

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:** Steve Bedell, Joe Fleischner, Dan Nelsen, Nelson Russell, Brian Schaechter, David Koptyra, Michael Koroski, Howie Weiss

**Members Excused:** Judy Johnson, John Mania, Scott Van Ness

**Professionals Attending:** Chuck McGroarty, Planning Consultant, Eugene Buczynski, P.E., Edward Buzak, Esq., Lauren Perkins, Secretary

**Professional Excused:** Tiena Cofoni, Esq., Catherine Natafalusy, Planning Administrator

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**APPROVAL OF MINUTES**

**July 18, 2013 Public Meeting**

Motion: Joe Fleischner  
Second: Brian Schaechter

**Roll Call:**

Steve Bedell - yes  
Joe Fleischner - yes  
Dan Nelsen - yes  
Nelson Russell - yes  
Brian Schaechter - yes  
David Koptyra - yes  
Michael Koroski - yes  
Howie Weiss - yes

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**APPROVAL OF RESOLUTIONS**

**Resolution #PB 13-21 – Flanders Road Partners, LLC – (Block 4400, Lot 3)**

Motion: Brian Schaechter  
Second: Joe Fleischner

**Roll Call:**

Joe Fleischner - yes  
Dan Nelsen - yes  
Nelson Russell - yes  
Brian Schaechter - yes  
Howie Weiss - yes

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**COMMITTEE REPORTS**

MR. WEISS: All right next one is committee reports and obviously with the Mayor's representative and Council representative being excused tonight we'll jump right into environmental commission. Nelson?

MR. RUSSELL: Um . . . .

MR. WEISS: Actually I'll give you a couple of seconds you can retrieve those we'll just move over to the ordinance committee. Joe?

MR. FLEISCHNER: Nothing to report at this time.

MR. WEISS: And of course from the street naming committee I have nothing to report. Open space Dave is that you?

MR. KOPTYRA: Yeah they're still waiting for the GPS so they can map out the trails so they can get started. They're hoping to get started in January.

MR. WEISS: Now this is a brand new GPS device that they're waiting for?

MR. KOPTYRA: I don't . . . it's the township's so (inaudible) was and then they were using it and it wasn't working the way it was supposed to be working. So I think Sean was the last one that was supposed to be having it.

MR. WEISS: Okay thanks Dave. All right Nelson we'll come back to you.

MR. RUSSELL: Yeah according to the Chronicle Ferrante is supposed to be the Council representative to the environmental committee and we haven't seen hide nor hair of him.

MR. WEISS: I'll tell you what can you table that and bring it back up . . . not table it but bring it back up when Mr. Mania is here so we can deliver that message right to Council.

MR. RUSSELL: Okay. And we discussed the possibility of a boardwalk along Route 46 at the lake.

MR. WEISS: Okay obviously a conversation that's been going for a very long time.

MR. RUSSELL: Yes.

MR. WEISS: Maybe that will happen.

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**DISCUSSION MATTER**

**ORDINANCE #30-2013 – HIGHLANDS PRESERVATION AREA ORDINANCE**

MR. WEISS: Tonight we have one discussion matter which is Chuck will discuss Ordinance 30-2013 the Highlands Preservation Area Ordinance which was presented to Council. Is that correct Chuck?

MR. MCGROARTY: Yes it's at first reading and now it's in front of this Board for your referral and just to review to make sure there is no inconsistencies with the Master Plan. I'll refer to Ed to make sure I have the procedure correctly and your duties correct. I wasn't going to give you an outline of the ordinance unless you want. I can tell you that it is a mandatory ordinance that will apply to the Preservation Area which is 80 percent of the township, it's mandatory under the Highlands Act. A year ago or thereabouts the township, or you this Board adopted the Highlands Master Plan Element for the Preservation Area. This ordinance is absolutely consistent with that and in fact we were constrained from doing much in the way of editing that. So both the Master Plan document and the ordinance was presented to us essentially by Highlands and we made some changes but essentially it's their document and there's no inconsistency at least in my opinion.

MR. WEISS: Okay that seems to be the most important part of that, there's no inconsistency. Mr. Buzak would you agree with that?

MR. BUZAK: I do and you could recommend changes but as Chuck had indicated the form of this ordinance is essentially dictated by Highlands and I would not recommend anything further than what you've already done.

MR. WEISS: Okay so then our action item this evening would be to accept this and to send it back to Council?

MR. BUZAK: That's right to find that it's consistent with the Master Plan or not inconsistent with the Master Plan and that there's no recommendation for changes that the Board has made.

MR. WEISS: Would we need a motion to make that?

MR. BUZAK: Yes.

MR. WEISS: So okay so then to summarize what M. Buzak just said to us let's hear a motion to find this ordinance consistent with our Master Plan as the language that Mr. Buzak explained to us.

MR. RUSSELL: So moved.

MR. WEISS: Nelson thank you do I hear a second?

MR. FLEISCHNER: Second.

MR. WEISS: Joe thank you I would see if there's any questions but I'm sure all of us feel the same way about it. Lauren roll call.

MS. PERKINS: Steve Bedell - yes  
Joe Fleischner - yes  
Dan Nelsen - yes  
Nelson Russell - yes  
Brian Schaechter - yes  
David Koptyra - yes  
Michael Koroski - yes  
Howie Weiss - yes

MR. WEISS: Chuck thank you for preparing that I know that it was not a lot of leeway on that but it's one less thing that's on our list.

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**APPLICATION #PB 13-19 – KEVIN DORLON – (Block 8500, Lot 19)**

MR. WEISS: All right so let's move right into our developmental matter and as I stated before I have a conflict of interest as I'm a partner in this business so I am going to excuse myself and pass the gavel over to Mr. Fleischner who will act as Chairman this evening. Whenever you are ready Mr. Selvaggi.

MR. SELVAGGI: Good evening Mr. Chairman, Board members Michael Selvaggi from Courter Kobert & Cohen on behalf of the applicant this evening. We are looking for preliminary & final site plan although I think an ultimate issue here will be the use variance relief that we're looking for. You act as a dual Board so you have occasion to hear both site plan, subdivision applications and use variance applications. Mr. McGroarty and Mr. Buzak will elaborate on what those standards are but quite simply we need to demonstrate that the use that we're proposing which is a multi-family townhouse use satisfies the positive and negative criteria and more over, and I think this is probably most important, we have to show that the property is particularly suited for the intended use or the proposed use I should say. And regardless of where we may stand on that issue at least at this point I do think you'll probably not hear an application that involves a more unique piece of property in all of Mount Olive. In fact I dare say many people in Mt. Olive have no idea that this property itself is actually in Mt. Olive. And for those who may not be familiar it's Block 8500, Lot 19 it's got an address of Mine Hill Road but it really looks like it's on Route 46. Its right at that corner where Mine Hill comes down and Titons Garage is there and the STS is across the street and it's really almost a convergence of three municipalities. Mount Olive, Washington Township and a couple hundred yards not even up the street you've got the Hackettstown. It's nearby the Pump House Restaurant for those who may be going there. So what we need to show again is that this property is uniquely situated or particularly suited for the proposed use. The zone I believe is the PC-2 Professional/Commercial Office zone it does allow residential uses, it doesn't allow multi-family. I think one of the things that's probably most critical in your analysis is what the product is going to be here and particularly in light of what's there now. And since you don't want to hear me talk about what's here now what I'd like to do at least on what's there now and what's proposed move into testimony that Mr. Glasson will be offering. Jim is the Civil Engineer for the project and he's going to discuss first an overview of what is on this property now and then what the applicant proposes to do. Following that Doug Coleman who is our architect will show you what the proposal will look like and then finally we'll kind of finish everything up with planning testimony that will be offered by Eric Snyder. But I'd like to have Jim start the show.

MR. BUZAK: I have a comment before we start the testimony. Maybe I'll do that before Mr. Glasson would you just give me a minute. I'd just like to supplement what Mr. Selvaggi has said to give you a perspective on what we're dealing with here. He mentioned that this is in the PC-2 zone and the PC-2 zone allows for certain professional and commercial use but also allows for residential use. But the residential use is not defined by a series of bulk requirements. Instead the ordinance says that the standards in the R-1 zone apply in this zone. So this zone is to some extent a dual zone, it's a PC-2 zone which has its own set of standards related to professional commercial use, and then it's also effectively an R-1 zone which has its own set of bulk standards. One of the issues that we faced before we got here tonight and discussed it with the applicant was when one is seeking to deviate from the requirements, what requirements are we talking about are we talking about the PC-2 requirements or are we talking about the R-1 requirements or are we talking about both of those requirements. And it's a very interesting academic question and Chuck and I and Mr. Selvaggi and others participated in some

interesting discussions about how to approach this. We decided that the applicant had to make the choice as to whether they were going to seek a deviation from the PC-2 requirements, non-residential essentially and offer their proofs based upon that or if they were going to seek the deviation from the R-1 standards and submit proofs on that. Their proposal meets neither of those requirements so it's not that they were coming in with an R-1 so okay everything is R-1 or they were coming in with a PC-2. So what has happened and Mr. Selvaggi can correct me if I'm wrong is the applicant will present its case based upon the fact that this is an R-1 zone and the standards that apply in the R-1 zone will be the base standards from which the applicant is seeking a deviation. So residential use is permitted but it's not permitted at the density that is being sought here. So they're seeking a density variance. The proposal does meet the height requirements of the residential zone so they're not seeking a height variance and then of course they seeking not only a density variance but a general use variance to allow this multi-family use in the R-1 zone which is a one acre single-family detached. So I think that as you listen to the testimony you have to view it based upon the fact that the use that is permitted in the zone for the purposes of this application is the R-1 one acre single-family detached zoning requirements and the proofs will relate to deviations from that requirement.

