

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: Joe Fleischner, Judy Johnson, David Koptyra, John Mania, Dan Nelsen, Nelson Russell, Brian Schaechter (7:30), Scott Van Ness, Kim Mott, Michael Koroski, Howie Weiss

Professionals Attending: Chuck McGroarty, Planning Consultant, Eugene Buczynski, Township Engineer, Jeff Keller, Environmental Consultant, Tiena Cofoni, Esq., Catherine Natafalusy, Planning Administrator/Secretary

Professionals Excused: Edward Buzak, Esq.

MR. WEISS: Thank you Catherine and actually members of the Planning Board many of you have never met Dr. Keller who is our environmentalist. Dr. Keller it's good to see you again it's been well over a year since we've seen you. But perhaps before you leave this evening I'd recommend you introduce yourself to Dr. Keller he's a great addition to our Planning Board and welcome again Jeff.

APPROVAL OF MINUTES

December 12, 2013 Public Meeting

Motion: John Mania
 Second: Nelson Russell

Roll Call:

Joe Fleischner - yes
 Judy Johnson - yes
 John Mania - yes
 John Mania - yes
 Dan Nelsen - yes
 Nelson Russell - yes
 Scott Van Ness - yes
 David Koptyra - yes
 Howie Weiss - yes

January 9, 2014 Reorganization Meeting

Motion: Joe Fleischner
 Second: Nelson Russell

Roll Call:

Joe Fleischner - yes
 Judy Johnson - yes
 David Koptyra - yes
 Dan Nelsen - yes
 Nelson Russell - yes
 Kim Mott - yes
 Michael Koroski - yes
 Howie Weiss - yes

February 20, 2014 Public Meeting

Motion: Nelson Russell
 Second: Scott Van Ness

Roll Call:

Judy Johnson - yes
 David Koptyra - yes
 Dan Nelsen - yes
 Nelson Russell - yes
 Scott Van Ness - yes
 Kim Mott - yes
 Michael Koroski - yes
 Howie Weiss - yes

COMMITTEE REPORTS

MR. WEISS: Let's move on to committee reports, Ms. Johnson?

MS. JOHNSON: Yes the Mayor sends a report the Italian meat company Fratelli Berretta is starting site prep. most likely next week. And then he's also working with Wells Fargo in an exercise at the end of the month with a company called ULI to determine the best use for the BASF property.

MR. WEISS: Good.

?: Excuse me the purpose of an open meeting is so the citizens can hear your discourse. We can't hear you if your soft spoken, could you all kind of speak up so we can hear you please?

MR. WEISS: Okay let's try to speak up we have a little larger than normal crowd tonight. Mr. Mania welcome back it's been a while.

MR. MANIA: Thank you.

MR. WEISS: You're up if you have a Council report?

MR. MANIA: Judy took my thunder away about Fratelli Berretta.

MR. WEISS: Okay Nelson anything from the environmental commission?

MR. RUSSELL: I was unable to attend the meeting on Wednesday.

MR. WEISS: Joe were you there?

MR. FLEISCHNER: Yes I was.

MR. WEISS: Do you have a summary at all?

MR. FLEISCHNER: We'll discuss it during Marveland because (inaudible) up with that.

MR. WEISS: Okay. Ordinance committee Joe?

MR. FLEISCHNER: What we're planning to do at next month's Planning Board first meeting . . .

MS. NATAFALUSY: April 17.

MR. FLEISCHNER: Oh April 17? What we're going to do is after we address the Planning Board business we are going to turn it into an ordinance committee meeting to address the redevelopment area surrounded by the lake. So therefore everyone from the community would be available and provide input and Chuck will have a report at that time as to a plan that we're putting together for the redevelopment of that area around the lake. So hopefully you folks can come too.

MR. WEISS: Joe will we be using the same format like last time? Setting the tables out?

MR. FLEISCHNER: I would hope so.

MR. WEISS: Okay.

MR. FLEISCHNER: And again it depends on how many people show up.

MR. WEISS: Okay. I have nothing from the street naming committee. Open Space?

MR. KOPTYRA: No.

MR. WEISS: Perfect thank you.

APPLICATION #PB 13-30 – MT. OLIVE MC LLC – (Block 6000, Lots 5 & 6)

MR. WEISS: We move right into our first developmental matter tonight which is PB 13-30 Mt. Olive MC LLC. Mr. Kempf?

MR. KEMPH: Thank you.

MR. WEISS: Welcome back nice to see you again.

MR. KEMPH: Thank you.

MR. WEISS: We have a final major subdivision and final site plan Pleasant Hill Road Block 6000, Lots 5 & 6.

MR. KEMP: It looks like I see a lot of familiar faces so I'm sure people will recall our presentation at the preliminary phase. This evening I have one witness Mark Zelina, Mark was sworn and qualified at the time of the beginning of the preliminary application. I know Tiena's preference is to swear him in again I'm prepared to requalify him if the Board thinks that's necessary.

MS. COFONI: We do need to swear him in yes.

MR. WEISS: Okay yeah unless anybody on the Planning Board doesn't know Mr. Zelina he has testified as an expert engineer. So let's swear Mr. Zelina in.

(MARK ZELINA SWORN IN FOR THE RECORD)

MS. COFONI: If you could state your full name spelling your last name and giving your business address for the record please.

MR. ZELENA: My name is Mark Zelina (Z-E-L-I-N-A) I'm a senior associate with Maser Consulting the engineers for this project located at 331 Newman Springs Road in Red Bank, New Jersey.

MS. COFONI: Thank you.

MR. KEMPH: Mark you were material involved in this mission that was made for the application being heard tonight?

MR. ZELINA: Yes I was.

MR. KEMPH: Could you please address that for the Board.

MR. ZELINA: Certainly and good evening everyone it's good to see many of the familiar faces and hello to the new faces. It's been several years or a couple of years since we were before you last. It may seem to you like nothing has happened but I can assure you that we've been busy throughout the entire time trying to obtain all of the approvals necessary for this project since we obtained our preliminary subdivision and site plan approval from this Board. We were successful in obtaining all of the approvals that we need from the outside agencies from the NJDEP all of the permits that we needed from them for the water, the sewer, the wetlands, flood hazard areas. We have the . . . we even got involved with Green Acres we had to acquire a piece of property from Flanders Park to facilitate the intersection improvements. We were able to complete . . . and we have the Morris Soil Erosion and Sediment Control approval. We also, which we don't have the paperwork in hand, but I was told today that we also now have Morris County approval the paperwork will be in hand next week. So we've acquired every permit and approval that we need to allow this project to move forward. That's why we're back here today to get final . . . to seek our final subdivision approval from this Board. The application before you this evening is also an amended preliminary subdivision application. Typically when an amended preliminary application is made it's because of substantive or significant changes to the project. I can assure you that there have been very few changes to the design of the project. In particular there have been no changes to the design of any of the residential areas of the project the road, the house, the layout all have stayed the same. What has changed the only thing that has changed is the open space. If you recall when we were here before we spent many hours discussing how we could phase the project, and the project still will be phased the development of the project still will be phased in three phases. But at the time we were trying to also phase the open space or the implementation of the open space. So the Board and it's consultants were very careful about making

sure that each phase of this development stood on its own so that a certain number of units were being built a certain amount of land was being developed we had the appropriate or the requisite amount of open space to satisfy the ordinances.

MR. WEISS: Mark let me interrupt real quickly. While you're talking about the open space why don't for the benefit of some of the new members, why don't you just briefly discuss the open space. There's a total of 112 acres I believe, why don't you maybe overview that while you're giving your summary of that.

MR. ZELINA: Yeah I'm going to get right to that actually. So what happened . . . well since it's been brought up, the project consists for those of you who are not familiar with it, 227 single-family active adult units market rate units to be sold to residents 55 and older. Along with the project there is 57 low and moderate income housing units which will be set aside in three buildings, three apartment buildings. The ordinance provides that 50 percent, it requires that at least 50 percent of the lot the development lot be set aside as open space. So as we went through the development of our plans we've instituted a plan that creates a significant amount of open space for the township and then there's an additional open space that will be owned and maintained by the Homeowner's Association. I'll refer if I may to one of the exhibits, the exhibit I have before you is called Marveland Estates Overall Development Plan prepared by Maser Consulting and this has a date of March 7, 2014.

MR. WEISS: Let's mark that A-1 and it's the overall development plan and you said the date was?

MR. ZELINA: March 7, 2014.

MR. WEISS: Thank you.

MR. ZELINA: This plan shows the entire project site and the area of the development on the northern half of the site with all of the units that I just described along with certain amenities the clubhouse, tennis court, detention basins and the like. And then the site is bisected by Drakesbrook, there are 112 acres, approximately 112 acres of land that lies at the south side of Drakesbrook that will be dedicated to the township of Mount Olive as part of the open space for this project. As I started to say initially we had worked out a very intricate plan of how that open space will be phased, how much will be dedicated to Phase I, how much will be dedicated to Phase 2. All of that phasing has gone by the wayside so that day one of this project the entire 112 acres will be dedicated to the township of Mount Olive. Now part of the plan . . . another part of the open space that wasn't in the original proposal has to do with 13 acres of land located along the western property boundary. At the time of our original presentation that was to be included in the open space that would have been part of the Homeowner's Association. At the time all of the open space on the north side of Drakesbrook surrounding the development consisting of 57 acres was to be owned and maintained by the Homeowner's Association. Once we got involved in discussions with Green Acres about the acquisition of one-tenth of an acre of Flanders Park for the intersection improvements we had . . . myself along with Mr. Buczynski had a lot of discussions with Green Acres about well how do we mitigate for that taking of land? And as a result of those discussions we came up with the idea of dedicating additional 13 acres of open space to the township of Mount Olive with the idea that along with the agreement with Green Acres that the township could sometime in the future provide for a walking path or trail through that park to connect Flanders Park this open space connects to the rear of Mountain View School and it also would connect to Power Line Park and also connects to the newly acquired open space lot on the south side of Drakesbrook. So in the end it turned out that was a pretty good idea that now the township will own, it's 150 foot wide 13 acres of land that connects all of these other parcels of land under the township ownerships. So that's the changes to our development plan our presentation. Nothing by way of the development changed, the intersection has been designed and approved in accordance with the requirements as necessitated by our traffic studies and ordinance requirements and the township's Master Plan. Improvements to the treatment plant have been designed and provided for they have been reviewed by your engineer and approved to go ahead with construction. And that's pretty much the sum and substance of the whole thing. The only changes again had to do with the open space nothing else has changed we secured all of the approvals that we need, there are a few items from the original resolution of approval that we need to discuss as well as some of the items in your professionals reports that we should talk about tonight. Other than that I think we're getting close to getting ready to go.

MR. WEISS: Scott you have a question?

MR. VAN NESS: Yes the open space the 13 acres that your referring to, that is going to still include the improvements for drainage and such that are part of the original plan is that correct?

MR. ZELINA: That is correct.

MR. VAN NESS: Thank you.

MR. ZELINA: And that was of great interest to the DEP and Green Acres about the limitation of that but that's all been provided for and with all things go well we'll be at the State House Commission next Thursday and get the final approval from Green Acres on allowing that transaction to take place.

MR. WEISS: Tiena?

MS. COFONI: Along those same lines 13 acres is that going to be dedicated to the township at the commencement of the project as well along with the 112?

MR. ZELINA: Yes. There has to be some coordination with DEP and with DEP and both the Green Acres people as well as the wetlands people because certain easements associated with it so it may not be day one but it will be during the initial phase of the project. And there's a lot of things happening there, the drainage ditch, easements and some of the conservation areas so this has to be an implementation project process.

MR. WEISS: Scott?

MR. VAN NESS: Shouldn't that transfer of ownership be done after the improvements are made to the property? Does that make a difference in liabilities and does that make a difference on you know who is responsible for the work that's being done there If it's transferred to the township before the work is done?

MR. ZELINA: Not if it's all . . . all of the legalese has taken place but the appropriate easements, the developer's agreements, bonding and everything else. There is a restriction or a requirement from Green Acres that regardless of how long that project takes to get started from two years from the date of our finalization of our agreement with Green Acres all of the construction within that lot has to be done. So from our phasing perspective with our development the original phasing provides that that ditch or swale be constructed during phase 2 of the project. Irrespective of what phase of development the project is in it has to be done within a two year period of time from the finalization of our Green Acres approvals.

MR. VAN NESS: Regardless of whether or not you start phase 2 or not.

MR. ZELINA: That is correct.

MR. VAN NESS: Thank you.

MR. ZELINA: So our hands are tied somewhat by Green Acres as far as the timing of that but as far as the transaction goes Green Acres prefers that the township acquire that property very early on. Particularly before anything takes place at the intersection of Flanders Park.

MR. WEISS: Tiena?

MS. COFONI: Is there any discussion with the township about that? About the timing of acquisition?

MR. ZELINA: Yes.

MS. COFONI: I mean because ultimately it would be of interest to me to know that the township was okay with taking it subject to those kinds of improvements. Because it's ultimately going to be their liability, their coordination, their . . .

MR. ZELINA: I was very concerned about that and I reached out to the township a few weeks ago to discuss it with the powers that be just to make sure that everyone is aware of this that A) the project is starting to move forward we wanted to make sure that the township was in a position to accept that both 112 acres as well as the 13 acres here. We also had an obligation based on our original

approval to discuss, to demolish any structures on this property that the township did not want to take ownership of. Since then we understand that the town has asked us to demolish the residential structures and the structures associated with the house along the Pleasant Hill Road side of the property. The only structures that the town would like to take in ownership would be the barn structures towards the center of the site. So as part of this agreement or approval tonight we are concurring or agreeing to do that. So going back to the short answer to your question yes we've been in touch with the town and I believe we've made the first step to making sure that we set up the process of the town we know that we have to coordinate our activities with the township and their legal team.

MR. WEISS: Okay Gene maybe now . . . if anybody else on the Planning Board has any questions? I didn't see any. Tiena?

MS. COFONI: Real basic, I assume that you're requesting final approval for the entire development as opposed to Phase I?

MR. ZELINA: That is correct.

MS. COFONI: Okay.

MR. ZELINA: We are seeking approval for the entire project we will file the plats in phases.

MS. COFONI: You will file the plats in phases?

MR. ZELINA: Yes, with the County. We are seeking final approval on the entire project but it will be phased in terms of filing the plats and creating the lots in three individual phases.

MS. COFONI: Oh okay.

MR. WEISS: Gene?

MR. BUCZYNSKI: As far as development of the construction, are you going to be doing that as far as developer's agreement in section 2 I imagine or are you bonding all of the improvements out?

