddy were safe and we obviously found out that wasn't the case. That traffic study was done on November 13, 2009 it wasn't done during the summer and although Sgt. Van Ness and I have had a discussion about that I believe it wasn't done at peak times. It wasn't done maybe on a Saturday morning when the Synagogue has services, that is a dangerous intersection. And I really don't care what their traffic expert said that is wrong and I am not going to take responsibility for anyone getting injured on that intersection because some so called expert said you don't need a traffic light until we go into Phase III. That is wrong. Now I'd like to defer to Sgt. Van Ness now and hear from him what he has to say about it.

MR. VAN NESS: I am on the spot now?

MR. FLEISCHNER: You're on the spot.

MR. VAN NESS: I have also noted in my remarks on the ordinance that I'd like to see it done by the end of Phase II.

MR. WEISS: I didn't hear you say that again?

MR. VAN NESS: I would like to see the light installed by the end of Phase II.

MR. BUCZYNSKI: Well wasn't it stated it was going to be the beginning of Phase III before Phase III started?

MR. VAN NESS: But there's a difference. Phase II could come, Phase II could get built, Phase III may never get built. At the completion of Phase II there will be 192 units built on the property so that's a significant development and the difference is whether or not the developer is going to have to bear the cost or not. Because if you never get to Phase III then that light will never happen. If they do get to the final end of Phase II then the light will happen.

MR. WEISS: So your suggesting that any kind of performance bonds don't get released that are associated with Phase II?

MR. BUCZYNSKI: We include it in the performance bond in Phase II is what you're saying so it would be part of Phase II.

MR. VAN NESS: Just like how they have you know where affordable housing kicks off at what 21 units? I'm sorry where affordable housing kicks off and the 59 units in the first phase. It's just a similar item, my thought was 145 total not including the 184 units including the affordable housing as they finish Phase II I think would be a good kick off point for it.

MR. WEISS: Gene is that a doable thing to make that part of the performance bond of Phase II?

MR. BUCZYNSKI: It would be doable for us I'm not sure if the applicant agrees to it but it would be doable for us.

MR. VAN NESS: I have no idea what a traffic light costs these days to be put in. I have no idea the impact that it would have on a developer.

MR. BUCZYNSKI: \$80,000.00

MR. WEISS: Well they're going to do it regardless of whether it's Phase II or Phase III.

MR. FLEISCHNER: Well the applicant has said themselves that they may not even be here for Phase III so they're going to make a promise for somebody that they don't even know is going to even show up to build it. I mean we have at Woodfield you see the foundations just jutting up into the air where Kaplan has walked away. It doesn't mean that this can't happen, we've had a million foreclosures last year and they're estimating 1.5 million for 2011. I'm trying to protect the people that live there and I really believe that somewhere in the middle of Phase II that traffic light needs to start the process to put it in place. So that we're guaranteed that there will be a traffic light there if there's at least 150 more homes going in or completed already.

MR. WEISS: Nelson?

MR. RUSSELL: Something that Joe mentioned but kind of skipped over it. We're talking about a 55 plus age community, that's the point in time they start taking licenses away from people.

MR. WEISS: Well I think that, Scott I think your comments are kind of a fair, at least for me to say, but a fair compromise. Whether it may be a slight technicality between the beginning of Phase III and the end of Phase II makes sense.

MR. VAN NESS: I would say at the completion, I'm comfortable with the completion of Phase II because that's where the maximum units are before another phase comes in. And at that point you're going to realize the significant change in the traffic flow from that now existing development.

MR. WEISS: I don't see anybody on the Planning Board having any objection to that. Mr. Buzak let me ask you a question what would have to happen for us to just add that into the resolution?

MR. BUZAK: We would change, it's already in there as part of Phase III so to speak if you look on page 4. The first full paragraph about five lines down it says; *Phase III includes construction of 74 single-family active adult units, improvements and signalizations to Flanders-Bartley Road, Ironia Road, Pleasant Hill Road and Main Street intersection.* That section right there would be removed from there and put into the previous page at the bottom Phase II. And if you recall we're deleting from Phase II the on-site sanitary sewerage pumping station so we even have a swap open for it.

MR. WEISS: Works out fine.

MR. MASER: Could I just Mr. Chairman?

MR. WEISS: Sure.

MR. MASER: We're willing to agree to bond the intersection improvements in Phase II and require that they be completed prior to the start of Phase III. But we'd like that language in there we don't want to be arguing with the Construction Official that you know we're in the middle of Phase II and why isn't the intersection done. I think that's what you're asking, if you can clarify that in the language that it's part of the bonding and it needs to be completed prior to the start of Phase III. We'll agree to that.