MR. SELVAGGI: Yeah I think our planner was going to talk about that but it probably is best after listening to Mr. Buzak to kind of put it into context for you because not only is it a unique zone and a unique piece of property, coming in with a use variance presents kind of some unique burdens of proof here. But we will be following, and Jim I think a few months ago we talked about this internally amongst ourselves you know what are we really . . . are we deviating from the PC-2 zone or are we deviating from the standards from the R-1 zone. And ultimately as Mr. Buzak pointed out its R-1 standards in a PC-2 zone so if you can kind of follow all of that. And that in and of itself is not unique I mean there are zones that have that which is interesting for us is again the notion that residential use is not . . . maybe not this type of residential use but it's not a flat prohibition in the PC-2 zone to have some type of residential. So Jim you've been sworn?

MR. BUZAK: No he's not been sworn he will be now.

(JAMES GLASSON SWORN IN FOR THE RECORD)

MR. BUZAK: Could you please state your name and business address for the record spelling your last name.

MR. GLASSON: James Glasson (G-L-A-S-S-O-N) Civil Engineering Inc. is my company 1 Cove Street, Budd Lake, NJ.

MR. BUZAK: Thank you Mr. Glasson.

MR. FLEISCHNER: Okay we're going to stop the meeting for a second Lauren has got to fix something.

MS. PERKINS: Okay.

MR. FLEISCHNER: Meeting is reconvened and Mr. Glasson.

MR. GLASSON: Okay I'd like to first enter something I guess in . . . I have a sheet that is my existing conditions but it's slightly different it's my existing condition plan that you have within your plans but it does have a number of other items on it. I'll enter that as A-1.

MR. SELAGGI: A-1?

MR. BUZAK: Yes we'll mark that A-1 and that is an update of your sheet 2 Mr. Glasson?

MR. GLASSON: Yes it is its called existing conditions rendering, it has the date of 11/8/13. Okay as Mike had said Lot 19, Block 8500 it's from your sheet 85 of your tax maps. The property is located along Mine Hill Road, Mine Hill Road being at the really the western end of the town. To the north of this property the property shown here outlined in yellow is Hackettstown and directly across the street to the south is the town of Washington in Morris County. The street address of this property is 103 Mine Hill Road the property is somewhat rectangular in shape it has 252 feet of frontage on Mine Hill, it has an average lot depth of about 593 feet. The rear of the property basically is the center line of the Musconetcong River. The Musconetcong River flowing in an east to west direction the zoning as was discussed is the PC-2 zone we follow the R-1 zoning standards. Your R-1 standards are one acre minimum this lot is 3.26, lot width of 150 this lot is 252, building coverage 10 percent allowed right now

out there existing is only 2.02 percent, lot coverage 20 percent out there right now is only 12.35 and when you talk about your principal building setbacks you have a 60 foot front, a 25 foot side and a 50 foot rear. And again the allowable height in this zone is 35 feet. The property is located in the Highlands Preservation Area and under the Highlands Preservation rules in order to get one of fourteen exemptions you have to apply to the Highlands based upon your coverage. In 2007 Mr. Dorlon applied for the specific use that we have before you tonight, the five unit multi-family or townhouse development and was granted exemption number 4 based on his coverage. During that exemption they acknowledged 17,531 square feet of coverage on the property and I'll go through that coverage in a second. This property basically is developed for the first about two thirds that's the area shown in the green area here representing lawn, and the rear of this property is a wooded area along the edge of the Musconetcong River. The property slopes for about the first 300 feet at about 2 percent out towards Mine Hill, the next 100 feet is about at 2 percent until it enters the wood line in the rear and then it runs at about 8 percent until you get to the stream bank of the Musconetcong where you have extremely steep slopes and about a 15 foot drop. Of the 141,900 square feet that the lot size is about 135,000 of it is in the zero to fifteen so the only steep slopes are along the river bank in the rear in an area that we do not propose to touch it will remain in that woods as presently exists. I don't know if you can see it on your plan but I tried to draw a line here in a different color blue than the corridor of the stream. There is a line here that represents a wetlands, a small area of wetlands that was delineated in April of this past year by Wander Ecological Associates. And Mr. Wander had written a brief report that was submitted with our application to the Board and what he stated was that wetlands was really subject to an intermediate 50 foot buffer but for planning purposes show 150 foot buffer which we did on the plan and that is this darker line that you see here. So that 150 foot buffer basically just encroaches into the lawn area but its representing us showing you that we are not encroaching whatsoever into that 150 even though he felt it was a 50 foot buffer. But we did not formerly apply for an LOI for that, for that wetlands. You also see a pink line running across the center of the property. Because the Musconetcong River is a C1 waterway it's subject to a 300 foot riparian zone. There is a flood hazard area that's associated with the Musconetcong River, in order to be required to get a flood hazard area permit basically there has to be vegetation or trees to be taken down in that 300 foot area or there has to be disturbance within 25 feet of the stream bank. We felt that we fell in a permit by rule because we have no vegetation being taken down behind this pink line that you see on the plan, and we also are not infringing upon the 25 foot area along the floodway of the stream. So that really is specified as a permit by rule and I think Mr. Buczynski actually talked to somebody at the flood hazard section and they concurred with that. The property itself right now out there again lawn in the front and these brown spots on here basically represent the existing trees that are out here. And you can see there's only one tree really except for the tree line in the back that's behind this pink line these trees are all to remain, we do have one tree out by the road that's going to be removed that I'll get into in a second. But the property really is kind of in a state of disrepair right now there's a two-story what was a residential dwelling on the property it has a footprint of 1,893 square feet that's located about 226 feet off of the right-of-way on Mine Hill Road. Behind that is a 977 square foot single-story garage and then what's represented in gray here around these two structures is a gravel driveway area and there's a paved driveway area that exists off of Mine Hill Road. That actually is a common driveway for this property and the property next door on Lot 20 which is a single-family residential house also in the PC-2 zone. There's about 1,500 square feet of pavement on this property and then there's another 12,783 square feet so that's the numbers that the DEP acknowledged with the Highlands exemption to come up with the total of the 17,531. So that's basically where we started but then again that percentage is lot coverage is 12.35 where your R-1 allows for the 20 and that's existing conditions. Utilities, this property is served by a water line from the Hackettstown Municipal Utility Authority they have a main running in Mine Hill Road and then there is a septic system on site. Right now there's a large, large septic bed that had not been utilized it is a 70 by 36 foot bed which is equivalent to somewhere in the neighborhood of 1580 gallons a day. The previous owner from what I understood from records in checking out the Health Department had proposed or had conjured up a house that he was going to build, a really large house with a lot of bedrooms and put the septic system in but never came before the Board to get their approval on the house. But there is a large septic system that had not been used and I'll get into that with our proposal because we did testing out there and uncovered the septic system with your Health Department to check it. Soils on site in the area where we're dealing with disturbance are all riverhead graveling loams which are extremely well drained do not have any water table considerations. This elevation from the Musconetcong River in the rear is about A 518 and the closest elevation to what we're doing is about 540 so that gives you an idea, we're about 22 feet higher than the elevation of the Musconetcong River behind us. Again the adjacent properties to the north across the Musconetcong is the town of Hackettstown, that is a park area for Hackettstown. To the west of us is a single-family home still in Mount Olive in that PC-2 zone that shares that common driveway access. To the east of us is actually a single-family home in the R-1 zone on Lot 18 and across Route 46 are a number of businesses in the Washington Township Morris County in the commercial zone. Directly across the

street is an STS Tire, looking in an easterly direction is Rin Robyn Pools so it's kind of mix of different uses in that area. I'd like to now go to my proposal sheet which is a markup of my site layout plan.

MR. SELVAGGI: Mark that A-2?

MR. BUZAK: Yes what sheet is that Mr. Glasson?

MR. GLASSON: That would be my sheet . . .