MR. ZELINA: No that would be in phases also.

MR. BUCZYNSKI: So you're going to have separate developer's agreements per phase.

MR. ZELINA: Yes and I think that was even provided either in the original resolution of approval or maybe subsequently you want it in your review letter but that is our intention is to have a developer's agreement on a phased basis. It might be an initial overall developer's agreement but citing certain . . . putting certain things into place but obviously (inaudible) and agree you know to do certain things in phases as the development proceeds.

MR. WEISS: Gene I was going to suggest going to you to see if you wanted to go over your report before Mark?

MR. BUCZYNSKI: I could do that I'm just wondering did they finish their testimony and you want to have the public say anything now wait until . . .

MR. WEISS: No because there might be some more testimony based on your questioning.

MR. BUCZYNSKI: Okay. I've got a report dated January 24, 2014 the first couple of pages was just a summary of the project and where we stood pretty much to date. On page three I guess we could just go through those items Mark and just cross them out as you go by. The first item number one a simple drafting item to be addressed. Item number two is part of final approval a developer's agreement they have to post bonds for the monuments for each section. Item number three there's a concern markers for delineation of the conservation easements and open space and I spoke to you about that. I didn't even count them (inaudible) the descriptions the line goes back and forth all over the place I'm not sure how we're going to do that and maybe it's good to discuss right now.

MR. ZELINA: Well the DEP in their approval had provided for certain monumentation of the open space on the 112 acres that are being . . . I guess for everyone's purpose there's a significant amount of constrained land on the 112 acres. There are some wetlands and buffers associated with that. They're not shown on these exhibits but you might be able to see through here where there are

some channels and some wet areas off here. Associated with those areas and of course Drakesbrook there is probably wetlands with flood hazard areas and flood plains that all have to be incorporated in the deed restricted areas. So we donated all of those areas we created deed descriptions for all of those improvements and his office has them checked so the DEP was mostly concerned with areas where there there's current . . . the interface between some of those conservation areas and active areas of the sites. So they have provided for certain modification to take place at this particular crossing with this road and a couple other areas and then particular at the rear of some of these lots where these lots interface with buffer areas behind them and buffer areas associated with the wetlands and flood plains. And part of that, one of requirements had to do with a fence. There's an area along the west side here where these lots actually have a fence which is a requirement of the DEP. In Mr. McGroarty's review letter had a question whether there will be a deed restriction association with that as far as maintaining that fence in perpetuity. That will have to be done and that would be part of the Homeowner's Association responsibility as part of our approval from the Department of Environmental Protection. I think, Gene I think the best thing that you and I and I would have to do and if anyone else from the Board or the Environmental Commission wants to get involved I think we should sit down and talk about how we want to define some of these conservation area open space or lot conservation area and the interface between how we wanted to mark these. Because some of them have it along the edge of the woodlands so it's pretty clear because one of the permits we have or approvals we have from the DEP is to allow whatever farming activities that area taking place on this part of the site to continue. Whether it's in a transition area or a wetland area or not, those activities and including those around the barn areas can continue in perpetuity. So instead of where would you have to define I think you and I should sit down.

MR. BUCZYNSKI: Did the DEP tell you how they wanted it marked? Because they wanted it marked.

MR. ZELINA: You know I don't remember (inaudible).

MR. BUCZYNSKI: Okay so we can meet and discuss it and make it a condition that we have to determine the amount of monuments to be installed, delineate the conservation easements and open space in accordance with the requirements of the DEP.

MR. ZELINA: What we cannot do is put a marker or pin at every change and course there's thousands out there.

MR. BUCZYNSKI: It makes no sense it would look horrible.

MR. ZELINA: We just have to do something that if someone ever had to go back out and regrade those lines in the field . . .

MR. BUCZYNSKI: We do (inaudible) straight lines where we can make it work.

MR. ZELINA: Right if someone could go out in the field and figure out what should be . . . what's a part of the conservation easement and what's not.

MR. WEISS: Gene I believe Scott had a follow-up question on that.

MR. VAN NESS: The farming rights, if they're abandoned at any time do we lose that right forever? Or can they be returned to that farming. Are you aware of that?

MR. ZELINA: It's not so much farming as disturbance. Once an area is disturbed until it's restored they are to remain whether it's farming or driveway, road or whatever that's allowed to . . . so it's not an active, I hope I didn't mis-speak you had a right to farm but you have this disturbed area . . .

MR. VAN NESS: No I understand it I just wanted you to be a little clearer on it thank you.

MR. ZELINA: I know you've always been good about that.

MR. BUCZYNSKI: Continue with item four again as part of a final a developer's agreement also regarding posting submitting cost estimates for posting the required bonds and fees. Items 5, 6, 7 and 8 are regarding the deed restrictions and conservation easements, some error in the descriptions that they're going to address and take care of.

MR. ZELINA: For the record we agree.

MR. BUCZYNSKI: On page four conditions of preliminary major subdivision approval of some of these items. Condition M regarding the soil testing results which I believe you provided to us.

MR. ZELINA: I have.

MR. BUCZYNSKI: Okay condition Item number 2 condition P shop drawings for pumping and control of systems I guess that will be submitted at some point?

MR. ZELINA: Absolutely as their developed for construction.

MR. BUCZYNSKI: The same thing with the maintenance manual so they'll be made as conditions for final approval.

MR. ZELINA: I believe that was submitted but if not we'll make sure it has been.

MR. BUCZYNSKI: Condition Q item number 3 must be addressed in regards to the following.

MR. ZELINA: As it relates to the . . .

MR. BUCZYNSKI: That was resolved already.

MR. ZELINA: Yes the DEP.

MR. BUCZYNSKI: A was resolved they received DEP permits so we're fine with that. Item number 2 regarding the testing of the well on site.

MR. ZELINA: That well was sampled last Thursday the water same sent to a lab as soon as those results are received they will be provided to the Planning Board as prescribed in the resolution of approval.

MR. BUCZYNSKI: Item number C is regarding the testing Drakesbrook so I think you want to comment on that.

MR. ZELINA: This is interesting, at the time of our . . . when we were last here there was concern about the water quality in Drakesbrook, how the construction would affect the water quality in Drakesbrook, the discussion whether it would be improved by the elimination of the horse activity and the manure and fecal whatever associated with the brook. So there was, I think the I'm not quite sure who or if it was the Environmental Commission suggested that some testing of the brook take place so that the town could have a baseline of the water quality in the brook. At the time they suggested that we go contact the . . . because no one actually we didn't have anything in place to do that testing so I think the Southbranch of the Raritan Watershed Association suggested that we contact them get them involved to do the sampling for us and we would contribute a fee of \$2,000.00 to cover their expenses. Well the Southbranch of the Raritan Watershed Association is no longer here it merged with the northbranch so now it's just the Raritan Watershed Association. A few months back I contacted and I spoke with their executive director and the initial indication was that that doesn't sound like a problem we do regular water testing in the area and it would be appropriate for us to do that about June of this year. Would that work with your schedule, absolutely because we didn't anticipate construction starting before that it was imperative that the stream be sampled before construction. I then tried to follow up in writing and secure that agreement and we ran into a snag they weren't getting back to me and so I couldn't figure out what happened. Finally someone else had contacted me and said well Mr. Zelina contrary to what the initial indications were we do not believe that we can do the sampling that you had requested of us. If we recall that they were here, and I don't recall what they said they were here opposing this development. So they felt that to continue in any way, shape or form related to the development particularly being asked to do the sampling from the developer or the developer's engineer they thought that that would be . . . appears as if it were a conflict. Should something happen with the results be askew one way or another they suggested that we go elsewhere to have the sampling done. Perhaps contact the township's Environmental Commission. So after that I did talk to Mr. Smith of the Environmental Commission explained our situation and wanted to figure out how we could best do that, take care of the sampling because the Raritan Watershed Commission suggested maybe we would do it on behalf of the Environmental Commission. As explained to me that the Environmental Commission could not do this as an advisory board they don't have the means by which to hire a sub-consultant to do the testing and take care of the water testing. But Mr. Smith related to me that they had contacted the Board of Health during the initial hearings that we were going through

at the time and the Board of Health had arranged or had actually done the sampling or had arranged for a sampling in Drakesbrook. They had taken up stream samples and downstream samples as we try to understand how this farm was affecting the water quality in Drakesbrook. Ironically enough they didn't find that this farm was doing much to Drakesbrook and they thought that the geese from the golf course upstream were really causing the problem to the water quality Drakesbrook. That's neither here nor there other than you now have base line water sampling, water results in your possession from your Board of Health that were taken back at a time when this horse farm was still active or just about not active. Because what's happened since then, this farm is not active. I don't think there will be a whole lot of benefit to take an additional sampling or anything would have changed because there haven't been horses active on this property for the last couple of years. So at the end of this whole story basically I'm asking the Board if we can be relieved of this obligation because we don't feel, we tried to do what was asked of us it's not working and there is I think what we're trying to achieve in terms of getting some baseline water quality samples from the stream. You already have that in possession so as a result I don't think it's necessary to do this testing again.

MR. WEISS: Tiena?

MS. COFONI: I didn't catch it I apologize when were those, the testing done by the Board of Health?

MR. ZELINA: Back when we were before you during our preliminary application.

MS. COFONI: So 2010?

MR. ZELINA: Yeah it could have been around 2010.

MR. MCGROARTY: Yeah it was late 2010.

MS. COFONI: Yeah okay so that's when the Board of Health happened to be sampling for another reason.

MR. ZELINA: No. All that's been said it's hearsay but just from what I understand through, and Mr. Fleischner if you have any . . . can assist me in my explanation or if you think I'm wrong or not but I'm just relaying what I had discussed with Jim Smith from the Environmental Commission. This is how I got all of this information that . . . The resolutions say that we should sample this no later than December of 2011. We did not do that at the time because construction was not imminent it would have made more sense to do it closer to construction. Obviously we're not in construction yet so we have never done the sampling. As we're now appearing, getting close to close to construction now we've tried to get the Raritan Watershed Commission to do it and here we are.

MS. COFONI: But I thought that you wanted to be relieved of that condition because the Board of Health had already done the sampling.

MR. ZELINA: That's correct.

MS. COFONI: So I'm wondering when the Board of Health did their sampling.

MR. ZELINA: The specific date I don't know. It was only relayed to me this me this week that it was done at the time during the course of our prior hearings.

MR. WEISS: Scott did you have something?

MR. VAN NESS: All right so you didn't do the water sampling because you weren't near construction, why wouldn't you do water sampling even if construction is going to be further just need to recognize that there's going to be a problem for you. So that you can then take the steps to remedy the water issue before construction started. I'm just throwing that out at you I just see that as a little backwards and not forethought as far as making sure that there is no problem. Because if you're ready for construction tomorrow and then the water comes up, oh wait a minute now you have to remedy water. But it didn't get done that way.

MR. ZELINA: The purpose was not for us to remedy the water the purpose was to create . . . to have a baseline sample of water quality for the Board.

MR. VAN NESS: Okay but if it indicated a problem coming from the farm . . . I'm just throwing that out there to me it's just backwards.

MR. ZELINA: Well understand there was extensive environmental studies done on the farm. Phase I soils sampling and everything else.

MR. VAN NESS: Did you reach out to the Health Department and get a copy of the water sample?

MR. ZELINA: I did not.

MR. VAN NESS: Unless you have a copy of the water sample results I would think that the water sampling must be done still. If not even the same way the Health Department did it at least you have a baseline on how it's done still. If not even the same way the Health Department did it. At least you'd have a baseline on how it's done.

MR. WEISS: Joe?

MR. FLEISCHNER: My understanding from Mr. Smith who is Chairman of the Environmental Commission what they were hoping would take place that so that there would be no conflict of interest from anybody, that money that would be sitting in escrow with the township \$2,000.00 of that could be used and I believe the Council would have to approve to allow a contract to be issued to some independent source not associated with the town or not associated obviously with your organization. But really from a standpoint of the town as well to say it's independent maybe Mr. Keller can shed some light on how these things would be done so that there could be a testing of the water prior to whether it be this June date which I mean was based on stuff from years ago prior to when actually construction. And I would think you know as Scott had said it's probably almost like in your best interest because if something shows up and I'm not saying that it would you know everybody is going to come back and say oh look what they did, look what they did, when you may not . . . you didn't do anything. So you know I know that's what Mr. Smith was hoping we would you know could come to . . . and he's not here this evening obviously, that it would just come out of you know the escrow and it would be done by an independent source and that would be it.

MR. BUCZYNSKI: Well it would be a separate escrow because part of the approval was \$2,000.00 they were going to give.

MR. FLEISCHNER: However I mean I'm not an expert on how things get done.

MR. WEISS: But are we uncomfortable with the fact that the Board of Health might already have these baseline tests?

MR. FLEISCHNER: I personally I can only speak for myself personally as a member of the Environmental Commission as long as I can see a report like Scott says that says there's no problem I'm happy with it.

MR. WEISS: So let's address that as a condition once we see the Board of Health . . .

MR. ZELINA: We would agree to that.

MR. BUCZYNSKI: If there is a report from Board of Health . . .

MR. WEISS: Well I don't think we need to spend a heck of a lot of time.

MR. FLEISCHNER: Yeah I agree.

MR. WEISS: Understanding that we're looking for a baseline number.

MR. FLEISCHNER: Yeah I have no problem with that.

MR. WEISS: We're not looking for a remediation plan I think let's make that a condition that as long as the Board of Health could provide this report as Mr. Zelina referred to let's move on. And if not then we're going to come back and hold you to seeing that there's an escrow posted for that to get done. Is that fair enough?

MR. ZELINA: Just the way Mr. Fleischner described it.

MR. WEISS: Pretty much. Sometimes we do agree with each other.

MR. FLEISCHNER: Occasionally we do.

MR. ZELINA: We agree to that.

MR. WEISS: Okay so that's fine so Gene if you agree with that and Dr. Keller if that sounds reasonable let's keep it moving because I think that's a simple solution.

MR. BUCZYNSKI: The next on page five is permits I just want to get a summary on the record of where the permits stood. As Mr. Zelina stated earlier they received all of the permits plus the one I referenced on page six which is the freshwater wetlands permit I believe they just got that within the last couple of weeks.

MR. ZELINA: That's correct.