MR. BUCZYNSKI: That's not a problem.

MR. FLEISCHNER: Yeah I would prefer that it state it is completed prior to or at the conclusion, no later than the conclusion of Phase II.

MR. BUZAK: Then the last CO for Phase II. And the reason for that is that now you have a definite time when the last CO was issued. You have the ability to enforce the bond when it says at the beginning of Phase III or before the beginning of Phase III. You never have the ability to enforce the bonds so Phase II could be done and you know there's no obligation to do anything until they start Phase III and if they never start Phase III you never have the obligation.

MR. MASER: That language is acceptable.

MR. BUZAK: And I don't think that was the applicant's intent but that is what the result of it is.

MR. WEISS: Well Joe I thank you then for being on top of that diligent as you always are.

MR. FLEISCHNER: One other item I would like to see is some sort of lighting on that path that leads to Flanders . . . and I think Howie you raised a good point that additional lighting could be put on the second COAH unit that would provide illumination on that path to the Flanders Park.

MR. WEISS: Actually Joe before you go forward Ed I want to make sure that your comfortable and have noted our comments about the . . .

MR. BUZAK: Yes not later than the issuance of the last Certificate of Occupancy for Phase II.

MR. WEISS: Okay. And so again the conversation that Mr. Fleischner brings up is a concern about the path between the COAH unit to the park.

MR. MASER: That's acceptable as long as it's on our property.

MR. WEISS: Right and we suggest maybe put a light on the building that would shine on that.

MR. MASER: We'll do something that's acceptable to your township, your Planning Board engineer.

MR. MCGROARTY: Mr. Chairman don't put a light that shines on the path. That's going to be . . . then it's going to be a spot line it's going to glare.

MR. MASER: We'd probably do bollards.

MR. MCGROARTY: I actually thought it was on the plans.

MR. BUCZYNSKI: Was it on the plans to do bollards or no?

MR. ZELINA: I thought it was but I don't see it.

MR. MCGROARTY: But it would be a bollard type lighting it wouldn't be a spot light shining down.

MR. MASER: We'll do it subject to.

MR. FLEISCHNER: Any way you can do it as long as there's some illumination on that path.

MR. MASER: Not a problem we'll do it subject to your engineer.

MR. BUCZYNSKI: They're revising the plans now so they'll just add the bollards on the revised plans and we'll make sure they're there.

MR. MASER: We're in agreement.

MR. FLEISCHNER: Okay. Do you have a paragraph for that? I'm sorry.

MR. WEISS: I don't think there was a paragraph.

MR. BUZAK: No, no but we talked about the construction.

MR. FLEISCHNER: It could be in the path, it could be part of the . . . for the path to the park couldn't it be in that one?

MR. BUZAK: Right yeah but . . . does anybody have it? Did everybody read this more carefully than I?

MR. WEISS: I don't think it says in the . . . it doesn't say it in here.

MR. BUZAK: No but it does say in here . . .

MAYOR SCAPICCHIO: Page 8 number 13 Ed.

MR. BUZAK: Thank you. That's where we will add the bollards. Thank you Mr. Mayor.

MR. MASER: If you can just clarify that they are on our property.

MR. MCGROARTY: Well yes because the path ends at the park.

MR. MASER: Right.

MR. WEISS: Okay Scott I think you had some issues you'd like to talk about.

MR. VAN NESS: Just one more thing that I see. Title 39 isn't mentioned in the ordinance.

MR. MASER: No problem.

MR. VAN NESS: I don't want to wait for the end of the complex though I would like to see it applied for at the end of each phase.

MR. MASER: No problem that's standard.

MR. VAN NESS: We'll just expand it as we move along.

MR. MASER: It's standard.

MR. VAN NESS: And you addressed my other issues. Sorry?

MR. BUZAK: That has to be done with the prior request of applicant to the township council so we put in there that the applicant shall require or shall request (inaudible). And you said at the end of each phase?

MR. VAN NESS: At the end of each phase. We'll expand it as we move along.

MR. WEISS: Okay Scott thank you. Anybody else have any issues that they'd like discussed? Seeing none I have a couple that I came up with. (Inaudible) as well. The first one actually I need to thank Catherine for finding this, we did come to an agreement early on in the process about street names and I haven't seen the final plans and I suppose it could be addressed through a plan but you did agree to the 13 names that we presented.

MR. MASER: Yes.