MR. SELVAGGI: I think its sheet 3.

MR. GLASSON: Sheet 3 of . . .

MR. BUZAK: And is that also updated?

MR. GLASSON: Yes this is updated it now says site layout plan rendering. It's the same view of everything just colored up I've added the landscaping and the lighting to this layout to give you a little bit of . . .

MR. BUZAK: Is there a new date on there?

MR. GLASSON: Yes there is its 11/8/13.

MR. BUZAK: Thank you sir.

MR. GLASSON: Okay to start our proposal this is a 30 scale view of what you previously saw so a portion of the property is cut off basically just so you can see this better. The site layout plan that we did on the plans is a different scale and it doesn't show as much of the surrounding properties as you'll notice. But basically it's to give you a better view of what's going on in the site. We are proposing to demolish the existing structures on the site as well as all of the gravel areas, the driveway areas and start the site fresh. I'll get into the access because that is probably the only area that would remain somewhat the same but we are proposing to construct a single two-story condominium or townhouse unit with five units. This would be a footprint of 2,520 square feet its about 84 feet long by 30 foot deep. The structure itself is going to be located 233 feet from the right-of-way of Mine Hill but we are giving a dedication off of Mine Hill. We have a dedication of about 2,900 square feet along the front to create a 50 foot right-of-way along Mine Hill would be required to concur with the right-of-way requirements. So from that new right-of-way line 233 feet back is this building, the building sits 130 feet off of the right side and 26.4 off of the left side. You will recall as I said earlier 25 feet is the side setback, the front setback is 60 and the rear is 50 so this new building falls within the required R-1 zoning. If we also were to look at the non-residential zoning it's a 50 foot front, 25 foot side, 25 foot rear so either way you would look at it R-1 or PC-2 it would fall within the zoning setbacks, or PC-2 is non-residential. This structure would have three two bedroom units, one three bedroom unit, and one, one bedroom low income affordable housing unit. The four units would have patios in the rear and three of the units would have internal garage spaces. The rest of the units would utilize a parking lot we have a proposed parking lot located in front of this structure the parking lot is paved and Belgian block curbed there are ten outdoor spaces shown on this plan, they're in conformance with township requirements 10 by 18 in size for most of them, some of them are actually oversized spaces because they fall in front of the units so we actually have larger spaces but all of them are in conformance or exceed the township requirements. We have ten outdoor spaces three internal spaces for a total of thirteen. The five units at two spaces per unit requirement require ten so we have three extra spaces proposed. Access to this parking lot that's located in front of the building is from a 15 foot wide proposed paved driveway, and this driveway would continue to provide access to our neighbor we are widening it to 15 feet it's about 10 foot wide right now. Quite frankly one of Mr. Buczynski's comments was he would like to see this wider, two-way traffic. We are hindered by our Highlands because when I use coverage in the Highlands and when I take coverage out in the Highlands you don't get credit for it. So when I start widening this driveway this is all brand new coverage whereas, most of this coverage that's here I did a Highlands overlay and I think it shows on the left side of the sheet your sheet, there's a Highlands overlay plan here. And you can see the area of the proposed building falls almost entirely within an area that we have coverage but as you pull up the driveway you can see the area as we start widening the driveway becomes new coverage so it became difficult to get a driveway as wide as 25 feet. We did place two passing areas on the driveway; we do have a passing area when you first pull in the driveway and a passing area when you first pull out of the internal parking lot to provide an area where two cars if they're going the opposite way could pull off. But it was very difficult we tried the math to try to get this thing to 25 feet particularly after Mr. Buczynski issued his first letter to us because

he had a concern about that. But we really are hindered by our Highlands exemption of what we're allowed to use as coverage. For utilities water would continue to be supplied by Hackettstown MUA with a new line, a new service from our water valve that exists out in Mine Hill we will put in underground utilities for our electric and telephone and cable TV. Now getting to our septic system the septic system that's out there was on record with the Township and it was again a 70 by 36 foot bed which basically had a capacity of about 1,580 gallons. Our unit generates about 1,900 gallons so what we did is we went out there we performed soil logs on either side of this bed but we also excavated the bed down to the distribution box popped the distribution box and popped areas in the bed and checked out the bed. The bed did not appear to have ever been used. Granted there was no affluent in the distribution box we had Bob Stahlhut from the Health Department out there he concurred. What we did was he took soil samples directly out of the bed. He tested the bed to see if it conformed with the requirements and it did. So we will go back into the town and have this septic system approved but we will perform an expansion of that system. We need an additional 595 square feet so we will add an 8.5 by 70 foot area along the right side of the bed just to expand it. But that would then conform with our 1,900 gallons that are required. We also will have additional tanking proposed with the Health Department but they concurred, but we do have to go back into them with our alteration of the driveway but we did all the testing. We also tested for a reserve area to be placed in the rear here also 3,100 square feet the equivalent of the 1,900 gallons a day. For our storm drainage we have an on-lot infiltration system, it's consisting of four 108 inch deep 8 foot diameter dry wells that are a common excavation 12 by 48 located to the right of this paved parking lot and it basically mitigates any increase for the 100 year storm. What it does is it takes the entire parking lot through two "B" inlets and the second "B" inlet being equipped with a sump area so that no debris would go into this underground system. And basically it takes us to this infiltration system we did soil log at the same time we did the testing for the septic system we had no water table we dug down I believe to 160 or 170 inches on that soil log. Gravely, sandy material it took water very quickly. We don't even take into account permeability when we do this calculation we just size this thing based upon the amount run off coming to. So without even taking to account the perc rate of that soil which is extremely fast we designed this system to basically mitigate any increase up to the 100 year storm. So it takes the entire roof area of the building and the entire area of this curbed area of the parking lot. The only portion of the parking lot that is not curbed or the paved area that is not curbed is this driveway access. I just graded this so it sheet flows onto the grass area here that's the current condition right now the lawn area is very flat at about 2 percent. One of the other questions that your engineer had asked is if we could look at drainage on the driveway. I went out there and looked there is a swale about 100 feet down in front of Lot 20 that actually takes the drainage along this gutter line right off of the highway. The curbing ends along the highway and there's actually a rip rap swale that takes the drainage right off the highway there. So not far away there is sufficient drainage to take any run off that came out to that gutter line. Our coverage now as I said earlier we were 17,531 the coverage that you see on this plan and to be in conformance with our Highlands, because we wound up losing a lot coverage if you look at the back of this Highlands overlay all of this coverage was lost because we didn't use that coverage. Once you give up that coverage and take it out you lose it. We only have 12,777 square feet of coverage now so we're down 5,000 square feet from what presently exists on the site. So our coverage right now goes from roughly 12.35 to 9.2 so we're down about 5,000 square feet. For lighting and landscaping, I don't know I tried to do a little coloring here but the dark green on here represents conifers there are four 7 to 8 foot high Blue Spruces at the corners of the building, on the left closest to our adjacent neighbor on Lot 20 we put up a hedgerow of 5 to 6 foot high Douglas Firs I believe there is 13 of those and then we have in the back there is a privacy rail coming out of each of these units for the patio area. We have a hedgerow created with Arborvitae between the four different patio areas and then we have a hedgerow around our proposed outdoor dumpster locations. We have a 12 by 20 dumpster area located to the right side of the building with easy access for a garbage truck would just pull in here back right up to that area it will be gated, fenced 6 foot high stockade fence it will be hidden from view with this screening around it. And then you'll also see on this plan the red dots, the red dots represents deciduous trees. We're proposing I believe fifteen 2-1/2 inch caliper Red Buds which are more seasonal trees. They are around the back of the building as well as bordering the entire driveway as you pull out as well as being in the Highlands within the parking area. Also we have about 60 additional shrubs proposed, we have Boxwoods basically creating a hedgerow to kind of hide the parking lot, around the entire parking lot we have miscellaneous Junipers and Hydrangeas just too kind of brighten things up. We've created some bed areas as you pull in the driveway to the right side of the driveway. By the way the driveway is going to be put into a common access easement if I hadn't mentioned it so that there's an easement created to keep access for Lot 20 so there will be an easement drawn up and it's on the plans. For lighting we have one single pole mounted light that light up the parking lot it sits here in this island it's 18 foot high it basically provides illumination over the entire parking lot and then besides that we've only proposed some low lighting we have nine additional bollards they are 36 inches high small bollard mounted lights. Two of them are to the right side of the building for that entrance, and two are to the left side of that building for that entrance and then we have an additional five that run down the driveway just to kind of

light up the driveway. They're not going to create an incredible amount of light they're really just going to kind of show you where the driveway is. We have received our Morris County Soil Conservation District permit, we have received a letter of exemption from the Morris County Planning Board, we have received our Highlands exemption, we do have to go back to the town for our septic system permit. We do have to go back to HMUA and make sure they have the gallonage for us for water but they've indicated that's not a problem because this will be more intensive water wise than the single-family homeowners there. We are going to develop a Homeowner's Association for all of the common area that exists here as well as the septic system so that there is a mechanism if something needs to be taken care of there will be a Homeowner's Association that will be drawn up to handle that. That really kind of gives you a synopsis of the engineering end of it not the use end of it.