MR. BUCZYNSKI: Some of the permits probably will have to be recertified like Soil Conservation at some point will have to be recertified because there is revised plans. Then I think a sewer permit expires November 6 of this year hopefully if the job gets going and they get a developer in and get some of that started then they won't need it but they might have to get some recertification's and some permits from the DEP also. On page six item number 4 that listed again I've already discussed it earlier that's not a concern because they have a water supply permit now from DEP. On page six under numeral 4 effective comments I won't go one by one but I believe you agreed to address those?

MR. ZELINA: That is correct.

MR. BUCZYNSKI: They're all minor items. And item number five is regarding a trail path as far as the governing body approving that we discussed that I had a meeting with the Mayor and Sean Canning recently and that's going to be addressed I think with a resolution from the township. But there's no problem with them having to construct the trail path on the township property which is part of the park. It's basically a connection from the affordable housing units towards the park correct?

MR. ZELINA: That is correct.

MR. BUCZYNSKI: Item number six regarding technical specs I received the ones for the Cloverhill Treatment Plant I don't believe we have any for the roadway improvements I could be wrong but I don't think they were submitted.

MR. ZELINA: If they haven't been we will provide them.

MR. BUCZYNSKI: And that's all I have at this point. There's some issues relative to additional crosswalks within a development but I believe Chuck addressed that in his report.

MR. FLEISCHNER: Mr. Chairman if I may?

MR. WEISS: Sure Joe.

MR. FLEISCHNER: Technical specifications for the intersection upgrade and when the upgrade takes place, I must have been asleep when we kind of discussed that. Because the concern that I have is that the traffic signals would not go in, could possibly not go in until the end of Phase II. And I would like to see work be done at the beginning of Phase II because at that point we're talking 70 plus units have been built plus the low income housing. And I understand it is not your fault but we have major construction down the road where there is going to be 500 to 600 more employees coming into the neighborhood and then we're going to have trucks that are going into your site for construction and hopefully you'll be blazing away because people will want to move in there. I'd like to know if there's any possibility that we could actually at least begin at the beginning of Phase II to put that traffic light in. Because I just think it's going to be needed I think there's going to be a lot of traffic coming at that intersection. And right now in the evening it's still Russian roulette to get across when people are coming home people are turning down we've got Weis Supermarket now opened, we've got Siemens construction underway, we're going to have at least let's say at least 80 homes 80 families in your complex at the end of Phase I and hopefully that will go very quickly. You know I'm optimistic I think you know you've got a winner there but I'd like to see you know if we could begin construction of that

intersection early. And I mean like right away as soon as Phase I is done at the beginning of Phase II and not wait for the end of Phase II.

MR. ZELINA: May I ask you two questions?

MR. FLEISCHNER: Sure.

MR. ZELINA: I'm familiar with the Siemens construction I can't miss it's going that's a tremendous project for the township. As they went through their approvals for this Board did they have any obligation to contribute to the improvements to this intersection where they can partake or assist us? I mean if they're adding that much traffic to it aren't they obligated to pay their fair share of the intersection improvements?

MR. FLEISCHNER: They are doing other improvements to the road, the road not to the intersection but to the road.

MR. ZELINA: But I guess the question is if they've been shown to impact this intersection shouldn't they have an obligation to pay their fare share of the impact or whatever they are adding to the intersection? Just like we took on all this at a time we didn't know they were coming into town but now we have another partner if you say that's contributing to this do they have any obligation to assist us?

MR. BUCZYNSKI: Well I think what happened was it wasn't addressed unfortunately quite honestly it's because improvements are being done in totality by you people, you agreed to it at the time. So we weren't going back afterwards that item was already addressed.

MR. ZELINA: Well I mean I don't know, I'm just playing devil's advocate. Just understand . . .

MR. FLEISCHNER: No and I fully understand what you're saying but my concern right now is a safety issue because there's going to be a lot of cars there and there's going to be trucks and construction going into your site and there's just a lot of traffic there.

MR. ZELINA: I happen to agree with you.

MR. FLEISCHNER: And there's traffic now and it's a matter of saying well can't we get this started at the beginning of Phase II instead of saying we're going to . . . because Phase II could take three years, four years.

MR. ZELINA: And the obligation is to make sure that that signal . . . the intersection improvements are in and operational prior to that last unit in Phase II being done. Because construction will take place during Phase II I just don't think we're in a position to say . . . and I don't think it would behoove you to say yeah we started it we put up the silt fencing at the beginning of Phase I either or the beginning of Phase II.

MR. FLEISCHNER: What I would like to say is by the time an additional 30 homes are built that that traffic light is working. So I will say I'd like to see that, and I think it's in your best interest to because I think people looking to move into this site are going to say Oh my God how do you get in and out. And then you've got the golfers across the street which you all know in the summer that course is busy. It's one of the top County courses in the Country it's been rated. So it is packed with people and someone may just say well you know do I really want to live here? How do you get in and out of the site?

MR. ZELINA: Well obviously . . .

MR. FLEISCHNER: I know you're going to tell them oh well at the end of Phase II.

MR. ZELINA: No, no, no then the developer would it would be to his own benefit to get that in sooner rather later.

MR. FLEISCHNER: Right absolutely so I know . . .

MR. ZELINA: But I don't think we can agree to tie it to anything other than what we've . . . now let me ask there is another alternative.

MR. FLEISCHNER: Okay.

MR. ZELINA: We have, there are significant amount of improvements are being made as a result of this project. One of which is the improvements of a 3,000 gallon equalization tank to the treatment plant that was agreed to be done in Phase I. If it were that the Board wanted to see those two, the phasing of those two switched . . .

MR. FLEISCHNER: I don't think that's . . .

MR. ZELINA: But I'm just saying I mean to be fair to what's happening with this development and the burden that this development . . . and this is what's causing the problem is because this development has the burden of so many improvements which seemed like a good idea at the time but aren't necessarily the greatest idea in today's economy. There has to be a certain amount of revenue generated by the sales of these units and to bring that up any further than it is I'm afraid it would be a deal killer with the people that we're discussing right now.

MR. FLEISCHNER: What about the people that you're discussing to that you go back to and ask them what they have to say?

MR. ZELINA: Well I can assure you anyone in their right mind in the business world if it became prohibitive to their sales and you and I both know they'd be out tomorrow making sure that light was operable.

MR. FLEISCHNER: Maybe they never thought about it.

MR. ZELINA: Well but they will. I mean I can't require them to do that as much as just you or anyone as a businessman knows that hey what's my problem here it's that intersection back up there, what can I do to fix it? Well I have to fix it so I'm going to go . . . I wish there was a better answer but short of maybe doing different things on a different basis we cannot absorb all of these improvements, so you know way out front early in this job it's just not possible.

MR. FLEISCHNER: Is there anything you can horse trade here?

MR. BUCZYNSKI: I'm not going to trade the sewer plant to Phase II, no way. Because it's an operational maintenance problem and they're going to start putting 76 homes in I'm not going to make that decision unless the governing body wants to make that decision.

MR. FLEISCHNER: I totally understand.

MR. WEISS: Anybody else? Okay we've completed the engineer's (inaudible) at this point let me open it to the public, if anybody in the public has any questions for Mr. Zelina based on the testimony that was delivered tonight you're welcome to come to the podium.

MR. MCGROARTY: Howie did you want to do mine?

MR. BUCZYNSKI: Did you want to do his report too and get that out of the way? Because there's items he has too.

MR. WEISS: Let's take a little break for now because we're getting 40 minutes into this, we'll come back. Doug if you would come up to the podium. If would state your name and address for the record.

MR. FENICHEL: I'm Doug Fenichel I live at 14 Knollwood Road which backs up to the project under discussion. And if you think the geese do a number on Drakesbrook you should see what they do to . . .

MR. MANIA: Doug I need you to speak up.

MR. FENICHEL: I haven't spoken to a bunch of neighbors of mine except in passing over this past few months but we remain concerned about the Drakesbrook issue. And I was hoping since all of this began what five years ago or so when they started knocking on our doors originally to talk about it, we were always told that the whole issue of Drakesbrook could be resolved as this project moved forward. I think the town needs the project, I think the market could use it but I'm very concerned about the impact on our homes. And now that I hear, if I hear this correctly that the 13 acres is it correct that the 13 acres that would be the swale is going to become town property?

MR. ZELINA: Yes.

MR. FENICHEL: I have to view that in the history of the Rosewood Ditch which is that the ditch has not been maintained, that until the current administration came in no one has even listened to our concerns about flooding that could endanger lives, that destroying property, and about mosquitoes. And the current administration has worked with us a little bit to try to resolve some of that but the ditch still is not being maintained, the ditch still poses a life threat and a property threat and now based on that the same type of maintenance, the same history of responsiveness to neighbors is now going to be in this new project. We remain hopeful that there can be some way of resolving all of this. You know as I said we see the potential for the project, some folks in the neighborhood are opposed to it completely, some are not I can't speak for everybody but I think it's coming we're not going to stop it. I think the idea of a linear greenway a linear park is good but I think there needs to be more discussion. Especially if the town is going to take that over completely. I'm wondering, I know that tonight you're supposed to decide on a final permit for this property I'm wondering if there could be an opportunity to wait 45 days, this thing has been going on for five years, 45 days let us meet with the powers that be with the engineers with the town officials perhaps bring in other engineers of our own if we can decide to do that and let's see if there's some way that we can deal finally, comprehensively once and for all with the drainage issues behind Knollwood Road and further downstream.

MR. WEISS: Doug let me ask you a question. This is kind of a follow up. Presently and prior to tonight that 13 acres swath of land was to be turned over to the Homeowner's Association it would have been their obligation to maintain it. So I'm going to ask you a question, who do you think in your opinion is better suited to maintain that the township or the Homeowner's Association?

MR. FENICHEL: I'm not sure that that was ever a solution. That the neighbors thought was going to be a good solution either which way.

MR. WEISS: The only reason I ask the question is because that's really the only change. The only change is who is controlling that land and that's why I'm just a little concerned there's no change there's no new data to stormwater.

MR. FENICHEL: Right and I would have been making this request anyway. But to answer your question based on a whole bunch of years on the other side of this issue homeowner's would have done a better job.

MR. WEISS: Okay. Gene?

MR. BUCZYNSKI: Well I think you would be better off having that property under, dedicated to the township where the township definitely is responsible for it. They're not technically responsible for Rosewood Ditch it's not a municipal property. They've been trying to . . . that's always been a concern that delayed them back because it's not their property. This is going to be their property so you have a better opportunity when you go to the town and say it's your property take care of it. Where we've going back and forth with the governing body on who should help maintain that existing ditch. So I think as far as the new swale it's going to be on property dedicated to the township. So I think as far as if they neglect it and there is a problem with it you can go right to the source because they're going to be the number one source at that point.

MR. FENICHEL: What I'm asking for is the opportunity to get the parties involved together and let's see if we can solve the whole issue once and for all and you know . . .

MR. BUCZYNSKI: We've gone to DEP many, many times with the developer, on our own with the township we're not going to get anything resolved as far as piping that ditch if that's what people would like to have.

MR. FENICHEL: I'm not asking to pipe the ditch I'm not asking to pipe the ditch. I'm asking for one more shot this would be the last shot that we have to fix this once and for all. Your locking us in here I'm asking for the opportunity to meet with these engineers to bring in some other ideas and to look at this. Knowing how this is going take one last look and see if we can find a final solution to it.

MR. WEISS: When you refer to fix are you talking about fixing the Rosewood Ditch?

MR. FENICHEL: I'm talking about fixing the situation behind our homes that has to do with drainage that's destroying property that I think is a life threat that could pick up a kid and drag him

down the ditch really quick and that's also a mosquito threat. I understand that this administration has had its hands somewhat tied by DEP as well and I would hope they would they would be involved in this discussion as well. Everybody has looked at this as Rosewood Ditch and as Marveland Estates and what I'd like is some time to get everybody, all of these parties in one place and take a look at a solution that looks at them as you know together. Because I don't think we've really had the opportunity to do that. I walked the ditch with DEP I don't know what planet they were on but it wasn't in Flanders. That's my request and I'm again to register our concern with the situation.

MR. BUCZYNSKI: I don't think what you're going to accomplish in 45 days. I mean you can continue discussing it with the governing body again I'm not sure how you want to hold it to this developer I mean I can't speak for them but they've gone back and forth to the DEP with the township trying to see what could be done with the Rosewood Ditch also. And they've got the permits to do what the DEP felt in their ultimate wisdom was the best plan to do in that area. I'm not sure what another 45 days . . . I mean this job has been going on for how many years.

MR. FENICHEL: Exactly so what's 45 days going to hurt? I mean maybe everybody tells me the same thing you're telling me and nobody wants to do anything and we have to look at other solutions. But certainly . . .

MR. VAN NESS: I don't think that's realistic as far as nobody is doing anything. I mean the developer; I'm not going to defend the developer because they've already made a presentation it's already been approved at the first level. And they've come through and have provided the township and the public and you and your neighbors have . . . They provided this plan and the work that they're going to do to help remedy the situation that exists there today. Today it's impossible to go in there by the township to do anything significant to make any changes. But once the township, which I didn't realize that this was going to happen until today, once the township has the ability to then officially go in there to take some action I think there's a huge difference there already. And you've already been provided with plans that show drainage, that show how water is going to flow, that show how water is going to be redirected, it's going to show the detention basins and how the new development has its own drainage system. You know these things have all been taken into consideration they've all been put on paper and presented and approved by the DEP, by the Planning Board and by other entities that are involved in all of these legal things that go on. So it's already happened the time to comment and ask for 45 more days was years ago when this plan was put forward.

MR. FENICHEL: We've been asking.

MR. VAN NESS: The developer came through and the plan that you were all shown it was what was finally approved.

MR. FENICHEL: We've been asking all along and we've been getting vague answers.

MR. VAN NESS: The problem that's going on is that it's been five years or four years since it's happened and nothing has happened there and that's why in my opinion is why everybody is still frustrated. Is that nothing has happened in the last four years because construction hasn't begun or hasn't been completed. And until something gets going in here I don't expect to see much change going on down there. And the more we delay the project the more that's going to be delayed as well.

MR. FENICHEL: Well the reason that we're frustrated is because the one attempt to get DEP in there resulted in you know tying the town's hands. What's happened now and the inability of the town to properly maintain that ditch now what I'm hearing is that there's going to be 13 additional acres adjacent to the ditch. Essentially you're going to have a ditch and swale that the same organization that's been unable to maintain the ditch, unable to protect the residents of this town now . . .

MR. VAN NESS: The ditch is not able to be maintained to the extent that residents want by the township. I guess my point is we've kind of been clear on this.

MR. FENICHEL: It's been clear as the mud in the ditch.