MR. WEISS: And I don't see it in the resolution and I don't know if it needs to be in the resolution.

MR. BUZAK: I think we should. It's not in there.

MR. BUCZYNSKI: Do you want them on now or at time of final when they come in with the final subdivision plans?

MR. WEISS: I don't know if it matters, I'm not sure if it matters but there's nowhere in this document that says that there's an acknowledgement of the names that were presented by the street naming committee. And if you don't have that list again we could supply it for you.

MR. MASER: No we have it we can add it though.

MR. WEISS: Okay I'm not sure if it needs to be memorialized but I think it should. Other minor issue I made a note, we talk about on number 3 phasing that's page 3 but really it's the very first sentence on page 4 where it says the applicant shall demolish the buildings identified at the applicant's cost. Now my thought is it's wonderful that you'll demolish them but I thought the language here also say demolish and remove. And maybe that's just a technical thing but you know listen the way it's written you can demolish it and say thanks guys it's yours. So I think the language on the top of page 4 should say; *The applicant shall demolish and remove the debris from those buildings*. Thank you for that I have again small, maybe an internal question on page 7, number 11 the bottom it talks about landscaping and I think the language of the resolution kind of contradicted itself. We talk about the placement of the trees and I know that on one part of this resolution it says that it will be between the strip between the curb and the sidewalk but then in the body of the paragraph it talks about the trees being planted on the homeowner's side of the sidewalk. I think that our conversation said we want the trees on the homeowner's side of the sidewalk.

MR. MASER: Yes.

MR. WEISS: But I think the way it's written here Ed it says both.

MR. BUZAK: Well it does but we lawyers do that all the time. We set forth here, I think, and I didn't read it again but I thought what we did was set forth sort of the chronology of events. It started out one way and then it ended up the other way that may have been confusing to non-lawyers. To us lawyers it was very clear. But we will make that change.

MR. WEISS: Okay just make it clear this is more of an internal thing that we all agree that the trees are going to be planted on the homeowner's side of the sidewalk not in the strip. I have one last one, we go to page 17 under conditions 8A and we talk about the public offerings statement including certain information and we list here specifically, and I'm not really sure why we have to be so obvious, but we talk about the public offering statement noting that this development is across the street from the golf course that has early start time. And I suppose there's maybe a legal reason for that and I don't question it probably a good idea.

MR. FLEISCHNER: The County asked for that.

MR. MASER: The County asked for that.

MR. WEISS: Okay but in that vain . . .

MR. BUCZYNSKI: They just called me up this afternoon too (inaudible) from the County wanted to make sure it was going to be as stated in this resolution.

MR. WEISS: I have no problem with adding that you know stating the obvious but I think if we're going to state the obvious then maybe in the public offering statement we should say things that may be not so obvious like for example, and I wrote that there is a lighted baseball field "X" amount of feet from the property line. I think that's something, especially someone who buys the property now might not realize that. I bring that up because I live in Flanders Crossing and there was a great debate about putting those lights in and so I think if people are more informed that there is a lighted field just giving education. Also something we deal with on a weekly basis is decks and people might not have room. I think there should be some kind of language that decks may very well be prohibited. It's just to

let them know it's something they should think about. I think when we look at the property I think it's fair to say that most of these properties don't have enough room for a deck. Is that fair?

MR. MASER: Not really. What we've shown on there is the largest size house. We do that for drainage calculations. Most of the houses that will be built there will be smaller than that footprint. That's like the, you know the extreme case so probably 10 percent of the houses will be that size and the vast majority will be something smaller than that.

MR. WEISS: So you think most houses would have the ability to put in a deck?

MR. MASER: I would think so, a patio not a deck but a patio.

MR. WEISS: Well no I'm talking decks, a deck is the issue.

MR. MASER: These will be a grade so I'm not sure . . .

MR. WEISS: I just know it would make our job easier if you give the buyer as much information as possible. If you're telling me that most property owners won't have a problem with a deck I'll defer to your opinion. Nelson?

MR. RUSSELL: Having some familiarity with decks and patios, a patio there are no setbacks it can go right up to the property line, decks take the same setback as the building. So there is a difference between decks and patios.

MR. MASER: I understand.

MR. STASZAK: Are these going to be slabs or basements?

MR. MASER: More than likely there will be on slabs. There are the ability, the majority of the project would easily be able to have basements but usually 55 and older most people don't want them. So it's an option but historically we've seen very little interest in that you know overall.

MR. STASZAK: So basically the first floor is going to be ground level.