MR. FLEISCHNER: The maintaining of the driveway of the common area.

MR. GLASSON: Yeah.

MR. FLEISCHNER: Who is going to maintain that?

MR. GLASSON: That will also be in the Homeowner's that will be the plowing, the maintenance of the shrubbery, the lawn cutting all of that will be components that will be drawn up in the Homeowner's. And that will include the roof, the building and what not.

MR. BUZAK: Will that also cover the parking lot, the landscaping . . .

MR. SELVAGGI: Yes.

MR. GLASSON: Yes.

MR. SCHAECHTER: Where is the closest sewer line to the property? You have water from HMUA how about sewer?

MR. GLASSON: The closest sewer line . . .

MR. SCHAECHTER: Is it running up and down Route 46?

MR. GLASSON: No.

MR. BUCZYNSKI: No.

MR. GLASSON: As a matter of fact I did some of the stuff for Washington Township over here they don't have sewer. I'm just trying to think I did septic . . .

MR. BUCZYNSKI: It's a ways up Mine Hill Road it's where Hackettstown I think one of the streets comes into it.

MR. GLASSON: I know I did a septic here and over here two different areas within about a quarter of a mile and there was still no sewers.

MR. SELVAGGI: You know where it is it's actually up near East Avenue, you've got to go up that far.

MR. SCHAECHTER: By the Hyundai dealer.

MR. SELVAGGI: Hyundai dealer right. Because I think they ran the line up East Avenue they didn't run it off of Route 46.

MR. BUCZYNSKI: It stakes off of Mine Hill Road too I think.

MR. SELVAGGI: Well again then it goes up through there.

MR. FLEISCHNER: Any other Board members have any questions for Mr. Glasson? Gene?

MR. BUCZYNSKI: Joe I have some issues yeah. Jim regarding the driveway the 15 foot, I don't have the RSIS standards with me today but it requires 20 foot driveways so it's a dominimus exception.



MR. GLASSON: I can't do it any other way.

MR. BUCZYNSKI: I don't know who governs RSIS standards or Highlands? Do we push it to Highlands then so we feel it's a safety issue if we don't think a 15 foot driveway is sufficient?

MR. SELVAGGI: But even if you pushed it to them I don't think Highlands is going to . . . do you have the extra coverage where you would be able to do anything?

MR. BUCZYNSKI: You're over, you're over.

MR. GLASSON: No it's (inaudible) the property that's the problem. I tried to widen as much as I could and the only reason I could get these in here is because they were in areas where if you look at where this first turn around is it's in an area that already had coverage. So that was the problem with trying to make this (inaudible).

MR. BUCZYNSKI: I just venture who grants the dominimus exception?

MR. SELVAGGI: Well its not Highlands I mean if that was . . . .

MR. BUCZYNSKI: I know its not Highlands.

MR. SELVAGGI: But I think it's you guys.

MR. BUCZYNSKI: Well you have to submit it to . . .

MR. SELVAGGI: Our planner will elaborate on that. If you want to come up Eric because you've got to be sworn.

(ERIC SNYDER SWORN IN FOR THE RECORD)

MR. BUZAK: Will you please state your name and business address for the record spelling your last name.

MR. SNYDER: My name is Eric Snyder (S-N-Y-D-E-R) 6 Ashford Street, Newton, New Jersey.

MR. SELVAGGI: Mr. Snyder you'll be testifying in a bit as a professional planner. What's your current job besides doing this?

MR. SNYDER: Planning Director of Sussex County.

MR. SELVAGGI: Have you handled RSIS dominimus exceptions?

MR. SNYDER: As I understand it it's reported to the Residential Site Improvement Standards committee by I believe the Township. Just as a report as a dominimus exception.

MR. SELVAGGI: And then they would sign off it?

MR. SNYDER: Typically nothing happens beyond that.

MR. SELVAGGI: So it emanates from here and you would say that even though the RSIS standards are 20 feet for that driveway we find 15 is dominimus and I gather Jim the support or Eric comes from the fact that you're constrained by the Highlands.

MR. SNYDER: Well that and it's a relatively low traffic way, it in fact is wider than some actual streets that are out there.

MR. BUCZYNSKI: Yeah I think that's part of the argument the fact that it's not a major thoroughfare for the driveway it's only five units. And he doesn't provide a turn radius area for cars.

MR. SNYDER: Yeah I think it's designed to meet safety standards it's just a different safety standard than the one that's by the book.

MR. BUCZYNSKI: Jim you mentioned about the swale down the road, would that handle the water that's perced if the driveway is curbed?

MR. GLASSON: If it's curbed I would have to . . . I'm trying to . . . the driveway is tipping in in the beginning . . .

MR. BUCZYNSKI: And into the grassed area yeah.

MR. GLASSON: Yeah so right now I'm just tipping it into the grass so it will just run right down in the curb line. I mean to be honest with you I don't believe it's going to go any further than the grass because all it is is this area right here. So it will probably just I . . .

MR. BUCZYNSKI: Even if we put curb in there that's something that's a Board decision.

MR. GLASSON: Right.

MR. BUCZYNSKI: If we put curb you could always open up some areas along the curb and let it still go where it is now.

MR. GLASSON: You're absolutely right you can put depressions in the curb. You absolutely could put depression.

MR. BUCZYNSKI: I just thought that you know it's a five unit condominium that it would be nice that if the parking lot is curbed. It would be nice that the entrance will be curbed because we asked for lighting and they're providing five bollards along the entrance and I just think it will be cleaner entrance if it was curbed but I'll leave that up to the Board. That's my opinion on it. While I'm on it do we want to go through my report dated September 9<sup>th</sup> since Jim is on the floor right now?

MR. SELVAGGI: Yeah we might as well.

MR. BUCZYNSKI: Do you want me to just continue?

MR. SELVAGGI: Yes.

MR. BUCZYNSKI: All right if I go back to page . . . we started at the technical items and then can go back to some other things relative to the LOI. But on page three of my report Mr. Glasson has addressed items 3 and 4 which were regarding driveway profiles and pavement details. But in item number two he did submit a Maintenance Operations Manu but I just think that document should be incorporated into the condo document, it should be referenced in the deed to be filed with the County of Morris. On page four I'm just going to hit the items that need some discussion. Item five we just discussed the same thing regarding item five regarding the appropriate easement must be provided regarding the access onto Block 8500, Lot 20. Item number six my concern regarding curbing along the access road and I'll leave that up to the Board to decide what they want to do with that. Moving down to item nine just about submitting metes and bounds descriptions, you said in your last letter to me that you would provide that once you get . . . the project gets approved if it does get approved?

MR. GLASSON: Right.

MR. BUCZYNSKI: I said earlier in number eleven regarding lighting I asked for some lighting and they did put five bollard lights along the entrance so that's been addressed. Then item twelve and thirteen are basically the need for approvals. I'll go down to number sixteen regarding the EIS that I felt the EIS should be updated to include correspondence from DEP and Natural Heritage Program and maybe your planner can address that when he gets ready for his testimony. The only other items in the report which is Item B1 on page two regarding wetlands I know Mr. Wander gave a very brief report regarding that. My recommendation would be we should do what we do on all other applications when we have wetlands on property is to request an LOI to be provided from DEP. And I mentioned that on September 9 so you've already had two months to pursue that I'm not sure if there's any action regarding that at this point.

MR. SELVAGGI: Given the nature of the application we felt it best to you know (inaudible) the money . .

MR. BUCZYNSKI: Wait and see if it gets approved.

MR. SELVAGGI: Yeah.

MR. BUCZYNSKI: Okay. That's the only issue but regarding permits Jim is correct regarding the flood hazard I did speak to Dennis Contors from DEP just to confirm that it was a permit by rule and they would not have to submit a formal application and he confirmed that back in May. That's about it Joe.

MR. FLEISCHNER: Okay thank you any questions of Gene?

MR. BUZAK: I just have a question for Mr. Glasson, Mr. Glasson is there anything in the report of September 9, 2013 that you would be unable to comply with?

MR. GLASSON: No I would love it if you guys tell me that (inaudible) curb on the driveway I mean that I would like to know. I mean I don't know if you have any . . . it would be possible to do it but I would want to leave a couple of different depressions and depressed curb running out that way.

MR. BUCZYNSKI: Right. It's narrow but it just have turn areas to pass.

MR. SCHAECHTER: But look at all the other stuff that's down in that area I wouldn't care whether it was . . . .

MR. BUCZYNSKI: I'll leave it up to you.