MR. VAN NESS: That's your opinion.

MR. FENICHEL: And what all I'm asking for is one more opportunity to look at it comprehensively. That has never been done.

MR. WEISS: Anybody else from the public have any comments for Mr. Zelina? Please would you also come up state your name and address for the record.

MS. FENICHEL: Karen Fenichel same address 14 Knollwood Road. I have a question for Gene because he said that the town doesn't own the ditch, the Rosewood Ditch. Who owns it?

MR. BUCZYNSKI: I'm not sure where the property ended with the farm and the property owners but that ditch . . . , Go ahead.

MR. ZELINA: That ditch is owned by the individual homeowners.

MR. BUCZYNSKI: That's what I thought.

MS. FENICHEL: There's a town easement.

MR. ZELINA: There's no doubt there's an easement but as far as the ownership of the ditch is physically lies on the homeowner's property itself. It does not lie on the Marveland Farm property. That's been part of the problem as I understand it from the township. And just if I may, we spent a lot of time on this at the time during the preliminary hearings. At our expense we went down to the DEP along with the Board's engineer the township engineer again at our expense we approached the town, we actually got a letter from the DEP telling us what could not be done at the ditch at that time. A lot of time was, more than 45 days was spent discussing and trying to resolve this problem on the homeowner's behalf at the time of preliminary approval, 45 additional days at this would serve no purpose.

MS. FENICHEL: Can you clarify for me are you putting in a second ditch parallel to the existing ditch?

MR. ZELINA: Yes we are over a portion of the property, not the entire length of the ditch but there's a parallel swale along the northern portion of the ditch emanating from the existing detention basin at the north of the property to about . . .

MR. BUCZYNSKI: From the outlet pipe.

MR. ZELINA: Yeah just about to the school property.

MS. FENICHEL: Howie if the town can't maintain the existing ditch how are they going to maintain two existing ditches?

MR. WEISS: Well that's a question for the town Council the governing body. We're here to make a ruling based on the technical data that's been given by both the applicant and our professionals.

MS. FENICHEL: So technically there's going to be two ditches.

MR. WEISS: That's what Mr. Zelina just said.

MR. BUCZYNSKI: Yeah there will be they'll be two . . . a swale, ditch . .

MS. FENICHEL: Was the Zoning Board aware of that?

MR. BUCZYNSKI: Yes.

MS. FENICHEL: Would you like two ditches in your backyard Gene?

MR. BUCZYNSKI: It's not your backyard. Technically it's not your property.

MS. FENICHEL: Abutting my backyard. Okay so the ditch isn't in my backyard is that what you're saying? You just said it was in my backyard.

MR. WEISS: Okay wait we have to take some control here. The ditch that exists has nothing to do with this property it's not on their property.

MS. FENICHEL: It abuts the property.

MR. WEISS: That still is not on their property. When you look at improvements to their property they have gone through great time and expense to explain to everyone and obviously to convince the Board how they're going to manage their stormwater. And so whether we call it a ditch or a swale there is technical engineering to account for the water on their property. That's what we can hope for.

MS. FENICHEL: And where is their stormwater going to drain into?

MR. ZELINA: Drakesbrook.

MS. FENICHEL: Which is the ditch that you're talking about putting in in the back?

MR. ZELINA: No.

MR. BUCZYNSKI: No.

MR. WEISS: Two engineers have said no.

MS. FENICHEL: So why do they need a second ditch?

MR. BUCZYNSKI: To relieve the flow going into the ditch that's on your property right now. It's bypassing the water; some of the water is going to go into the new ditch it's not going to go into the Rosewood Ditch.

MS. FENICHEL: Water from where?

MR. BUCZYNSKI: The discharge from the large detention basin that's existing right now.

MS. FENICHEL: That's on what side of Bartley Road?

MR. BUCZYNSKI: It's behind the housing . .

MR. WEISS: Behind the Mt. Olive Manor there's a large detention ditch back there.

MS. FENICHEL: I'm aware of that.

MR. WEISS: That retention basin feeds into the Rosewood Ditch; after this project is done that water will go on the Marveland property.

MS. FENICHEL: But it's not on the Marveland property now that detention basin correct?

MR. ZELINA: That is correct.

MS. FENICHEL: So you're willing to work with that detention basin that's not on your property to go into a second ditch that you're going to create and still not address the Rosewood Ditch, which abuts ditch.

MR. WEISS: I think when you look at stormwater management systems it's well past my expertise and so my professionals . . .

MS. FENICHEL: So maybe you should stop and get some more information before you approve this project.

MR. WEISS: We have gotten plenty of information from our experts and I think the Planning Board is very confident that the testimony that we've received is adequate and is convincing to the Planning Board. There's no new testimony this is an old conversation.

MS. FENICHEL: I was here for almost every one of those meetings.

MR. WEISS: Okay so there's going to be no change to those conversations so we're bringing up a conversation from years ago.

MS. FENICHEL: By why are they going to address the water coming out of the detention basin that's on the senior housing property and then you're telling me they can't address the Rosewood Ditch even though they're addressing that.

MR. BUCZYNSKI: But most of that water is the water that goes into the Rosewood Ditch that's where the water is coming from.

MR. FLEISCHNER: It's not going to go into the ditch anymore it's going to go into the second . . .

MR. BUCZYNSKI: Not all of it Joe.

MR. FLEISCHNER: Not all of it but a significant portion of it.

MR. ZELINA: That water that's being released from that detention basin currently flows into the Rosewood Ditch through your property.

MS. FENICHEL: Yes and it comes from Flanders Crossing as well.

MR. ZELINA: That is correct. Once this new swale is built all of the water coming out of that detention basin will not enter into the ditch on your property it will enter into this swale bypass all of those properties along the northern portion of that development and re-enter the ditch to the south of those homes roughly around where the school is. So in essence we are . . . and certainly the engineers before us who approached this Board during the rezoning did extensive studies and actually had a lot of meetings with you and your neighbors I believe to try to do what we could to assist you. And this was what was agreed to by those engineers, by the Board at that time to the point where this was actually put in the Land Development Ordinance which we comply with by the development of this.

MS. FENICHEL: So the DEP approved you diverting the water.

MR. ZELINA: Yes they did.

MS. FENICHEL: Even though they won't approve you doing anything with our ditch.

MR. ZELINA: That is correct because there was enough water being maintained in the ditch to maintain the wetlands and the other characteristics of the ditch so that we could not . . . we didn't have no approval to dry up that ditch or to eliminate the ditch. But the amount of water that we are diverting and (inaudible) because in essence occurs during a storm event. The water that flows out of that detention basin and under dry weather, there is no water. So during a storm rainfall event when water enters that detention basin which would in essence be when there is the most water flowing in the ditch on your property it would be diverted into the swale on our property to help reduce the flow through your yard by the implementation of this parallel swale. So it may not be what you're looking for but it was put in place by this Board and the experts in place even before I got involved with this project to help you and resolve some of the concerns that you and your neighbors had at that time. And we pursued this, we heard what you said at our preliminary hearings and like I said not to sound like a broken record but for the benefit of some of the new Board members we spent many evenings talking about this and even took it to the DEP and got their answer that we could not do anything to the ditch.

MS. FENICHEL: Okay.

MR. WEISS: Mark thank you for that explanation. Anybody else from the public have any questions for Mr. Zelina? Seeing none let's continue with the hearing. We're going to move to our planner's report Chuck?

MR. MCGROARTY: Okay.

MR. WEISS: I think we have your February 4 report.

MR. MCGROARTY: That's correct yes. All right I'll go as quickly as possible. The variance for the sign Mr. Zelina I think when we had some conversation you said you were going to modify that?

MR. ZELINA: That is correct we do not request a variance for the sign associated with the active adult complex we will redesign that sign to make sure it conforms to the ordinance.

MR. MCGROARTY: Okay. The affordable housing issues here I think probably a number of these items can be addressed by simply confirming that you'll comply with it.

MR. ZELINA: That is correct.

MR. MCGROARTY: I mean rather than . . . Mr. Chairman unless you want me to go through them it's probably excruciating for people to listen to this.

MR. WEISS: No it's . . .

MR. ZELINA: It's worse than drainage.

MR. MCGROARTY: If they don't comply with it they'll comply with it. The phasing schedule for the affordables and all of the rest. And when the time comes and whether it's Mr. Zelina your organization that develops or someone else we'll need a lot of the particulars, the administrative agents stuff, etc.

MR. ZELINA: Absolutely.

MR. MCGROARTY: But as long as that's a condition in the resolution Tiena then I think the town would be fine. Like all of the details does that make sense?

MS. COFONI: Yes.

MR. MCGROARTY: Are you okay with that?

MS. COFONI: Yeah I'm just looking through some of them I think where they need to provide information but your still going right?

MR. MCGROARTY: Yeah well . . .

MS. COFONI: Like I was looking at E.

MR. WEISS: You're talking about 5.0?

MS. COFONI: Yeah 5.1 E?

MR. ZELINA: Yeah E and I'll take it Chuck if you don't mind. What happens is the way these three buildings were designed as one common development. So there was in essence a common area for a meeting room or I don't want to say parties or whatever but for the enjoyment of all 57 units. Even though it's just located in one building, everyone in that complex will have access to that common area.

MR. WEISS: That didn't change correct?

MR. ZELINA: That is correct.

MR. WEISS: Okay.

MR. ZELINA: That just may not have been clear I think Chuck just wanted to clarify it for the Board.

MR. MCGROARTY: ADA is satisfied because again the architectural plan show that those units can be compliant?

MR. ZELINA: Yes absolutely.

MR. MCGROARTY: The storage areas H, there's no basements in these.

MR. ZELINA: That is correct there is no separate storage areas provided outside of the units themselves at this time.

MR. MCGROARTY: Probably I would suggest to the Board there be some condition that there be no outside storage or if there is they'd have to come back to the Board for some kind of enclosures. Otherwise it will start to look a little . . .

MR. ZELINA: That's fine.

MR. MCGROARTY: Mailboxes you're not sure yet where they're going? At least last we spoke.

MR. ZELINA: That's correct. But they will be provided for prior to final plan submission we'll make sure we have those for you.

MR. MCGROARTY: And the trash enclosures we talked about that you were going to . . . can you confirm to the Board that the two that you have for trash recycling is enough?

MR. ZELINA: Yes. Based on our experience what we've provided for is two separate trash, dumpster enclosures. Both of those enclosures are wide enough to accommodate two separate dumpsters one for recycling and one for common everyday trash. Our experience has been that the two will be sufficient for this number of units and one of the good things about that that can be controlled by the number of pick-ups. And since it's private carting it could be picked up once a week, twice a week or three times a week as needed. So if for some reason this is a particularly bad complex or generating a lot of trash which we don't anticipate then the frequency of pick-ups can be adjusted to make sure there is no problem.

MR. MCGROARTY: Mr. Chairman I'm just going to go through it if you don't mind?

MR. WEISS: Yeah please go ahead.

MR. MCGROARTY: Mark I want to just go back real quickly to B. The improvements, and again you're going to modify the plans can you just explain to us within the affordable housing complex all of the improvements will go in in Phase I?

MR. ZELINA: Yes.

MR. MCGROARTY: That is the parking lot, the lighting and all

MR. ZELINA: Absolutely the way it's configured all of the utilities have to be brought to that site. All of the parking lot itself just to accommodate one single building. So all of the common improvements, maybe short of some of the landscaping around the individual buildings but for the most part the significant common area improvements will be done as part of the initial construction.

MR. MCGROARTY: And you'll clarify that on the plans with a note.

MR. ZELINA: Yes.

MR. MCGROARTY: Mr. Chairman I'm just going to move ahead then. Street crossings we talked about the crosswalks but the suggestion there was in the interior some additional crosswalks?

MR. ZELINA: Yeah what we did not provide for within the development itself was some crosswalks crossing some of the main loop roads. We had provided them crossing the minor legs of the intersection but we agreed through discussions with your professionals . . . Just for the benefit of the Board real quick, for instance perhaps at this location we had a crosswalk here but we did not provide for one crossing the main road so we'll add that to the plans to make sure

MR. WEISS: We're going to mark that one A-2 though. And that's you . . .

MR. ZELINA: It's called Marveland Farms exhibit. Not the overall plan but the exhibit that is dated March 7, 2014 also.

MR. WEISS: Thank you.

MR. MCGROARTY: And you'll do the ones that we've identified in the report.

MR. ZELINA: Yes.

MR. WEISS: I'm sorry Joe?

MR. FLEISCHNER: From the apartments if they want to cross the road and there's no traffic light up there how do they run across the street? There's a sidewalk there too right? There's going to be a sidewalk that runs to the intersection where the traffic light is going to go?

MR. BUCZYNSKI: Right.

MR. MCGROARTY: Yes.

MR. FLEISCHNER: But is the sidewalk going to go in before the traffic light?

MR. ZELINA: Yes.

MR. MCGROARTY: I don't know the answer to that . . .

MR. ZELINA: No the sidewalk as it extends to that intersection will be part of those intersection improvements.

MR. FLEISCHNER: Because I don't want people running in the dark across the street.

MR. ZELINA: Understood.

MR. WEISS: Where are they running to?

MR. FLEISCHNER: Well to get to the church up the street.

MR. WEISS: So there will be affordable units in the phasing schedules.

MR. FLEISCHNER: Phase I.

MR. ZELINA: Yes there will.

MR. MCGROARTY: But the sidewalk and the lighting or the street lighting I guess would come later.

MR. FLEISCHNER: That's what he's saying in Phase II the end of Phase II. It would be nice at the beginning of Phase II. I'm sure you'll keep that in mind.

MR. ZELINA: Your comments are duly noted.

MR. FLEISCHNER: And can I just, I'm sorry Chuck because you just did briefly touch on landscaping. How is the landscaping going to be maintained in those units? Is it a separate group that maintains it?

MR. ZELINA: Yes it is those units will be owned by an entity that specializes in the ownership of affordable housing units like this. They will not be part of the main homeowner's association.

MR. FLEISCHNER: So wouldn't you think then that they might want like a storage shed if they're going to have maintained cut grass, do everything like that to maintain the property rather than always bringing in an outside . . . you know I don't know who but I'm just saying obviously a lot of contractors they come in they cut your grass and stuff like that. But maybe it should be thought of as some sort of shed be available there if they're going to store landscaping you know lawnmowers, etc. to . . . I mean I just raise that so . . .

MR. ZELINA: Well typically these owners don't take care of that maintenance. But I can assure you that if they determine that that need is . . . it becomes a necessity they will come back before this Board.