MR. MASER: Correct. Yeah I would say at least 90 percent of the time. So just to summarize we have no problem with the lighting, we'd prefer not to have the language with the decks in there we really don't . . .

MR. WEISS: It doesn't matter to me either way I'm just throwing out other things that if we're going to inform perspective buyers what possible is there and if we're going to point out something as obvious that a golf course exists in a community that's built to be near a golf course then we might as well educate them of other things. And I think that the lighted baseball field is probably smart.

MR. MASER: That's fine.

MR. BUZAK: I agree I think that in fact because we require the golf course be named if we don't put the baseball field people are going to be really offended because they will say well why did you put one and not the other one? But I wouldn't go so far as to use some of the other things.

MR. WEISS: Okay that was just an idea. I asked if we're going to do a baseball field you might as well mention basketball because there's a lighted basketball court as well.

MR. MASER: Okay that's fine.

MR. WEISS: Okay so let's pull back on the deck and I don't have a problem with that. And you'll find a place to put that in the text?

MR. BUZAK: Yes I will.

MR. WEISS: Does anybody else on the Planning Board have any other questions or issues that they want to address on this resolution? Chuck, Gene, Ed, Catherine?

MR. BUCZYNSKI: No.

MR. BUZAK: No.

MR. WEISS: Okay that being said I'm going to entertain a motion.

MRS. NATAFALUSY: We did.

MR. WEISS: It was so long ago I forgot I did that.

MR. FLEISCHNER: But with the changes.

MR. STASZAK: I agree with the changes made.

MR. WEISS: Thank you Jim. So we've made some changes Jim you are going to approve those changes?

MR. STASZAK: Yes as the maker in the motion.

MR. WEISS: And who seconded that motion a half an hour ago.

MS. GADELHA: I approve as well.

MR. BUZAK: Okay so we're dealing with the modified resolution consistent with the discussions that we've had and the discussion should be on that if we're over with the discussion then we'll vote. This is to approve the granting preliminary major subdivision and preliminary major site plan approval with associated variance for the Marveland Estates development.

MR. WEISS: Anybody have any comments? I just have one and I think that to the applicant we've been dealing together on this since March 11th almost a year ago and they've been pretty detailed meetings, we've had special meetings in between 1,2,3,4,5,6,7 not really counting this one but we have had 7 meetings which as my tenure on the Planning Board which is about 10 years it's up there as far as the detail that we've addressed in an application. And credit to the applicant Mr. Zelina was always there to answer our questions. The patience of the public I think worked itself out I think that in a perfect world this would remain a horse farm forever and we could all enjoy the beauty of an open farm. The reality is that construction is an end result of zoning, this Planning Board rezoned the property and therefore this zoning, this Planning Board has to respect the zone that's in place at the same time respecting the concerns of the neighbors, respecting the concerns of our environmental commission, respecting the concerns of the open space and all of the other interested parties. And I think as a total effort I think we all did very well with this. At times we didn't agree with each other, at times we were heated and maybe annoyed with each other, I think at the end it was the best that we could do based on the zoning. And again I don't think it's going to ultimately make everybody happy all of the time but based on the law that we have to make our decisions on I think we've covered every stone, crossed the "T's" and dotted the "I's" and I thank the Planning Board for their patience it's been a long application. And that being said Catherine take a roll call.

MRS. NATAFALUSY: Joe Fleischner -

MR. FLEISCHNER: I think it's great you made the changes but I still think this whole thing is a bad idea so I'm going to vote no.

MRS. NATAFALUSY: Rene Gadelha - yes
 Nelson Russell -

MR. RUSSELL: I don't like the whole phasing concept and I don't like . . . I have concerns about the water situation but they've met all of their legal requirements so I'm going to vote yes.

MRS. NATAFALUSY: Mayor Scapicchio - yes
 Jim Staszak - yes
 Scott Van Ness - yes
 Steve Bedell - yes
 John Cavanaugh - yes
 Howie Weiss - yes

MR. MASER: Thank you very much we appreciate your time and patience with this thank you.

MR. WEISS: Thank you. That being said we have no other items on our agenda.

MRS. NATAFALUSY: Meeting next week.

MR. WEISS: There's no meeting next week?

MRS. NATAFALUSY: We have a meeting next week.

MR. WEISS: We do.

MR. VAN NESS: I'd like to make a motion for adjournment.

MR. FLEISCHNER: Second.

MR. WEISS: All in favor?

EVERYONE: Aye.

(MEETING ADJOURNED AT 9:10 P.M.)

Transcribed by:
Lauren Perkins, Secretary
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