MR. GLASSON: One thing I would say is I cannot curb onto the neighbor. Once I would leave to the neighbor the neighbor's property leaves so we'd be able to curb partially and then once it leaves the neighbors . . .

MR. NELSEN: If you were to curb would that interfere with the sheeting of the water across the parking?

MR. GLASSON: Well what I would do is then leave depressions. Everything sheet flowing in this direction I would put various depressed curbs along there so that anything that comes down and direct to the curb would sheet flow out into the . . . .

MR. BUCZYNSKI: It would just go out to a couple areas that's all.

MR. SCHAECHTER: Well besides the aesthetics it's going to narrow that driveway further. In that area there's no curbing anyway so why would you care?

MR. BEDELL: Yeah. It looks nice but passing is going to be impossible.

MR. GLASSON: Well yeah you won't pass.

MR. BEDELL: Yeah. I don't think it's necessary.

MR. BUCZYNSKI: It's up to the Board I told you the way I felt if you feel you don't want to do it that's up to you.

MR. SCHAECHTER: I just don't feel its necessary I mean it's my personally feelings it's not necessary.

MR. BEDELL: It hinders passing, if you need to pass you need to pull over on the grass and 8 inches, 10 inches you just can't with the curb. I mean that's my opinion.

MR. BUCZYNSKI: Okay then I guess there's no curb.

MR. FLEISCHNER: This may sound like a question through ignorance and I'll plead guilty, the neighbor uses this driveway to get to their property is there any possibility that the neighbor can move over you know give up some of their property to make the driveway wider giving Mr. Dorlon an easement?

MR. GLASSON: Well then the neighbor would be under the same Highlands . . . .

MR. FLEISCHNER: I don't know what they comply with right now.

MR. GLASSON: No I mean I'm not saying it's not possible but they also would be under the Highlands unless you didn't . . . I don't know what the town's stance on that would be let's put it that way.

MR. FLEISCHNER: I don't know I just raised the question.

MR. GLASSON: You have the right . . . I don't know if you've adopted it yet to . . . you have? So you guys can do the Highlands yourself in house?

MR. MCGROARTY: Yes.

MR. GLASSON: Okay I mean I would assume if the neighbor would let you . .

MR. NELSEN: Then wouldn't you have two applicants on the same application?

MR. MCGROARTY: I think it complicates it.

MR. FLEISCHNER: Like I said through my ignorance but I felt I just needed to ask the question in case someone ever asked the question down the road at least we've addressed it.

MR. SELVAGGI: The other thing too is the way the driveway is oriented since a portion of it runs along the neighbor's property it's always from a legal standpoint you always kind of want to like as opposed to having the driveway exclusively on our property in terms of the access, the way this is created it's on both lots. If you did that then what would happen is we would control, this lot would control the driveway exclusively. It would be on our lot, I don't know if that makes, Mr. Buzak may have a different opinion I always try to when I sit on his side I try to create the lot line that almost runs, bisects the driveway. You know this arrangement has worked well for a number of years even though there's not even an easement, there's not a recorded easement.

MR. FLEISCHNER: All right well I just wanted it on the record that I asked the question. Any other Board members have questions of Mr. Glasson? If not I'm going to open it to the public anyone in the public have questions for Mr. Glasson? Seeing none it's closed to the public. Mr. Selvaggi?

MR. SELVAGGI: Thank you Mr. Chairman I'd like to now have Mr. Coleman stand and be sworn.

(DOUGLAS COLEMAN SWORN IN FOR THE RECORD)

MR. BUZAK: Please state your name and business address for the record spelling your last name.

MR. COLEMAN: Douglas Coleman (C-O-L-E-M-A-N) I'm the president and owner of Douglas Coleman Architects and Associates 266 King George Road, Warren, NJ 07059.

MR. BUZAK: Thank you sir.

MR. SELVAGGI: Mr. Coleman before we get into your substantive testimony could you let the Board know your professional background, educational experience and your experience as well as testifying in Planning Boards.

MR. COLEMAN: Sure. I have a Bachelor's of Architecture from NJ Institute of Technology in 1985. I've been a licensed architect for 25 years I've appeared as an expert witness at Planning Boards and Boards of Adjustments over 200 times in probably 50 different municipalities in New Jersey.

MR. SELVAGGI: Have you ever testified here?

MR. COLEMAN: No.

MR. SELVAGGI: Washington Township, Morris County though I think you've been there?

MR. COLEMAN: I did Washington Township, I've done . . . I've obviously done a lot of stuff most of my stuff is through Somerset County, Far Hills, Bridgewater, Martinsville, Watchung, Warren, Greenbrook.

MR. SELVAGGI: That's good. What we would respectfully request that Mr. Coleman be accepted as an expert in the area of architecture.

MR. FLEISCHNER: Mr. Coleman is accepted as an expert.

MR. SELVAGGI: Okay. Doug why don't we start, because I think you're going to be testifying or relying on what we'll mark as A-3 and if you can let us know what A-3 is. And we'll mark the next one A-4. And what is A-3?

MR. COLEMAN: A-3 is a color rendering of a perspective of the front of these townhouses. What we did for Mr. Dorton was he had asked us to provide him with what we thought was a color scheme that would be a palatable color scheme to express the architecture. He also asked us to do a second one because he was trying to play with whether or not what color he'd like to go with. The one on the front that I'm showing you now is obviously the one that I picked the one that I didn't show you is the one that he picked. So what happened is that particular drawing is computer generated off of my drawings. Now the drawings you have before you which are from my firm I have copies of here which are just basically the same drawings you have before you just mounted on form core boards so I can walk you through the plans. As Mr. Glasson has said before we have a total of five units on these buildings, you'll notice in the bottom left we have unit A, B, C and then the unit to the right is D and E. You'll notice unit A basically on this . . .

MR. BUZAK: Excuse me Mr. Coleman why don't we mark that I know we all have that but since you are referring to it and there's several sheets this is now just sheet A1?

MR. COLEMAN: its sheet A-1 of my drawings now I'll mark your exhibit A-5. What it shows on there is it shows the lower level plan for the building. On the left hand side we have unit A followed by going right is B, Unit C and then the end unit is unit D and unit E. As they described earlier we have five units here. Of the five units A,B & C are basically two bedroom units which each have a one car garage attached to it. Unit D is a flat basically one story unit which is a one bedroom unit we're proposing to be our affordable unit. And then above that is unit E which is basically the three bedroom unit. The units basically range in size, our one bedroom affordable unit is 710 square feet that one bedroom will be unit B, unit E which is two floors above this are 855 approximately living square footage, and then the three bedroom units which is A, B & C are about 1,560 square feet. So the total living square footage for the space is 6,245 square feet.

MR. BUZAK: What was that last square footage for the A, B & C the three bedroom units?

MR. COLEMAN: A, B & C are approximately 1,560.

MR. BUZAK: Thank you.

MR. COLEMAN: So as I said before units A, B & C have a one car garage, there's a small family room area located there as well as a laundry on this particular floor. The affordable unit has a living room, a bedroom, a kitchen and a bathroom located on that floor. The way the units are designed is when you get to the front of the units as you see in the rendering you actually go up a half a flight of stairs, so what you do is you come in you go up a half a flight of stairs and when you get to that you can either go down a half a flight to get to the garage level or up another half a flight inside to get to the first floor unit. So it's almost like a bi-level when you walk in the front door. So on (inaudible) as before you have a one bedroom unit with a kitchen and a living room area. Moving to A-6 which is my sheet A2 you'll notice unit E now has, this is a stand-alone unit it's above the affordable housing unit so it has a living room, a bedroom, and a kitchen area there and then a staircase that will bring you up to the other bedrooms. Units A, B & C all have an eat-in kitchen, a large living room area and a large dining room area as well as a powder room. Going to exhibit A-7 which is my sheet A3 you'll notice on the far right in the affordable and the unit above the affordable which is the three bedroom unit there's two additional bedrooms here with one on the lower level and A, B & C all have two bedrooms, two baths. Exhibit A-8 which is my sheet A4 shows the exterior elevations that mirror the rendering that we passed around to you. You're seeing on the lower portion of that is the front elevation which that rendering was generated from and then obviously on the top is the rear elevation. Noticing in the styles in the architecture we're using a dimensional roof shingle, we're using a vinyl siding with some lattice detailing and then obviously some standing seam roofs over the front entry and the garage doors and then some decorative arch top carriage style garage doors. Lastly we have Exhibit A-9 which is our sheet A5 it shows the left and right elevations. And here you'll notice you can see the left side elevation and the right side elevation you'll notice as I said you come up a half a flight of stairs, you enter in a landing you can either go down to the family room area or you go up a half a flight to the living room/kitchen area,

and then you go up a switch back stair to get to the bedroom area. So obviously the building is designed residential in nature, it's a simple gable roof front to back, we are showing on our particular drawings we're showing that in the front elevation and the side elevation we're using a cultured stone on the foundation. Mr. Dorlon wanted me to show you that we have actually brought samples of cultured stone and dimensional shingles to give you an idea of the materials that we will be using.