MR. MCGROARTY: I think that's why I'm saying the outdoor storage . . . It would have to be a condition that if as Mark said . . .

MR. FLEISCHNER: Okay I'm just . . .

MR. MCGROARTY: That's a good point though.

MR. ZELINA: Yeah this isn't the end everyone has the ability to come back and . . . we're just looking for approvals on certain items as we depicted on the plans as we sit here tonight.

MR. WEISS: Okay go ahead Chuck.

MR. MCGROARTY: All right my suggestion on page 4 of 5.3 on the traffic light pole, when that is put in.

MR. ZELINA: At the end of Phase II.

MR. MCGROARTY: Whenever it is there are examples that I just showed one to try to have something a little bit more decorative as it were as opposed to the sort of very industrial type utilitarian looking poles that we all see along the roadways. This is not out on the highways so the suggestion there is to have you know there's lots of different versions of these things out there. So that's my suggestion to the Board that when that traffic light comes it has these additional features to it. That it provides some amenity out there it looks a little bit nicer in a residential area.

MR. WEISS: Could that be done through a professional review? I mean or do we just want to throw it out and say we hope that you do it . . .

MR. MCGROARTY: No I'm throwing it out so if the Board agrees the Board would make that as a requirement.

MR. ZELINA: See not only are poles or fixtures like that expensive to us it's also expensive to the municipality down the road should they have to maintain or replace them. It is really our recommendation or our request that we be permitted to provide the standard DOT approved poles and fixtures.

MR. BUCZYNSKI: If I could just add Mr. Chair I know the picture here shows a light a little more than just the pole but would you at least agree not having the galvanized pole but doing it in one of those iodized poles the flat basic black poles? At least calm that look down at that intersection? Basically just a straight pole but not a galvanized pole.

MR. ZELINA: Just a black.

MR. BUCZYNSKI: Black.

MR. ZELINA: We could do that right?

MR. BUCZYNSKI: That's my thought.

MR. ZELINA: That we would agree to without further discussion.

MR. MCGROARTY: You know I mean I respect the suggestion and if whatever the Board feels I mean as far as it being an additional expense to the town I don't see how that's the case. If the pole were hit by a truck and knocked down and had to be replaced the town can decide at that point if it wants to replace in kind or go with something different. Maintaining the pole is not going to be any different . . .

MR. WEISS: Let's get some opinions. Anybody with the Planning Board let's share some opinions.

MR. FLEISCHNER: I was just in East Hanover today and at the intersection of Ridgedale and Columbia Turnpike these poles are there now and . . .

MR. BUCZYNSKI: With the light on top of them too?

MR. FLEISCHNER: Yes and they are awesome. They are really something, what a difference. There's no reflection of sunlight or anything like that it's really . . .

MR. BUCZYNSKI: I know at the Netcong intersection they have a black pole but they don't have a light on top of them I don't believe.

MR. MCGROARTY: It's not even necessarily the light whether they put the light on or not but the base has a certain articulation that the other ones don't. It's just I mean it's going to be in the middle of a residential area.

MR. FLEISCHNER: It would be quite nice.

MR. SCHAECHTER: With the street light on top of it like that is that going to throw some light in the backyard of the people

MR. MCGROARTY: This is just an example.

MR. BUCZYNSKI: That was just an example.

MR. MCGROARTY: It's just an example I'm not saying that one there will be lights on Pleasant Hill Road. There may not be a need for a street light on top this is just the one that we . . . It's really you know it's really a question of the base is a little different; there's a little articulation to the pole.

MR. BUCZYNSKI: If they're willing to go do something other than the galvanized standard pole why don't we have a condition where they have to submit cut sheets to be approved by the engineer and the planner relative to the pole to be installed at that intersection. It's kind of open but you know . . .

MR. ZELINA: It's kind of open right.

MR. SCHAECHTER: Gene what kind of traffic light are they going to put there. Because you've got some backyards of bedrooms of people that live on that intersection. Are they going to be seeing red, yellow and green all night long?

MR. BUCZYNSKI: No they'll have the shields all of them have shields now you won't see it.

MR. MCGROARTY: I mean whatever goes in DOT . . . it can't have some rouge type design I mean it has to be authorized . . .

MR. BUCZYNSKI: It's in accordance with DOT specs. it's not DOT approved they don't approve this, they don't have jurisdiction on this intersection.

MR. SCHAECHTER: Right but there's lots of light specs that are DOT approved that might not . . .

MR. WEISS: I guess at the end we're trying to be sensitive to the residential neighborhood of that area and I think that being said unless anybody from the Planning Board disagrees let's go forward with a condition that the light will be sensitive and such and approval upon the planner and the engineer at that point in the review process.

MR. ZELINA: How are we protected then that this doesn't become a fancy ornate fixture that's twice as expensive. See again our issue here is we went through this process before it was not an ordinance requirement you know the Board was very specific about what has to go into this project in the Land Development Ordinance. Very specific about what has to be done. Ornate light poles aren't a part of that ordinance.

MR. MCGROARTY: Well one of the suggestions that we had early on was pavers, sidewalk pavers to find the crosswalks. And we had discussion and agreed that well perhaps given the cost that does generate additional cost and there would be maintenance cost to the town ultimately, that maybe that was a bit of a stretch. And so both Gene and myself our reports don't reflect that. I mean if just because the ordinance says, in this case that there's a traffic light, you know I'm not sure that that means you have to accept the lowest common denominator that's out there. I mean I don't know what the costs are I'll be honest. So maybe if there's testimony that this type of pole costs "X" and the other costs "Y" and it's a deal breaker maybe that's what you would be persuaded by. I think it's something that the town is going to live with for many years to come and I guess the basic question is what . . . can you get something that's aesthetically pleasing, the traffic light may not even be a welcome addition for some folks out there but at least if it's something that's aesthetically pleasing, which is subjective obviously, it's worth doing.

MR. WEISS: So how do we make that into an agreement? I guess that's where we're stuck.

MR. VAN NESS: Aesthetically please, period.

MR. WEISS: Yeah I don't know if we can say that because again that's relative. Let's see if Tiena has an idea.

MS. COFONI: I was going to say something along the lines of a design to be approved, I don't know if design is the right word, but a spec. to be approved by the Planning Board engineer and planner and if they can't agree then it comes back before the Board.

MR. BUCZYNSKI: Or we could always wait 45 days to review alternatives and come back to the Board.

MR. WEISS: I think Tiena has hit upon something that seems to be agreeable and thank you for agreeing. Let's move on.

MR. ZELINA: Thank you.

MR. WEISS: Okay Chuck we're at 5.4?

MR. MCGROARTY: Yeah I don't think we need to talk about the open space I think we're okay with that. Mr. Zelina talked earlier about the buildings that's been addressed, the fence demarcation, I think I heard Gene and Mark will a some point work that out right? All the boundary markers and all that?

MR. BUCZYNSKI: Yes.

MR. MCGROARTY: Details on the lighting we'll see that when the project signs come through.

MR. ZELINA: That's correct.

MR. MCGROARTY: Or Catherine and Scott will. And Mark the last . . . the lot designations the revised plans will just address that question? We talked about that.

MR. ZELINA: Yes.

MR. MCGROARTY: All right I'm done Mr. Chairman because we talked about the Southbranch . . .

MR. WEISS: Does anybody have any other questions for Chuck regarding his report?

MR. RUSSELL: What happen to Section 5.5?

MR. MCGROARTY: 5.5? Oh I apologize you caught me and you called me out. They revised the plan and the numbering got out of whack. I think 5.5 actually had the traffic light details in there I'll make sure I get that out tomorrow.

MR. WEISS: Tiena?

MS. COFONI: Chuck I don't know if I maybe missed it but what about 5.4D?

MR. MCGROARTY: 5.4D?

MS. COFONI: Demarcation along the rear boundary of the residential market properties?

MR. MCGROARTY: Oh I think Gene and Mark will . . .

MS. COFONI: Is that part of the ones where your . . .

MR. BUCZYNSKI: They discussed it earlier.

MS. COFONI: In your report about all the markers?

MR. BUCZYNSKI: No . . .

MR. MCGROARTY: Oh wait, wait, wait Tiena is right I'm sorry. Yeah you know I thought, and Mark would you help here, this is the . . . those lots which about the park there's a . . .

MR. ZELINA: A 25 foot wide strip of landscaping there.

MR. MCGROARTY: And that will be open space so that will be common open space correct?

MR. ZELINA: That's correct.

MR. MCGROARTY: But homeowner's association open space.

MR. ZELINA: That's correct.

MR. MCGROARTY: And so my initial thought was well why shouldn't there be a fence there as there is on the other side, but I think from a practical standpoint that's going to be just not a good solution because then people will have a fence behind their, in their yard it will be this open area and then there will be this stockade fence demarcating the boundary. So again I had it different ways I think I took that out. What it amounts to is if those homeowner's encroach into the open space it's a homeowner association issue since it's not township open space. And they can deal with it however they deal with it. I mean someone could put a picnic table out there or plants a garden or whatever they will deal with it themselves that way.

MR. ZELINA: And it doesn't infringe upon any conservation areas that was the reason why DEP insisted on a fence in this area there was no demarcation at the rear of those lots as to where the conservation area started and the lots end. They are strictly homeowner association property which will be significantly landscaped to provide a buffer between the park and these homes along with a fence there. So there's not a lot of useable land to be had there and if there were the homeowner's association would deal with it as they see fit.

MR. MCGROARTY: Is that acceptable?

MS. COFONI: Yes.

MR. WEISS: Okay. Does anybody have a problem with that? Okay with that being said does anybody from the public have any questions, follow up questions? Seeing none Mr. Kempf are you . . . are you all done?

MR. KEMPH: Yeah I think that's the presentation.

MR. NELSEN: Mr. Chair I'm not sure if this has been addressed we've got a letter here from the Police Department regarding the second egress and I'm just wondering have you given thought to that?

MR. ZELINA: We dealt with that during . . . that was first brought up or a concern during the preliminary design of the project. And I think what I recall from that letter they had requested a secondary access through to the development to the west out in this direction.

MR. NELSEN: I think its Lot 5.09 if I'm not mistaken? It's down on Pleasant Hill Road not far from the other entrance.

MR. ZELINA: Well first of all the project is a (inaudible) design in accordance with the Residential Site Improvement Standards as well as the township standards by providing not only a boulevard access which provides for adequate access and safe vehicular access and safety access to the project. There is also a secondary emergency access to be constructed of grass pavers from the parking lot of the affordable units to the internal roadway network as a secondary means for emergency vehicles. We are prohibited from making a connection in this direction because of the wetlands and buffers associated with this area, we couldn't get a crossing here if we wanted to. Not only that the road alignment and vertical alignment along that curve are prohibited because there's a steep rise to cross over the Drakesbrook at that point and we don't have adequate sight distance for another intersection until close to where we . . . that's why our intersection is located where it is as a matter of fact.

MR. NELSEN: Can you put your hand right on 5.09 there, Lot 5.09?

MR. ZELINA: Right here?

MR. NELSEN: No I think it's one of the building lots. That's where they suggested.

MR. ZELINA: Yeah that is . . . it's right at the rear of that detention basin where I just alluded to. It's one of these two lots.

MR. NELSEN: Right.

MR. ZELINA: We could not get another access here because there is not sufficient sight distance along Pleasant Hill Road because of the vertical obstruction by the culvert currently over on Drakesbrook. Because our purpose when we started the project was actually to maintain the entrance at this location but it would require a tremendous amount of improvements to Pleasant Hill Road and that wasn't, it certainly was not desirable.

MR. SCHAECHTER: Can you show me 5.54 and 5.55?

MR. WEISS: Gene has it, it might be easier.

MR. SCHAECHTER: It's got to be up north.

MR. FLEISCHNER: It's up north by Linwood.

MR. SCHAECHTER: It's got to be near Linwood.

MR. ZELINA: I'm sorry what were the numbers again?

MR. SCHAECHTER: 5.54 and 5.55.

MR. BUCZYNSKI: Okay it's all the way up by the top of the site.

MR. NELSEN: It's by the path going out to the school.

MR. BUCZYNSKI: Right by wetlands, the wetlands are right there. It's on top of the site where that easement comes across, yes.

MR. ZELINA: It's right here by the utility easement.

MR. BUCZYNSKI: Yes.

MR. ZELINA: We couldn't cross there if we wanted to.

MR. BUCZYNSKI: We couldn't cross it.

MR. ZELINA: Again it's a gated community for security purposes and a development like this you want to limit the access in and out of the community, I believe we provided safe and adequate access here for a number of reasons those two suggestions could not work here.

MR. SCHAECHTER: Are you guys actually going to have a gate? Or is it going to be like Flanders Crossing where it's just a . . .

MR. ZELINA: It would be gated.

MR. SCHAECHTER: So a security detail . . .

MR. ZELINA: Absolutely that's part of the desire and appeal of these communities. To finish up real, real quick one item that did change, again not from a construction point of view but from a maintenance of existing conditions point of view there was a condition requirement during the course of preliminary hearings to maintain an existing trail that ran on the development side of the property on the north side of Drakesbrook. Through discussions with the Environmental Commission and I think Kathy Murphy even talked about the trails and continuation of trails and we had provided for an access easement through the property that would be owned and maintained by the homeowner's association. To provide for public access across an existing stream crossing and through the southern part of the development to the west. Unfortunately when we were before the DEP with our plans the DEP had determined through all kinds of aerial photographs that those trails were not permitted, nor were they constructed before the enactment of the wetlands act. Hence they couldn't . . . they either had to be removed or a permit had to be obtained for those to remain. The conditions of that permit we could not do as a private entity because of the affected area by it so as a result of that those trails, that trail

area will be left to naturalize or have to be grown back to its natural state and the crossing through Drakesbrook would have to be removed as part of the project. That is a condition of the original project that has changed. Which it's unfortunate we don't have that pedestrian access that provides a clear separation from the association owned property and then the township owned property.

MR. WEISS: I think there's just the second part of the police report talks about changing the number of handicap van parking spaces. Do we need to address that?

MR. ZELINA: Change the number of handicap van spaces from two in front of one COAH unit to one handicap van space in front of each building. That just widens the striped area from 6 feet to the 2 feet . . .

MR. WEISS: Okay.

MR. MCGROARTY: But wait does that reduce . . .

MS. COFONI: That reduces your parking no?

MR. MCGROARTY: Yeah.

MR. ZELINA: No right now there are . . . there's a pair of handicap spaces provided for in front of each building. But basically from a standard handicap impaired access where the striped aisle is 6 feet we have to widen it to 8 feet. We will accommodate that in that layout. That's all that it requires.

MR. VAN NESS: How is the emergency driveway going to be maintained? Is it going to be gated? I don't remember the testimony from the prior . . . about that emergency driveway.

MR. ZELINA: It will be gated and coordinated with the emergency services in town as to how the locks or what would be provided. We'll make sure that's coordinated with your . . . whoever is (inaudible).

MR. VAN NESS: Okay.

MR. NELSEN: Are you saying the parking spaces are 6 feet?

MR. ZELINA: No what happened is for handicap accessible spaces you provide for two 8 foot wide spaces themselves but the striped area alongside those spaces varies in width. For a standard accessible space it's 6 feet wide, for a van accessible width it's 8 feet wide. So what we're agreeing to do is increase the width of that striped area to 8 feet instead from 6 feet to accommodate that request.

MR. MCGROARTY: But you're still going to have . . . maybe it's the way it's worded that's throwing me off. Right now you provide two handicap spaces at each building.

MR. ZELINA: Right.

MR. MCGROARTY: You're still going to have two at each building?

MR. ZELINA: Right but what will happen is the stripe there between those two will be wide enough to be considered van accessible as opposed to just . . .

MR. MCGROARTY: But how is that . . . if you're . . .

MR. BUCZYNSKI: It reads different.

MR. MCGROARTY: Yeah.

MR. ZELINA: I'm interpreting it wrong.

MR. BUCZYNSKI: No your right we're just confused the way it's written.

MR. MCGROARTY: Yeah.

MS. COFONI: So in front of each building you'll have one regular and one van handicap?

MR. ZELINA: No what will happen is because the two spaces fall on either side of the striped access aisle.

MS. COFONI: Oh so they'll both be van accessible.

MR. ZELINA: Yes that is correct.

MS. COFONI: Just by increasing the

MR. ZELINA: That's my interpretation of it.

MR. MCGROARTY: How are you going . . . can you increase the striping and stay within . . . without sacrificing a regular space?

MR. ZELINA: No what will happen is we will take two . . . we'll widen the parking lot by 2 feet at the ends we'll have to adjust the curbing on the outer edge of the parking lot to make that parking lot 2 feet longer, the paved area 2 feet longer on each side, or wider.

MR. NELSEN: I guess it's actually 3 feet because these are marked 5 feet wide right now.

MR. MCGROARTY: Well I guess the point is no parking spaces within the affordable units will be removed whether they're handicapped or otherwise. They'll be reconfigured but they're not going to be . . . the number will not change.

MR. ZELINA: That's correct.

MR. MCGROARTY: Okay.

MR. ZELINA: We'll comply with that and work it out.

MR. VAN NESS: Well isn't it as long as they comply with the existing ADA rules then what more is there to it.

MR. WEISS: Right.

MR. MCGROARTY: Well I'm not even sure if ADA required two in front of each building I don't know that ADA would . .

MR. VAN NESS: But whatever the ADA would require I think is the standard that . . . is the minimum standard.

MR. MCGROARTY: Well I think the standard that they're providing is better. If it's exceeds ADA I think we should accept it. They've already . . . it's on the plans, particularly because of the nature of those affordable units. So just the way that that memo read was a little confusing. So it will remain as two handicap in front of each building.

MR. WEISS: Well the second part of the police report talks about on page 8 they've asked you to decrease the curbing height at the entrance of the easement.

MR. ZELINA: I'm sorry read it.

MR. BUCZYNSKI: Decrease the curbing height at the entrance of the intersection.

MR. ZELINA: Oh that's fine.

MR. WEISS: And then page 49 of 56 says asking to change all pedestrian signs from the RMJ9-9A yield for pedestrians to R1-6A stop for pedestrians.

MR. VAN NESS: The signs have to say stop for pedestrians instead of yield.

MR. ZELINA: We'll certainly comply with the law.

MR. WEISS: That resolves the police report.

MR. BUCZYNSKI: One more issue while we have everybody here today I know Dr. Keller might have some items too. The town has a problem with the Flanders water system relative to the firm capacity and we're looking to put in another well. And one of the possibilities is to convert the well that's on their site from a non-community well to a town municipal well. I just want to know how can we get permission to get a hydro geologist to at least go in and look at that well. Do we need permission from the owners?

MR. ZELINA: Yes.

MR. BUCZYNSKI: Can we get that? Could you tell us who to advise and we go in there we'd be glad to tell them we're going in?

MR. ZELINA: Those are representatives that (inaudible) for the property owners (inaudible).

MR. BUCZYNSKI: (Inaudible).

MR. KEMPH: The answer is yes.

MR. ZELINA: The answer is yes.

MR. BUCZYNSKI: Okay who do we contact? Should we go through you?

MR. ZELINA: You can go through me yeah.

MR. BUCZYNSKI: Okay you got it.

MR. ZELINA: We'll make the appropriate arrangements.

MR. BUCZYNSKI: Thank you.

MR. ZELINA: Now there's one other issue that is in the resolution of approval that we want to discuss this evening. It goes back and I didn't mean to save Mr. Keller for last but it doesn't appear in any reports. Okay there was an item in the conditions of the resolution approval item P, it said that both wet ponds shall include a mix of formal and informal edges and the applicant shall incorporate the aquatic benches as suggested by the Board's environmental consultant to the extent that it is not negate the existing DEP permits. During the course of the original discussion or original application there were some discussions with Mr. Keller and the Board about how that had occurred on other projects about changing the standard side slope or side detail that's of the detention basins. Right now they provide for a slope, a safety ledge above the water level another slope and then a safety ledge below the water level in accordance with the DEP requirements. We just obtained our DEP permits from . . . just within the last ten days. That process was very, very time consuming and difficult and we do not desire to go back to them to change what is their standard detail for the side slope of a detention basin. These basins will be owned and maintained by a private entity and we'd like relief from this requirement of the original resolution approval to leave the basins as designed and not provide for the additional grading and planting associated with the informal edges that Dr. Keller had recommended previously. That's it.

MR. WEISS: Dr. Keller do you want to respond?

DR. KELLER: Yes I would. I think that looking down the row here I think there are perhaps four Board members who were on the Board at the time that the original resolution for preliminary approval was passed. And so I'm not going to assume that either the four Board members originally here or the new Board members know very much about aquatic emergent plantings along the edge of ponds. In my opinion the reasons for including that condition in the original approval haven't changed. They were good sound environmental reasons related to a number of issues which I'll get into in a minute. And with regard to the difficulty of changing them I have written confirmation from Mada Guru from DEP from 2007 that changing the design as the current DEP standard in their design manual could be, would be approved by DEP. The, and I'm sure Mark will correct me if I mis-speak on any of these issues but the current design, the standard DEP design, and with all due respect to the engineers in the room, is a highly engineered design. And the safety bench that's out of the water is a flat area above the water; in this case it's 2 feet above the elevation of the water. A three to one slope passes through the water is 2 feet down that slope, another 2 feet under the water is another flat bench that's called a safety bench. Two feet is an awfully deep amount of water for someone to accidentally fall into. In addition as the design is proposed in this application that slope is to be covered by rocks which again in my opinion is not nearly as safe as the alternate design that we're proposing here. The alternate design

has a safety bench closer to the elevation of the water, it has a lower lip to get into the water and it has an extended very shallow grade that goes out to where the pond then drops off to deeper water. It actually from an engineering standpoint would create additional freeboard and additional storage at a lower elevation because there's more open area adjacent to the water. I didn't plan on this but I bring props. This is a detail of what the naturalized aquatic edge would look like. The safety bench is here, there's a shallow lip adjacent and then this what's in ecology called a literal shelf with a gradual slope and then sloping off into the deeper water of the pond. And different types of aquatic emergent plants are planted along that that are adapted to different depths of water. So aesthetically . . .

MS. COFONI: First of all we have a break we're going to go ahead and we'll make a copy of that and mark that B-1, is there a title on there?

MR. BUCZYNSKI: Aquatic bench detail one.

DR. KELLER: There are also undated photographs of the type of aquatic bench that's proposed and is covered by the resolution, these photographs were taken at Hershey Foods World Headquarters in Hersey. This was constructed more than 20 years ago. There are also some additional photographs from a project in Bucks County in Pennsylvania it's a burb in Philadelphia that show the types of naturalized edge that would be created here.

MR. WEISS: But before you continue Dr. Keller we're going to mark those photographs as a bunch B-2.

DR. KELLER: Yes.

MR. WEISS: And there's a series of four pictures?

DR. KELLER: There are two pages and eight pictures not all of the pictures are of ponds but seven of them are.

MS. COFONI: And those are from Hershey . . .

DR. KELLER: Hershey Foods Corporation and Buyers Choice in Chalfont, PA. Hershey of course is in Hershey, PA. Just to go through a list of some of the benefits of the alternate design as opposed to the highly engineered standard DEP design the aquatic plantings provide for additional water quality attenuation which was a goal of the project given that we're putting in a high density residential development. So the aquatic plantings help assist in removal of some pollutants from the water column prior to discharge to Drakesbrook. I've already eluded to the safer, what I feel as a safer design because of the removal of this 4 foot long three to one slope and plus we wouldn't in the case of the areas that had aquatic emergents you would use rip rap as the edge. Aesthetics is a very personal thing but many people would find the inclusion of plant material with different bloomfinology a lot of these wetland edge plants that go at the edge of a pond and some of the aquatic emergent plants bloom and have very attractive flowers during the growing season. That type of edge provides an additional level of goose control. Geese are evolutionary tundra nesting birds and the tundra is low vegetation with long sight lines and bodies of open water. And with ponds in residential developments and certainly everyone is aware of what goes on at the golf course, you have an open body of water the geese land and they haul out on land and they're grazers and so they graze on the golf course and other mode areas. The inclusion of the aquatic emergents provides vegetation that grows just about to the height of the head of a goose. So if you think like a goose, and I do that occasionally, then it's been shown that if you cut down the sight lines of geese to less than 30 feet they become very nervous. They're main predators on the tundra are wolves and arctic foxes and by cutting down their sight lines they don't know where the doggies are basically. And so the idea of cutting down sight lines but people can see over the vegetation and see and appreciate the water but the geese can't . . . plus there's a fiscal barrier created by the aquatic emergents that keeps the geese in the pond and not hauling out. So I'm not saying there won't be geese on the property but they'll tend to stay in the water and they'll tend to roost on the water overnight because that's how they avoid predators. Certainly the larger pond which is located at the southwestern corner of the project is surrounded by the proposed open space. And so naturalizing this pond would seem to be in keeping with that open space area and increasing the habitat value at that portion. But in addition the pond with the aquascaping as I'll call it increases the aesthetic value but it also increases opportunities for passive recreation. Desirable water fowl, lots of types of ducks will use these areas. Wading birds this shallow near shore areas is terrific nursery habitat for fish, and amphibians and things like great blue herons, great egrets, the large white birds will come in and use these areas. And lastly numerous studies and there are more studies being done all the time, have shown that naturalized ponds like this actually increase property values. People want to live close to

these as opposed to a highly engineered pond. And so I would submit to the owners that by spending this they think it's going to cost additional money at the outset I can't affirm or deny that, but designing the pond and executing the construction of the pond in this manner will . . . has been demonstrated that property values will increase and people like to be residents in areas such as this. My understanding is the homeowner's association is going to take control of these ponds and it would be at their option to provide access to residents to the water both for viewing opportunities and we had discussed during the preliminary approval process that the pond, what you're creating here is an ecosystem. Even if you didn't put any plants in it or landscape along the edges of it you would still be creating an ecosystem and the idea of adding the aquatic emergent plants to it and ultimately a fish community to go with it is that you're completing that ecosystem. And if you don't things will colonize that you may not be interesting in having in the pond. But typically what's done is the first growing season you'll let the plants get established, the second growing season you introduce a bait fish and there are lots of native bait fish that can be introduced at very low cost, and then give them a little bit of a head start and then add something like largemouth bass as a top predator. Now you've created fishing opportunities for people, the adult community that's living there. So these last two details that I have there's actually a cross sectional detail and a plan view one is labeled Figure 1 plan of Shoreline Buffer and the second one is Figure 1A – Sections of Shoreline Buffer and they both have what's called Maze Access. And if this gets back to the idea of your providing access for people to get to the water but prevent geese from using the same paths. The paths are curvilinear through meadow high vegetation and so the goose's sight line is only 15 feet but people can see over it and walk a curvilinear path to get to a deck or quarry stone edge but some type of edge that provides access directly to the water for people.

MR. WEISS: Tiena how are we going to mark the Shoreline Buffer was B-3?

MS. COFONI: Figure 1 is B-3 and Figure 1A is B-4.

MR. WEISS: I'm sure we have a lot of questions about what Dr. Keller just explained to us.

MR. FLEISCHNER: I just want to say many meetings we have said let's go with what our experts say, I'm with you Dr. Keller.

MR. ZELINA: Well if I may before we have further discussion. I have two other issues. Could we take a five minute break?

MR. WEISS: That's a good idea. Its 9:00 we'll be back at 9:05.

(FIVE MINUTE BREAK TAKEN)

MR. WEISS: We last left with a presentation by Dr. Keller and I think Mark you were about ready to tell us how happy you were.

MR. ZELINA: Well I have the utmost respect for Dr. Keller and what he's saying and it looks great out in the middle of an expanse of open space like Hershey Corporate Headquarters and the likes. However none of our basins is in the middle and at the back of . . . surrounded by residential lots, manicured lawns and the like and I don't think the natural enhancement would be necessarily a lot that we're trying to achieve at the backs of these ponds. Now aesthetics aside let me tell you what one of our other problems are and Jeff if I may, you talked about the construction of these shelves would expand the storage volume by extending this 1 foot deep area of the pond out to beyond the limits of the ponds where they are today right? We're very limited in the physical space we have to expand the ponds beyond where they are today. And one is behind the clubhouse we're pretty tight in the way we surrounded that pond with the residential units themselves and in the back pond we're constrained by the wetlands and other environmental constraints. There is an alternative which you could construct these things by bringing them into the inside of the pond. Like changing the construction of the pond beneath the water surface right? By extending the shelves underneath the water . . . we have a situation here where all of the irrigation of the home sites on this will be done from the water in these ponds. We've gone through a lot of back and forth with a lot of experts as it relates how to irrigate this . . . as a matter of fact our whole water permit for the DEP is predicated on us not using potable water to irrigate the lawns of this development. So what Mr. Keller is saying is great by itself but the impacts as it relates to this development and the volume of water I have in these ponds I cannot go back to the DEP and reduce the volume of water of these ponds and maintain not just my permits associated with the ponds but my potable water permits because how it effects the irrigation of the potable water system as well. So that's one thing that I also ask you to consider not just the aesthetics and the appeal to have an aquatic bench. Because by itself it does make sense. I don't have the ability to expand above I don't have the ability to contract below so that's an issue which really affects the design of our development,

our ability to get any additional permits for this. Secondly just a more practical straight forward matter, and I know some people don't want to hear it, the whole project has been designed in accordance with all of the engineering standards that are provided for in the township's ordinance as well as the DEP manual. So it's not like by us not putting in the benches that are being requested that we're doing anything wrong, what we're not doing is doing the . . . going above and beyond and doing something which in certain instances it is appealing. In this since it's behind our units I don't think it is I don't agree but because what I've discussed with the Board we're asking for relief from Mr. Keller's recommendation that had been provided for in the original resolution of approval.