MR. SELVAGGI: That's all we have.

MR. FLEISCHNER: Nelson?

MR. RUSSELL: What's the height of the building?

MR. COLEMAN: 35 feet.

MR. FLEISCHNER: Gentlemen any questions for Mr. Coleman?

MR. NELSEN: Just check now unit E has no garage.

MR. COLEMAN: That's correct.

MR. RUSSELL: That's a three bedroom unit.

MR. COLEMAN: That's correct and what's happening there is what we did is we created a flat underneath that, we had the flat which is the affordable unit and that's running about 760 square feet and then above that we have a three bedroom unit.

MR. KOROSKI: So they share a common interest then those two?

MR. COLEMAN: You'll see actually if you look at the floor plan we actually because there's no garage door there, if you go back to my sheet A1 your Exhibit A-5 you'll notice the staircase brings you up to that top unit which is a doorway at the garage level that brings you into that lower unit so they're really not sharing.

MR. FLEISCHNER: Chuck?

MR. MCGROARY: Yes Mr. Coleman I just want to clarify it's . . . I'm calling it a three story building is that correct?

MR. COLEMAN: I would call it a two and a half story.

MR. MCGROARTY: Well you have just so I understand the plans on the ground floor I'll call it, there is living space.

MR. COLEMAN: There is living space on that I guess from a grading standpoint we've actually I think on Mr. Glasson's drawings and he can tell you, I think he's raised the grade up on the left and right side of the building and dropped it back down on the side. So I measured the 35 feet I measure it from the drawing, I measured it from the front of the building and from the back of the building up to the highest part of the roof.

MR. MCGROARTY: Okay that was just sort of a semantic thing I know on the site plan it says two-story I thought it was three. The other question I had Mr. Coleman the affordable unit which will be on the far right D right?

MR. COLEMAN: Yes.

MR. MCGROARTY: Under the COAH rules that unit has to be . . . a townhouse unit would have to be designed barrier free.

MR. COLEMAN: That's why it's on the first floor.

MR. MCGROARTY: All right and what about the . . . and I don't know the answer so you're the professional on this one, what about the steps up to the door is that . . .

MR. COLEMAN: There is no steps on that particular plan what we said was that the lower grade level unit is on grade. It's the stairs that go up to the unit above it which is a market rate unit so this unit is barrier free. And if you look at that you'll actually see that on that particular unit we're showing unit D you'll see how large the bathroom is in there?

MR. MCGROARTY: Um, um.

MR. COLEMAN: You'll notice then that the toilet is over by itself to allow for a handicap turning radius, you'll also see a dotted in area for the sink because the sink is a raised sink and in the actual construction we have to just lower the . . . in order to be adaptable or handicap accessible we have to lower the countertops down from 36 inches to 34 inches. And the doorways are all 3 feet so that's how you get your barrier free.

MR. MCGROARTY: All right thank you.

MR. FLEISCHNER: Any other questions for Mr. Coleman? Seeing none I'm going to open it to the public for any questions for Mr. Coleman. I'll close it to the public. Mr. Selvaggi. Thank you Mr. Coleman.

MR. SELVAGGI: Okay what we'd like to do now is have Mr. Snyder come back, you've been introduced to you a moment ago as a fact witness here now he will come back and testify in the area of professional planning. Eric? You've already been sworn so have a seat. While you're making yourself comfortable Mr. Snyder I know you've testified before this Board in the past but just as a reminder what's your qualifications and educational experience in the area of professional planning.

MR. SNYDER: I'm a licensed planner since 1977 a charter member of AICP the American Institute of Certified Planners being practicing in the profession for just over 40 years. I have testified before this Board and probably 50 or 60 other Boards in northern New Jersey. I'm currently the northwest area representative for the New Jersey Chapter of the American Planning Association. I'm the member of the Board of Directors of the New Jersey Planning Officials and I have a Master from Rutgers in Planning.

MR. SELVAGGI: And your current full time position?

MR. SNYDER: Planning Director for Sussex County and have been for the last ten years.

MR. FLEISCHNER: You're accepted obviously.

MR. SELVAGGI: Okay. Eric you heard the colloquy between Mr. Buzak and I in the beginning about what the standards were. Did the two lawyers get it right in terms of what the applicant needs to demonstrate here?

MR. SNYDER: I have to say initially that I appreciate the discussions that have been had and input from Mr. McGroarty as well because this is a different kind of application it has any number of different standards against which you could measure it. And so it did pose something of a challenge and it's good to have at least the ground rules set at this point so that we can talk about it properly.

MR. SELVAGGI: All right so generally speaking what are the criteria that the applicant needs to demonstrate, any applicant for that matter for a use variance?

MR. SNYDER: For a use variance which is for a use that's not inherently beneficial we have to prove what are called special reasons. These are typically the reasons that are layed out in the Municipal Land Use Law under Section 2 purposes of the act why we do this. Those purposes of the act have been upheld by the State Supreme Court as being special reasons that we can advance. In addition we have to prove what's called the enhanced level of proof that this property is particularly suited to the use and that the proposal is not inconsistent with the Master Plan. And that itself was an interesting discussion that I'll get to as we go along. And then finally as with any variances you know we have to meet the negative criteria which is that there be no substantial negative impact on the neighborhood and zone plan. So a little history, this property was relatively recently rezoned PC2, it was a collaborative effort on the part of the township with my client. It was a, presumably a good idea at the time, I don't think anybody can suggest that anybody made a mistake in that zoning. But the world has changed I'm not sure that anybody really could have predicted that we would be where we are today. The reason we're here before you today is because what we thought was true three or four years ago isn't true. That there is a huge overhang for example of commercial office space in the State of New

Jersey, Morris County in particular that the residential markets are still glutted with single family homes on nice suburban cul-de-sacs. And so what you have right now is a zoning scheme and a market that don't jive. They just don't work and that's why we're here. As I pointed out in my report, and my report has undergone a couple of changes again courtesy of Mr. McGroarty, this is a piece of the world if you will where three towns come together. You who were here back in 2003 when your Master Plan was done you will recall discussions of a regional center. Those of you who have been here a while know that that part of the world has functioned as a regional center for decades. Hackettstown was it and the rest of this part of the world grew up around it. You'll recall the diner that used to be on Route 46 and Route 46 has changed over the years. I have some personal experience with Mine Hill Road because I don't know how many of you remember the Daisy sign that used to hang outside one of the houses about three or four down there but that's where I got my hair cut for 20 years. That's when I had hair, now I don't have to go there anymore. That said there have been some significant changes over time. If you look at the site, and I took some pictures of the site and if I could hand some of them out they're all broken by a . . .

MR. BUZAK: Yeah we should mark the photographs Mr. Selvaggi that we're going to review.

MR. SNYDER: What the pictures show . . .

MR. SELVAGGI: Well let's . . . .

MR. SNYDER: One by one?

MR. SELVAGGI: Yeah we may have to.

MR. SNYDER: The first one is a distance shot from Mine Hill Road of the property.

MR. FLEISCHNER: Let's assign that one.

MR. BUZAK: We'll make that A-10.

MR. SELVAGGI: Okay and you took all of these by the way?

MR. SNYDER: I took all of these pictures myself.

MR. SELVAGGI: And A-10?

MR. SNYDER: A-10 is a distance shot of the property from Mine Hill Road showing the trailer, the truck that's out there, the mobile trailer but hiding the house itself.

MR. SELVAGGI: Okay we'll mark this A-11 and if you could describe A-11.

MR. SNYDER: A-11 is a close up that shows the trailer, the garage and the dilapidated home on the property.

MR. SELVAGGI: Okay A-12.

MR. SNYDER: Shows the house to the west of the property.

MR. SELVAGGI: All right and A-13.

MR. SNYDER: That's the house to the east.

MR. SELVAGGI: All right and then A-14.

MR. SNYDER: A-14 is a shot off the back of the property towards the Musconetcong.

MR. SELVAGGI: You were on the property when this photo was taken?

MR. SNYDER: I was.

MR. SELVAGGI: All right.



MR. SNYDER: Then I also took pictures of the neighborhood and this goes to my discussion of how the world has changed to a certain extent and there are four pictures of the neighborhood that I'd like to submit as well.

MR. BUZAK: Why don't we mark all of those Mr. Selvaggi A-15 we'll mark them as four photographs of the neighborhood. And Mr. Snyder perhaps you can tell us where in the neighborhood those photographs were taken.