DR. KELLER: Response?

MR. WEISS: Sure Jeff go ahead.

DR. KELLER: Mark if you recall when we talked about the pond at the clubhouse I don't disagree that that's a more formal and restricted setting and I have in my notes from a meeting that we had back in 2010 that on that pond the benches would be very limited. That they would only be used as small areas to accent portions of the pond. So I fully appreciate that's a very restricted area and that maybe aesthetically it's not in keeping with what you're looking for in that area. With regard to your last point . . .

MR. ZELINA: My ability to reduce any storage volume in the ponds is restricted by my permits to use all this volume of water for my irrigation for the lots. And then I don't have the ability to do it above the water elevation because of the constraints that we have above. So while not saying your comments are bad in the least I'm saying in this specific instance and application we have . . .

DR. KELLER: At that point I would fall back on the fact that the applicant agreed to do this and it's a condition of the original approval and that should have been considered at the time.

MR. ZELINA: And we're back before you with an amended preliminary and I'm asking for relief and with all of the things that we both said. And consider everything that you know the project in total not just this one item but everything else that we're doing and have been asked to do above and beyond what's in the ordinances. You know this is something that we're very against doing.

MR. WEISS: Okay. Nelson?

MR. RUSSELL: Could you make the pond deeper?

DR. KELLER: It's already 18 isn't it?

MR. ZELINA: Yes.

MR. WEISS: Is that the maximum depth?

MR. ZELINA: It's not the maximum depth but then again these are lined ponds so there's other considerations as it relates to cost, excavation we already have an excess of materials so increasing the depth of the ponds creates other problems that we prefer not to do. We evaluate that as an option to what we're doing.

MR. WEISS: Well I think we should try to get some opinions from the Planning Board. I'm sorry?

MS. COFONI: May I?

MR. WEISS: Sure.

MS. COFONI: I just asked Dr. Keller given your comments and his, and I don't have any idea obviously whether this would be okay with you but what about doing it with, and I don't know the proper terminology the NJDEP standard pond for the one by the clubhouse and the other way for the one in the back. Like Dr. Keller asked for the one in the back.

MR. ZELINA: Well I don't know if I can again because of the constraints we just talked about in terms of you know how do I construct these without either reducing the water volume in the pond or enlarging the surface area of the pond. I don't know that I can so my request to the Board remains can we . . .

DR. KELLER: What type of draw down are you looking at in the ponds to provide irrigation? Don't you have a 300 gallon a minute well?

MR. ZELINA: No.

DR. KELLER: That you're drawing from?

MR. ZELINA: No. No that well is on the open space property that will be dedicated to the municipality. And our permits do not permit because of the groundwater concerns and aquifer concerns in this area we're not even able to get more groundwater by additional wells here. We're limited to less than 100,000 gallons per day for make up wells to maintain the water at level in these ponds. So once we draw down for our irrigation system we do have two small wells one at each pond which we can withdraw water from the groundwater to make up the elevation in the ponds but we're restricted to less than 100,000 gallons per day by the DEP permitting. And we've had extensive discussion, well as it relates to all of our water permits I can't tell you how long that took and what was involved with that as well. This has critical aquifers and so on and so forth so we've done everything we can I think to blend all of the requirements of what we're faced with on this site and this project to present what we feel is a very good project for what will be the homeowners here as well as the municipality as it's currently designed.

MS. COFONI: That was my suggestion.

MR. ZELINA: Thank you.

MR. WEISS: Okay let's hear some opinions from the Planning Board. Dan?

MR. NELSEN: I'm kind of thinking along the same lines as Tiena and Dr. Keller. Perhaps relief behind the clubhouse pond, relief for that pond but I'd still like to see Dr. Keller's way done on the one to the north of the property. If you had to go a little deeper with 2 feet would a 10 foot deep pond give you the volume you needed? I don't know how much of an impact . . .

MR. ZELINA: Well I have no issues with that that closer to the stream because of the groundwater table there and also like I said the added expense of the excavation excess material and the additional liner, but the idea there I have a shallower ground water table so additional excavation might create problems with the application.

MR. NELSEN: Even with the liner.

MR. ZELINA: Well then I have a very wet excavation to take the additional 2 feet in depth, that's one of my issues. What we're doing is keeping adding more and more cost to this project and like I said the project is supporting a lot of improvements. And I know it was put in place long before we got here but unfortunately we're at the point in time today where we have to . . . we're dealing with today rather than what was decided four or five, six years ago so we're here trying to make a project that can be built and built to the benefit of everyone sitting in this room. Except Mr. Keller.

MR. NELSEN: Just a little horse trading maybe.

MR. ZELINA: I understand.

MR. BUCZYNSKI: Mr. Zelina I know you mentioned a lot of limitations you had relative to because of the irrigation and what not, you're going to have to go back to the DEP if in fact this is what we want you to do correct?

MR. ZELINA: That is correct.

MR. BUCZYNSKI: I think the Board if I'm feeling them right they're going to probably want to go with the . . . because they usually go with the professionals recommendations, is I think it still would have to be subject to getting approval from the DEP and if those limitations are really real and valid then the DEP might say you can't do this. So it would have to be subject to DEP but if the DEP approves it and if that's what the Board wants I'm not sure where you're going to go with this. If there's definite limitations then when the DEP sees the revised design maybe they won't . . . are you saying they won't approve it?

MR. ZELINA: Well . . .

MR. BUCZYNSKI: Your not are you?

MR. ZELINA: I can't speak for the DEP.

MR. BUCZYNSKI: Okay so I think if the Board wants to go that route I think . . .

MR. ZELINA: Gene how much time is involved with that like we don't have 45 days to address a homeowner concern here but to go to the DEP, and there's no time limit on getting their response.

MR. BUCZYNSKI: I know, I know. Well then state the concern you have too regarding timing of the approval.

DR. KELLER: The larger pond is not to be built until Phase II though is it?

MR. ZELINA: That is correct. That's true Mr. Maser brings up a good point I need to have . . . we need to have all of the approvals in place before we go forward with a deal with any developer right now. That would be an open thing that would put this . . . any current deals we have and discussions at risk.

MR. WEISS: Tiena?

MS. COFONI: Mr. Zelina the, and I apologize because I really don't know the names of all of the different permits that you need from the DEP, but whatever permits you needed with regard to these ponds you already have them right?

MR. ZELINA: Yes.

MS. COFONI: When did you obtain them?

MR. ZELINA: About 10 days ago.

MS. COFONI: You didn't have any permits years ago when this was originally approved?

MR. ZELINA: No we did not.

MR. BUCZYNSKI: They've been dealing with the DEP a long time regarding the wetland permits.

MR. ZELINA: And that's the issue, rather than like the sanitary sewer which is a 90 day permit they have to react within 90 days, the wetland permits are open ended.

MS. COFONI: So if this resolution was in effect in 2011 why didn't you include that when you went to DEP?

MR. ZELINA: Because the intent at the time and I think the way it was worded is that it was very important for us to get the permits from the DEP which the plans are done in accordance with their design criteria and standards. The intent was that once those were obtained we'd approach the DEP to amend that approval with this ultimate design. However because a lot of things have transpired at the time we weren't aware what we were up against with the irrigation and the permits associated with potable water permits and we're to the point where also the financial obligations also have a much more critical role to the development of this project. So it's not just one or two things it's a whole combination of things which we're looking at.

MS. COFONI: Okay thank you.

MR. WEISS: Okay Nelson?

MR. RUSSELL: I'm sure if you requested it Dr. Keller would give you a copy of that letter he referred to earlier that the DEP would approve (inaudible).

DR. KELLER: From Mada Guru in 2007.

MR. ZELINA: Oh I don't doubt that and like I said what he's saying in certain instances is good but I don't have the ability because of the constraints on the site to make these ponds wider to accommodate a shelf for this plant material, I don't have the ability to reduce the size of the ponds beneath the water surface to accommodate these shelves. There are circumstances separate and apart from just the request standing on its own. Standing on its own merit sitting here you know we sat here a couple of years ago saying we would attempt to do this, we've learned a lot since then. A lot of it has to do with dealing with the DEP and what it took to get the permits for this for this whole project. Not only the environmental permits but the potable water permits in what was involved with all of the irrigation consultants we had to consult with to do an irrigation design, the volume of water there's so many things tied to it that it's not just changing a shelf in a basin now we have to go back and start changing the designs and evaluate the designs of the irrigation system. Now we're talking about costs that just, above and beyond buying plants for the shelf.

MR. BUCZYNSKI: In regards to (inaudible) if you could add too, in regard to irrigation system they would not have gotten a potable water permit unless they made the requirement . . . the DEP stipulated that they could not use their water systems to provide irrigation to the property. They would have to find another means for irrigation, that's where they went back into the pond.

MR. FLEISCHNER: Maybe the project shouldn't have been built to considered to be even built from the beginning.

MR. BUCZYNSKI: It's been approved.

MR. FLEISCHNER: No I understand that. I understand that but you know there's other issues in that you know where I live on my side of the town we worry about how much water is taking out of the ground in Flanders because it sucks the water out from the other end of town. And everybody is on wells up there we don't have a city water system. So the more water you take out of the ground is more water that we have less for our wells. So I mean you know I know our Governor doesn't think the Highlands is so great but let me tell you he should live up here instead of Mendham and then he would. So you know maybe this isn't meant to be.

MR. ZELINA: Well Mr. Fleischner some would argue that with the water we're taking out of the ground we're putting it back into the ground via a sprinkler system. The ponds are also supplemented by the stormwater which we're collecting into the ponds which prevents downstream flooding so we can't decide any one issue without looking at the whole issue here.

MR. FLEISCHNER: And I understand, I fully understand.

MR. ZELINA: And I think if we look at the whole picture here I think the Board can understand where we're coming from. I would hope that the Board can understand where we're coming from.

MR. WEISS: Scott I think you had a comment earlier?

MR. VAN NESS: No.

MR. WEISS: Brian anything? Obviously we're looking for some direction.

MR. VAN NESS: Well all right if I may.

MR. WEISS: Please.

MR. VAN NESS: The ponds that you have today that you're proposing they are designed and approved by the Department of Environmental Protection is that correct?

MR. ZELINA: That is correct.

MR. VAN NESS: And you were aware from the beginning that the pond that was desired by the township was one of these fancy plant ones.

MR. ZELINA: That is correct.

MR. VAN NESS: Did you approach the DEP with that original fancy plant one or did you just go right ahead and do what you have?

MR. ZELINA: We went ahead and designed it in accordance with their standards, the DEP standards.

MR. VAN NESS: So you ignored the original discussion altogether as far as the ponds go and just went with what you thought the DEP would approve.

MR. ZELINA: Well what we knew was the rules and regulations promulgated by the DEP at the time.

MR. VAN NESS: Understood.

MR. ZELINA: That's as far as we went at that time.

MR. VAN NESS: But back tracking to the original approval the original approval said the emergent aquatic floppy plants at the edge of the pond . . .

MR. ZELINA: Very aesthetic.

MR. VAN NESS: Yeah so I guess my question is, you know what I get the one by the clubhouse I get that that it's enclosed and its going to be bordered by homes and the building and so on I get why that's designed in the way it is. But I don't quite understand why knowing what the resolution has said in the past why you didn't go to DEP with the pond designed in that manner. That's I guess is what I don't understand why that wasn't done. Other than just going for an approval and hoping that you can just get approved by us.

MR. ZELINA: It was never our

MR. VAN NESS: I don't even know if that's a question or even just a statement.

MR. ZELINA: It was never our intention not to comply with the original resolution approval. Unfortunately we've learned some additional things since then that prohibit us or lead us to ask for the relief from that original requirement.

MR. VAN NESS: Did you mention it to the township along the way that you were having a problem meeting the criteria set forth in the resolution before we got here today? Did you meet with any of our professionals to say we have a problem with this where can we go, what can we do do we have to come back here and discuss it further I guess that's why we're here today. But you know was there any steps taken to try to remedy this before you got to the stage here today where you want an all yes or an all no you know that's

MR. ZELINA: Specifically no.

MR. VAN NESS: Due diligence I think is what I'm looking for.

MR. KOROSKI: I'm sorry could you just, what's again the cause for you asking for the relief now? Is it based on cost or where do we go?

MR. ZELINA: The first part of it is the outright constructability our ability to construct it. The redesign of these . . . the ponds to where we got to today it's a lot of different steps took place. You know it started out with the wetlands and then the wetlands buffers and then the stormwater management. So as these things progressed at the time when we were here before the Board we said we could probably accommodate Mr. Keller's request and it didn't seem unreasonable at the time now fast forward you know a couple of years from now, now we've also been involved with the DEP as it relates to our potable water permits and our inability to use all of the potable water for irrigation of the lawns. So what has to happen is while we always anticipated in using the ponds to supplement the irrigation system in the residential areas, now we have to rely solely on those ponds for the residential area. The volume of water in those ponds provides for water quality, satisfies the requirements for water quality with the DEP and the volume of water in the pond will also be counted upon for the irrigation of the residential areas of the lot. So the DEP has now recognized the amount of water in these ponds serves two very critical purposes to us. To implement the benches that Dr. Keller is talking about we would have to find a way, and I don't know what it is sitting here how we could expand the surface area of the ponds to make these additional benches or ledges whatever around the edges of the ponds because I can't expand into the wetland areas. We now have our permits for the wetlands, buffers and everything else around that which is the pond to the south. The one in the middle again

we're just outright we prefer not to do it because of aesthetics and the water (inaudible) thing. If I were to go to the DEP and approach them if I wanted to redesign it today I'm not just getting a permit for my stormwater management system, now I have to think about how that impacts my potable water permit which is affected by the irrigation demands, etc., etc. It becomes much more complicated than we thought it was when we sat here before you several years ago. So if we had to do this this project . . . I don't know what delay it would cost to take to the project. We're in a position now where we're trying to wrap up our final approval and to go and battle with the DEP for this additional change again by itself is one thing but all of these different things that I'm talking about here just makes it very bad for us to do and we're asking the Board for relief on this at this point in time.