MR. SNYDER: Standing roughly in front of the property and looking east the first one shows a picture of the house next door. The second one taking a step back is a picture down Mine Hill Road showing some of the properties beyond, giving you a sense of what the neighborhood looks like. The other two pictures are one of STS across Route 46, and a picture of the actual intersection of Mine Hill and Route 46 showing the vehicle repair place, commercial vehicles parked up on the corner and so forth to give you an idea if you don't already have it as to what that part of the neighborhood looks like. Because that's an important piece of this discussion, that neighborhood has been a residential neighborhood for a very, very long time. The house in question was let go for whatever reason and it's an eyesore. One of the special reasons of course that we can advance that qualifies as a special reason is the aesthetics. Cleaning the place up in and of itself is a special reason. But going back to the zoning effort, going back to the kinds of uses that you've talked about in your Master Plan that exist in Washington Township Right next door, this is at the very, very fringe of that residential neighborhood. And it's a piece of that residential neighborhood that I think is most vulnerable to the impact of Route 46 and the changes that have happened out there. Stand on the front of this property you look at STS, the pictures that I took don't attempt to exaggerate that at all it just is what it is. If you stand on the front of the property you see the vehicles stacked up there, you can go out there tonight and see those vehicles stacked up there. It is what it is it's a repair facility, there's nothing wrong with that repair facility but it is not a single family neighborhood friendly kind of view. All right so on the one hand we have a market that suggests that commercial and residential development of the kind that are permitted in the Code really don't work anymore and probably won't work for quite some time. So what do you do. On both sides of this property we have very well maintained single family homes the fact that one of them is in another town in Mount Olive doesn't change that fact. And you have to kind of look at that because we would be concerned about the impact on the neighbors. So what if we were to come in for an application to permit us to build an office building which could happen, it would be a very small office building because again if you heard Jim's testimony with regard to the Highlands there's not much you can build out there. We're constrained by the environmental constraints, we're constrained by the 300 foot Riparian setback, we're constrained by the fact that when you go to the Highlands and you take out impervious coverage you do not get credit for it so we've reduced the impervious coverage here by 5,000 square feet and the changes are very good that that would have to happen anyway. All right so you have a significant parking lot, a significant amount of traffic, a lot more lighting, septic system could probably handle it because it would still be a relatively small building, but it would certainly carve out that little section of residential neighborhood more. It would have a significant impact on the two neighbors because now all of a sudden instead of being part of some residential area it's broken up. It's broken up visually, it's broken up from the standpoint of noise, it's broken up by the standpoint of traffic concerns and you all know that intersection. That intersection is not the best designed intersection in the world and chances are very good no one ever designed it, it just occurred. Minimizing the intensity of use on that site makes sense from two standpoints, traffic safety and the comfortable enjoyment of the two residential properties on either side. So we're proposing a residential use albeit a residential use that is more dense than is permitted in the zone. We're looking if you do the calculations at about 1.5 units per acre as opposed to 1 unit per acre. It's a three acre piece of land you could build three houses on that in theory. I'm not sure you really could given the Highlands rules but from a zoning perspective which is the argument we have here you could do that. So we need a density variance, we need a density variance and we need a variance to permit a different kind of residential use, a townhouse. Our argument is that this is a more appropriate use of the property. Our argument is that this is a means by which we can coordinate the efforts of three local municipalities and Chuck made a good point in his letter, it isn't the regional center but it is a regional center, but it's not an endorsed regional center and therein lies the difference. Because from a functional standpoint, and I've made this argument for years in my role as County Planning Director, I have municipalities that are in the Highlands that are centers. Franklin, Ogdensburg, Hamburg places like that they are centers they've been there for 200, 300 years. The fact that they're not designated is irrelevant that's what they are. And you know I take a look at this piece of property and I try to see how does it function, how does it fit in the fabric of this particular area. Because it's a very different area Route 46 is not a residential friendly road. Some of the uses between Route 46 and Mine Hill Road are not particularly residentially friendly and they're out of your control because that's Washington. We think that there are sufficient special reasons without even getting to the affordable unit. Now the affordable unit by itself does not make this an inherently beneficial use and we don't pretend that it is.

But it does constitute in and of itself a special reason, because we are addressing something that is State Policy, we're addressing a real need. I know that Mount Olive has submitted its housing plan under what were the third round rules; I know that right now there aren't any third round rules because of the Appellate and later Supreme Court decisions on those. However, and again response to some of the issues that Mr. McGroarty raised we intend to comply with the rules as they come out whenever they do come out for a moderate income unit. As you heard from Mr. Coleman it complies with the access standards and we intend to develop this unit in such a way that Mount Olive gets credit for it. The 20 percent set aside it's one fifth of the project, we anticipate, I anticipate that that 20 percent set aside will survive these court rulings and they will come back in the new rules. I don't see them ever getting more than that but who knows. I don't really know where we're going to wind up because they had a fairly short time frame with which they had to come up with the new rules and when I spoke to Sean Thompson who is the Acting Director of COAH as it currently exists he told me flat out that there are no rules. That they don't know what the standards are because they don't have anything right now this is a conversation I had with him on Monday. We will see how that all plays out but this application proposes a new affordable unit. We think it complies with good planning and the Fair Housing Act and so we offer it as part of our special reasons testimony. As I said earlier one of the things that we have to prove to you is that this site is particularly suited to the use and that's where my discussion earlier with regard to the changes of the neighborhood goes and the pictures of the neighborhood because it's a tough site. It's a tough site to pin down as to what it is. Geographically it is affected by Route 46 and by the uses on Route 46. It's affected by the single-family uses on either side of them. It's affected by the fact that you have a C1 stream behind it. Taking all of those pieces into account we think that this site is particularly suited to this use because of all of the environmental, and I'm using environmental in the larger sense of the word, impacts on the site. It's not a transitional use it's a different residential use because I don't want to look at it as transitional because I'm between two single-family houses so I'm not doing a transition. And I'm not doing a transition from Route 46 back to a river because that doesn't make any sense either. But there is about this site particularly suitable use and that is this townhouse. As to whether or not it's inconsistent with the Master Plan the first part of your Re-examination Statement talks about providing reasonable housing opportunities and so forth. But the meat of it and the real issue and again an issue that was raised is that there's a particular piece of your Re-Examination Statement that you adopted in 2010 that talks about this property and the two farther west, it says they should go in the PC-2 zone. We're not consistent with that but we can't be and we can't be because the world has moved on and circumstances under which you with all good faith worked with my client to come up with that amendment have changed. And so if we take a step back and look at the larger issues we're providing residential opportunities in a zone that permits residential use. We're providing a use which does not overburden the property, the property itself is as you heard from Mr. Glasson relatively flat a 2 percent grade for most of it one way or the other, certainly in those parts that we propose to disturb. The impact of this use will be less on the property than the current dibocal that's out there. The traffic impact of this use will be less than would otherwise be permitted in your zone so although it is technically a fact, inconsistent with that section of your Re-Examination Statement that suggested that it should be PC-2 it's much more consistent with the overall concern of Mount Olive's Master Planning efforts which is providing reasonable uses in a reasonable place that meet the needs of the residents of Mt. Olive and the region. Now, the last piece of our proofs that I have to provide you deals with the negative criteria, are we going to have a substantial negative impact on the neighborhood and zone plan. No. We'll have an impact because the zone plan says PC-2 and the impact will be no we're not doing that completely. We're doing residential use which is consistent with the PC-2 but we're doing a different kind of residential use which is not completely consistent. But the impact on the neighborhood will be better than the impact of all the residential single-family use. The impact on traffic will be better than any of the non-residential uses that are proposed or permitted, and so for that reason while we do have some impact we do not have a substantial negative impact on the neighborhood and zone plan.

MR. SELVAGGI: Mr. Snyder if I can one of the things as you went through is we customarily try to in addressing the positive criteria we look at the purposes of zoning. Did you have an opportunity I mean to kind of look at this property, look at the development proposal and draw some nexus in your professional opinion as to which of those enumerated purposes in Section 2 might in fact be advanced here?

MR. SNYDER: Yes in my report I pointed out six of which A) encouraging municipal action to guide the appropriate use or development of all lands in the State in a manner that will promote the public health, safety, morals and general welfare. That goes to the fact that we're trying to come up with a use that is consistent with, somewhat consistent with the zoning idea i.e. residential, reasonably consistent with people who live there already, and at the same time meets the needs of the area. D) to ensure that the development of individual municipalities does not conflict with the development and general welfare of the neighboring municipalities, the County and the State as a whole. That's the

regional issue that's the three town issue. It's very hard at the fringe of your municipality to coordinate Land Uses. We think that this thing is consistent with what's going on in Washington and Hackettstown. We think that it's part of a regional fabric; we think that it will function as part of that fabric and so I think it meets that one. E) To promote the establishment of appropriate population density and concentrations that will contribute to the well being of persons, neighborhoods, communities and regions and preservation of the environment. Again Mount Olive's Code permits townhouse construction and I believe something like 12 or 14 units per acre elsewhere. It permits townhouses at 35 feet elsewhere; it did permit townhouses on 15 acre lots in what was the original zone here. Mount Olive has said that townhouses are not an utterly foreign idea here. And they did it with these two single-family homes sitting there. So from my standpoint it seems to make some sense that this is not wholly inconsistent with Mount Olive's thinking that the density is not wholly inappropriate. We're looking for 1.5 units per acre density, not 12, not 14. To provide sufficient space in appropriate locations, this is Subsection G for a variety of agricultural residential recreation uses and open space, public and private according to their respective environmental requirements and so on. Again the Highlands thing is a severe check on what can be done on this site, the report that was written for you by Wade Wander and Associates talks about wetlands, talks about endangered species and Gene had a point with regard to The Natural Heritage issues. On September 27 as soon as I got that concern raised I sent off a letter asking them to give us that information, I have not heard back. We'd be happy to have that as a condition if you like we don't anticipate that there's any issue but that's one of those that we have submitted a request. And then promoting under Subsection I a desirable visual environment through creative development techniques, good civic design and arrangement and as to the aesthetic issue the improvements that we propose are truly improvements. That's going to look very nice it's going to look a heck of a lot better than what's there and it will actually sell because that's where the market is these days. And those of us who've been in planning for a long enough time know that we live in the real world and that it's wise to come up with an approach that takes that into account. That's why we're here, that's what we'd like to do.

MR. SELVAGGI: All right and just one final thing just going through your report, with respect to the negative criteria you had indicated and correctly so that it might be an impact but it's not a substantial impact. How would you, I mean substantial seems to be somewhat of a subjective term but when you say there's no substantial impact what would you consider to be substantial, what would be an example? And my point is let me for the sake of moving it along, if you could build a permitted office building here and all of the factors and issues related to that type of use would you think that would have a substantial impact more so than this?

MR. SNYDER: Well here again Mt. Olive has said in their Code that that's acceptable. That that level of impact, construction of that kind of facility is entirely appropriate. That having an office facility between two homes in that location does not have a substantial negative impact on the neighborhood otherwise you wouldn't have done it. Our is significantly less than that and so for that reason I can confidentially say that we will not have a substantial negative impact because it's less than the impact that Mt. Olive has already gone on record saying is acceptable.

MR. SELVAGGI: Okay so on balance then in your estimation the application as presented would in fact be worthy of use variance consideration?

MR. SNYDER: Yes it would.

MR. SELVAGGI: Okay. I have nothing further.

MR. FLEISCHNER: Chuck any comment?

MR. MCGROARTY: Mr. Snyder your affordable unit then whatever the rules may be I'm not sure . . . we know at least some of it was thrown out and some of it may live to see another day. But your testimony is your client is going to conform to the moderate, it will be a sale unit by the way?

MR. SNYDER: Yes.

MR. MCGROARTY: And it will be a moderate income unit and you will supply you know COAH stuff later.

MR. SNYDER: Yes.

MR. MCGROARTY: Like I do, 30 year restriction, utilities, everything else.

MR. SNYDER: Yes.

MR. MCGROARTY: I have no other questions.

MR. FLEISCHNER: Members of the Board any questions for Mr. Snyder?

MR. SCHAECHTER: One quick question. In your report page two and three were blank.

MR. SNYDER: They were pictures.

MR. SELVAGGI: I don't think when they were electronically presented . . .

MR. FLEISCHNER: We thought that was like negative criteria.

MR. BUCZYNSKI: One thing just for the files a copy of that letter of September 27.

MR. SNYDER: I'd be happy to send that to you sir.

MR. BUCZYNSKI: Yes just get it to Lauren.

MR. FLEISCHNER: So at this time I'd like to open it to the public for Mr. Snyder. Seeing no one from the public I'll close it to the public. Any comments from any Board members? I'll make one that's helpful; my personal opinion is as long as it cleans up the property I'm in favor of it. Since we go to Hackettstown a lot and we do drive past it and it's easy to miss but you know it's there, we have to many pieces of property in Mt. Olive right now that need to be cleaned up and this could just be one less piece of property to clean up. Which would be advantageous to the township and residents in it. Mike any comment?

MR. KOROSKI: No sir.

MR. FLEISCHNER: David?

MR. KOPTYRA: No sir.

MR. FLEISCHNER: Steve?

MR. BEDELL: I'm all good here.

MR. FLEISCHNER: With that being said I'd like a resolution.

MR. BUZAK: We need a motion. The motion and if it is a favorable motion it would be a motion to grant the two variances being sought. The use variance to allow for the five unit multiple family dwelling in a zone where that is not permitted at a density which is not permitted. And preliminary and final site plan approval for the two/three story five unit condominium building as depicted on the architects plans and the plans submitted. Subject to a number of the standard conditions including . . . in addition to that compliance that the affordable unit will comply with all COAH requirements, that the Board would also be approving a dominimous exception for the 15 foot wide driveway, there would be no curbing along the driveway, the COAH unit would be handicap, was it adaptable as opposed to accessible?

MR. COLEMAN: Accessible.

MR. BUZAK: It will be accessible okay handicap accessible. There was an issue with regard to the . . . was it the National Heritage Gene?

MR. BUCZYNSKI: Yes.

MR. BUZAK: We need a response, I think Mr. Snyder indicated he had sent a letter and I got a response so we'll need a response so we'll need a response from that, that will be a condition. And there may be others Mr. Vice Chairman as I prepare any resolution but that's the gist of what we have. And obviously that the applicant has satisfied the positive and negative criteria and the purposes of the variances.

MR. SELVAGGI: If I may just ask one if it will be included or not because we might start on it sooner is the LOI?

MR. BUZAK: Oh yes sorry yes. Oh yes and I'm sorry subject to the conditions that were set forth in Gene's letter except for the curbing.

MR. SELVAGGI: Okay.

MR. FLEISCHNER: With that being said to I hear a motion?

MR. NELSEN: I'll make a motion that we approve PB 13-19 bulk variances with conditions set forth by the attorney. And I'm going to disagree with Mr. Coleman I'll go along with the Dorlon's.

MR. SCHAECHTER: I'll second that.

MR. FLEISCHNER: Seconded by Mr. Schaechter. Any further comment? Roll call please Lauren.

MS. PERKINS: Steve Bedell - yes  
Joe Fleischner - yes  
Dan Nelsen - yes  
Nelson Russell - yes  
Brian Schaechter - yes  
Dave Koptyra - yes  
Michael Koroski - yes

MR. SELVAGGI: Thank you very much.

MR. FLEISCHNER: Let the record show that I turned the meeting back over to Mr. Weiss.

MR. SELVAGGI: Thank you very much if I may just interrupt and I don't think I'm here next week so everyone have a Happy Thanksgiving.

MR. WEISS: We have no other applications on the agenda I do want to just find out real quickly gentlemen, Lauren do you know off the top of your head what our agenda is looking like for the next couple of weeks? I know there's nothing left in November we have League of Municipalities next week.

MS. PERKINS: I know we just got a new application in but it has to be reviewed for completeness.

MR. BUCZYNSKI: We have a minor subdivision for Toll Brothers that's on in December.

MR. WEISS: Okay I guess my point was let's make sure that we have . . . . okay so we definitely have a meeting coming up.

MS. PERKINS: In December yes.

MR. WEISS: Perfect. So although the agenda is the list of work is light we will have a meeting in December at least one, the schedule is the second and third Thursday of the month. As we start winding out the year though gentlemen we need to put a little thought into the roles on the Planning Board obviously I would certainly enjoy continuing as the Chairman, if anybody is interested we should probably have a conversation to talk about it amongst ourselves. It's something to think about we can discuss it more in December and of course Mr. Fleischner as Vice Chair it's certainly something to consider. I don't have anything else, gentlemen do you have anything? Lauren anything? Chuck anything?

MR. BUCZYNSKI: I just think we just talked about those two applications we have we're going to try and put them on one meeting in December so we don't have two meetings in December. Because it's a minor subdivision and site plan.

MR. BUZAK: I'm just available to sign the article that's in the Planning Officials so if anybody wants a signed copy I'll be happy to do that. I'll save the next fifteen minutes. Other than that nothing Mr. Chairman.

MR. WEISS: Well nicely done Mr. Fleischner, nicely done on that application it's a quarter of so we're nice and early. Unless anybody has anything else I'll ask for a motion to adjourn.

MR. SCHAECHTER: I'll make a motion to adjourn.

MR. FLEISCHNER: I'll second.

MR. WEISS: All in favor?

EVERYONE: Aye.

(MEETING ADJOURNED AT 8:45 P.M.)

Transcribed by:  
Lauren Perkins, Secretary  
Planning Department