MR. WEISS: Brian?

MR. SCHAECHTER: I've got a quick question. When did you design the irrigation system?

MR. ZELINA: Over the course of the last two years.

MR. SCHAECHTER: So over the last two years you just went to the DEP with their standard design pond knowing that you already had the irrigation system so that just designing the ponds . . .

MR. ZELINA: The pond design was done well before the irrigation system. And understand the ponds were designed in accordance with all of the recommended criteria standards, ordinance requirements, residential site improvement standards as well as DEP's design manual. Which Mr. Keller admitted to.

MR. SCHAECHTER: You had Dr. Keller's opinion on that before you designed the irrigation system.

MR. ZELINA: Before we had the irrigation system designed?

MR. SCHAECHTER: Before you designed the irrigation system.

MR. ZELINA: We had his recommendation yes.

MR. SCHAECHTER: And you decided to go and utilize a pond that was different.

MR. ZELINA: That pond was . . . understand the approval process; we've had an application before the DEP for various aspects of this project for well over four years.

MR. SCHAECHTER: But you went in front of the DEP 11 days ago.

MR. ZELINA: Our permit.

MR. BUCZYNSKI: Well there's a different permit to you've got to tie the irrigation system into the water supply permit.

MR. ZELINA: Right.

MR. BUCZYNSKI: That's when you really found out, that's when they put the restrictions relative to the irrigation.

MR. ZELINA: That's correct.

MR. BUCZYNSKI: I'm not sure . . . I can look in the report, when did you get the water supply permit?

MR. ZELINA: Probably two years ago.

MR. BUCZYNSKI: On November 8, 2012.

MR. ZELINA: A little over two years ago. No not even.

MR. BUCZYNSKI: Not even.

MR. ZELINA: Well over a year ago.

MR. BUCZYNSKI: (inaudible) so that's when those restrictions were put into effect.

MR. ZELINA: So we're asking the Board, understand it's not a situation just saying no because we don't want to . . . I mean like I said I have the utmost respect for what he's saying but it's just it's a situation because of all of the other things associated with a requirement that is not bad and maybe good for the project but is not required by anything other than . . .

MR. VAN NESS: It's not required by anything other than a resolution that was passed and an ordinance that was approved by this Board some number of years ago. That's the problem we have today. I don't necessarily think that anybody is (inaudible) with what kind of pond you have I don't think any of us know the difference other than now that we know there's some fancy plants on the (inaudible) one. But the fact that you didn't follow the original ordinance is the problem I think that the Board is having right now. And that you didn't do the due diligence, not that you didn't but the do the due diligence to either make it work or come back to us and say we can't do it this way we need to change it. Okay that's why you're here today but this is years in the making. So you know I'm not necessarily going to vote no on the project because of the fact that we're not getting fancy plants because you do have the DEP approvals. But I think we have an issue on the fact that you didn't follow the original plan as approved by the Board. That's I think where your sticking point is right now. Your discussing all different ways in what you can and can't do and water levels and ground water and irrigation, I don't think it matters at this point I think it's a matter of the fact that you didn't follow what was approved.

MR. WEISS: I have an opinion similar to yours Scott and I agree and I think that when we look at the overall plan and the tremendous benefit to the township I think we have to take some of these feelings of annoyance, I guess that's probably what it is, and I think we need to put it in its content. And I think that Dr. Keller's plan is wonderful we invited him here for these reasons but I think we have to look at the overall plan and I'm not necessarily . . . I think that when we look at this pond it's tucked in the corner, it's surrounded by wetlands; it's not the front entrance of this community. I think with the variables that we're dealing with I think it might be wise for us to accept that the plan is approved by the DEP it's not what we wanted but there's got to be a compromise somewhere. And we could be here all night discussing, well I'm annoyed that it's not what Dr. Keller said, it's not what the resolution says but I think there's enough benefit to this plan to outweigh this small annoyance. And I think we've got to move forward one way or the other. Dan?

MR. NELSEN: The second pond is Phase II?

MR. ZELINA: Yes it is.

MR. NELSEN: So would it delay your beginning the project?

MR. ZELINA: Yes.

MR. WEISS: I'm sure because it's an overall water management plan correct?

MR. ZELINA: It's very important to any . . .

MR. FLEISCHNER: Mr. Chairman this is where you and I get to disagree.

MR. WEISS: I'm not surprised.

MR. FLEISCHNER: Okay. You keep saying it's a benefit to the town, okay you're going to fix the intersection with the traffic light that eventually might get built in about 20 years, and I'm being sarcastic I apologize.

MR. ZELINA: I understand.

MR. FLEISCHNER: And of course all of these wonderful houses and I've even thought hey it would be a great place to live, and they're going to pay a lot of taxes but other than if this was not built at all okay would this be a detriment to the town? No it wouldn't. It wouldn't. Because I mean I've heard . . . I've lived in this town 40 years, John has lived in this town longer than me and we've heard a lot of great benefits to this township and let me tell you they didn't turn out to be such great benefits. Because after this thing is developed and you guys are gone we're going to be left with whatever is there. So you know I have to disagree from the standpoint of saying it's a benefit, it is maybe but it also may not be a benefit.

MR. WEISS: But Joe I think you've omitted the largest benefit which is the 57 units of COAH housing.

MR. MANIA: Which meets our obligation by the way.

MR. WEISS: We could bring Chuck in on the conversation but I think the township is greatly in need of these units. And we didn't talk about what we all believe is an improvement to the drainage that's currently there. I don't think that when he leaves it's going to leave us a worse place because there's not a shelf as Dr. Keller explained to us it's a detention basin that meets the standards. So we're not at a disadvantage.

MR. FLEISCHNER: Okay but let's go back to COAH, COAH is so out of control at this point Chuck we've got the Governor arguing on one point we've got a Supreme Court saying one thing, nobody knows what the hell COAH is going happen with this. So to say it benefits us for COAH I've been hearing benefits for COAH for the last 11 years and we're still no better or no worse than we were before. So this COAH thing is like you know we need to move past it already.

MR. ZELINA: But they are 57 affordable houses.

MR. FLEISCHNER: I understand that and that's fine and in Morris County you can earn like \$65,000 and live there because it's an expensive county to live in. I don't think that really it's benefit or worse I agree with Dr. Keller I think the more we can do to save our environment and I think what you guys are doing by giving all of the open space right away I think is awesome. What's going to be used with that open space beats the hell out me because it's not as . . . people don't use it as much as everybody thinks they do. But the reality comes down to if we don't let you do what you're doing this won't happen it's not going to happen for a long time. Because we do know DEP just like with the Rosewood Ditch the DEP comes and looks at it, where have they been all of these years. I don't like it but I agree with what Scott has said you should have like right from the beginning in all honesty said to them this is not what our design is. You should have done that and you didn't do that and I have a problem with that but I too don't think I'm going to say well you can't go forward with the project.

MR. ZELINA: Just understand that it wasn't out of ignoring that comment we had anticipated obtaining our initial permits from the DEP many many months before now. Had we done that we would have certainly been before you with the ultimate design. Unfortunately we've learned about a lot of other things that came about . . . I'm just reiterating myself right now.

MR. FLEISCHNER: It's New Jersey that's why people are leaving they're not saving.

MR. WEISS: Dan?

MR. NELSEN: One more question for Dr. Keller is there anything else we can introduce in this ecosystem to discourage the geese? Like snapping turtles or alligators turtles or maybe reintroduce the wolf or something?

DR. KELLER: This pond at least the southern one with its adjacency to the stream will follow the rules of if you build it they will come. I will venture that there's a high probability that within three to five years you will have snapping turtles in that pond and they will take some of the goslings that swim across the surface. That's the way nature works.

MR. NELSEN: No on the wolves?

DR. KELLER: Probably not on the wolves, coyotes yes.

MR. ZELINA: One minor point you know we've also had to at the recommendations of some other people, we've provided for filtration inserts in some of these catch basins and inlets it's not like we were turning our nose away from everything that Dr. Keller has recommended or anyone else through the process. What may be forgotten is in certain specified inlets we've provided for additional treatment of the water entering into these ponds by virtue of these inserts into catch basins to filter the water. Which again is above and beyond the ordinance requirements, I leave it at that. So we're not just sitting here plain ignoring and not doing anything we have provided . . . we went above and beyond as it is.

MR. NELSEN: Those will be maintained by the Homeowner's Association?

MR. ZELINA: Yes sir.

MR. WEISS: So we need to move this forward and I think we've heard arguments on both sides and I think in an effort to go forward and to encourage forward progress on the ultimate vote tonight I'm going to suggest that we grant the waiver from the resolution and the Planning Board can vote accordingly.

MR. VAN NESS: I just want to beat them up just for another minute.

MR. WEISS: Okay but before you do because I'm not disagreeing with you I wish that they would have done it the way Dr. Keller said but I want to move this forward. I think as we go forward, and we're not ready to vote yet but when we do I want us to consider that part of this application is a waiver from Item number . . .

MS. COFONI: Condition P.

MR. WEISS: Condition P of the resolution and that's how we're going to address it from this point forward. Scott he's all yours.

MR. VAN NESS: What is the most important thing that has been pointed out to your organization from the beginning? Water, whether it be for a source of drinking, or drainage or irrigation or anything else, water the most important thing to anybody in this room at least sitting behind you has been something to do with water. And you know like I had mentioned before I'm not swayed in any one direction or the other because of the design of your pond but I expected due diligence from your organization and you didn't do it so I'm going to expect it in the future too should this be granted. I have more but I'll stop now.

MR. WEISS: Okay let's move on. Mr. Kempf is there anything else?

MR. KEMPH: Mr. Chairman I think we are finished.

MR. WEISS: Okay do we have any other comments? Before I go back to the Planning Board let me open it to the public. Is there anybody in the public has any comments based on any aspect of this application that was discussed tonight? Seeing none we'll close it to the public. And with that Planning Board is there any conversation, professionals Chuck, Gene, Dr. Keller?

MR. BUCZYNSKI: No I'm fine at this point.

MR. WEISS: Tiena? Okay seeing none I will then entertain a motion.

MR. MANIA: Mr. Chairman I'll make that motion.

MR. WEISS: Thank you Mr. Mania what is that?

MR. MANIA: I move for approval of PB 13-30 Mt. MC LLC final major subdivision and final site plan.

MR. WEISS: Thank you is there a second?

MR. NELSEN: Second.

MR. WEISS: Thank you very much. Comments? I guess if there's comments you certainly can also say as we roll call. Catherine?

MS. NATAFALUSY: Is this with granting a waiver from the resolution?

MR. WEISS: Wait a second, wait a second. Part of what we talked about as the testimony was that the Planning Board has made the decision that we are going to grant the waiver from Section P.

MR. MCGROARTY: Well Mr. Chairman just if I may and I don't mean to interrupt. You probably wouldn't want to say waiver because that's . . . to confuse it with the ordinance that you're changing the condition.

MS. TIENA: Modification to the condition. Is that part of your motion?

MR. MANIA: Yes.

MR. WEISS: And second?

MR. NELSEN: Second.

MR. WEISS: Okay are we clear?

MS. TIENA: Yes.

MR. WEISS: Thank you Chuck. Okay Catherine?

MS. NATAFALUSY: Are we going to say any comments, conditions?

MR. WEISS: No comments but I certainly left it open so they can comment on the voting if we'd like.

MS. NATAFALUSY: Okay. Joe Fleischner.

MR. FLEISCHNER: I think I will make a comment. You know I understand it's a business, everything is a business and it all comes down to dollars and cents. Sometimes there has to be something more than dollars and cents and that's what concerns me. I know my little bugaboo is the traffic light concerns, and my concern is that traffic light is not there and somebody is injured there's a little child in that car because there are a lot of kids that live in that area I'm going to feel terrible about that. Because I know that something could have been done. Now not to say there are traffic lights and people go through traffic lights, that happens all of the time. But you know sometimes you have to say when do we stop, when do we say . . . when does somebody stand up. And you know what I just can't vote yes. I'm going to vote no, sorry. I vote no.

MS. NATAFALSUSY:	Judy Johnson	- yes
	David Koptyra	- yes
	John Mania	- yes
	Dan Nelsen	- yes
	Nelson Russell	-

MR. RUSSELL: I'm upset that we're not following Dr. Keller's recommendations I think they can make the pond deeper and still be able to do it. I'm also upset that we're not moving the traffic light in the beginning of Phase II and like Joe I'm going to vote no.

MS. NATAFALUSY: Brian Schaechter -

MR. SCHAECHTER: I did miss a fair amount of testimony prior to me getting here so I'm going to abstain.

MS. NATAFALUSY:	Scott Van Ness	- yes
	Howie Weiss	- yes

MR. ZELINA: Thank you for everyone's input I appreciate it.

MR. WEISS: Gentlemen good luck.

MR. ZELINA: Thank you very much.

MR. KEMPH: Thank you.

MR. WEISS: At this point the public session of the meeting is closed and we're going to make a motion to go into executive session. At that point when we return there will be no more business we'll open back to the public and then simply adjourn our meeting.

MS. COFONI: Just for the record Mr. Chairman the closed session is going to be regarding litigation entitled ARD Mt. Olive Associates vs. Township of Mount Olive and the Township of Mount Olive Planning Board.

MR. WEISS: Perfect. I need a motion for us to go to closed session.

MR. FLEISCHNER: I move that we go into closed session.

MR. WEISS: Thank you Joe, second?

MR. SCHAECHTER: Second.

MR. WEISS: All in favor?

EVERYONE: Aye.

MR. WEISS: Anyone opposed? Looks like it's unanimous.

(CLOSED SESSION)

MR. WEISS: Planning Board is back in open session. Do I hear a motion?

MR. VAN NESS: Mr. Chair motion to adjourn please.

MR. WEISS: Scott thank you very much.

MR. SCHAECHTER: Second.

MR. WEISS: All in favor?

EVERYONE: Aye.

MR. WEISS: Anyone opposed? Good night.

(MEETING ADJOURNED AT 10:00 P.M.)

Transcribed by:
Lauren Perkins, Secretary
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