

TOWN OF WALLKILL PLANNING BOARD

MEETING

SEPTEMBER 19, 2007

MEMBERS PRESENT: G. Lake, W. Capozella, R. Carr, A. Dulgarian, C. Najac

MEMBERS ABSENT: T. Hamilton, H. Ross

OTHERS PRESENT: J. Bacon, D. McGoey

1. PUBLIC HEARING 7:30 P.M. - **FUENTES DAY CARE** - SITE PLAN/SPECIAL USE PERMIT - Rykowski Lane (60-1-96) #38-07

G. Lake: Public Hearing started at 7:30 P.M. M. Hunt read the Public Hearing notice.

M. Hunt: NOTICE IS HEREBY GIVEN that a PUBLIC HEARING of the Planning Board of the Town of Wallkill, Orange County, New York, will be held at the Town Hall at 99 Tower Drive, Building "A", Middletown, New York 10941 in said Town on the 19th day of September, 2007 at 7:30 P.M. or as soon thereafter as the matter can be heard that day on the application of BEL Land Development LLC of 18 Sawyers Peak Drive, Goshen, New York 10924 for approval of a proposed daycare center (60-1-96) to be located on Riverside Drive West of Rykowski Lane, under Section 249-40 of the Zoning Law of the Town of Wallkill. All parties of interest will be heard at said time and place. S/Gary Lake, Chairman

G. Lake: Your name for the record, please.

J. O'Rourke: My name is John O'Rourke with Lanc & Tully Engineers.

G. Lake: Give us a brief description of what's been done since the last time.

J. O'Rourke: Certainly. As the Board will remember this is a proposed day care center to be located on Riverside Drive off of Rykowski Lane. Riverside Drive is that short cul-de-sac off of Rykowski Lane and Crystal Run. It was previously in the M-I zoning district and it's been re-zoned to O-R, office/research and it still fits under that zoning. The proposed project is an eight thousand nine hundred square foot day care center. Basically taking children in from the ages six weeks to twelve years old, the after school program. Thirty two parking spaces, the maximum occupancy of ninety seven (97) students. The access is proposed off a one way entrance in to the drop off area for the children and parents and then there is a one way out. We have playground areas to the rear and to the side completely fenced in and a

solid fence across the front. We will be adding bollards at the request of the Fire Company to prevent any cars from driving through that fenced area. The stormwater retention is taken care of. We are here this evening for Site Plan and Special Use Permit approval.

G. Lake: Let me go through the Board before I go to the Public.

A. Dulgarian: After.

R. Carr: I will wait.

W. Capozella: After.

C. Najac: After.

G. Lake: Is there anyone from the Public who wishes to comment on this application?

MOTION to close this PUBLIC HEARING made by R. Carr and seconded by W. Capozella.

A. Dulgarian: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

G. Lake: Aye

MOTION CARRIED. 5 AYES

G. Lake: G. Lake: Do you have Mr. McGoey's comments?

J. O'Rourke: Yes we do.

G. Lake: Do you want to go over them?

J. O'Rourke: Certainly. We have no issues with any of them. The first comment requesting

a dumpster enclosure and to have the evergreen inserts, we have no problem with that. Comments from the Highway Department, I have not received any. It's a brand new road. D. McGoey: I haven't seen any at all.

J. O'Rourke: Comments #3 and #4 relates to the Town Landscape Architect. I would like to push those to the back and I will go through the rest of Mr. McGoey's comments.

G. Lake: Okay.

J. O'Rourke: Well, I did recently receive an E-Mail last week from the Landscape Architect. I have no concerns with her planning recommendations. She wanted a couple different types of trees, some additional bushes and sizing. I don't have any problem with any of those. On her site recommendations and this was discussed with the Board the last time I was here she was concerned that the building didn't relate well to the street. She wanted the building brought forward to the minimum setback line. Because it's a Day Care Center and the issue was security, that's why we indicated the building to be pushed back where it is.

G. Lake: Right. We did, I think the Board spent quite a bit of time on that issue at that time. I don't think the Board has changed their minds on that.

J. O'Rourke: She also had a comment about the parking lot lighting. We're not proposing any because the Day Care Center closes at about five o'clock. We have a couple of wall-packs, but we weren't proposing any lighting in the parking lot.

G. Lake: The wall-packs are on the building for security, you said?

J. O'Rourke: Yes. For the drop off area. And, she had also requested a sidewalk along the front within the Town right-of-way. Rykowski Lane, although, there are no sidewalks in the area. It is not a residential area. We do not expect pedestrians. We don't expect people to be walking here and realistically we would rather not have them walking in. With the cul-de-sac, we don't need sidewalks for the little stretch in this area.

G. Lake: Let me go through the Board to see what they have.

A. Dulgarian: First off, I think it's a pretty good use and fits in the corridor out there. It's a use that goes well with office buildings. There's one out that way now and that seems to be

working okay. I'm glad to see that the fence from the kids yards are coated, correct?

J. O'Rourke: Yes.

A. Dulgarian: The sidewalk for me is a little bit of a, I could go either way on that. I'm leaning towards, I don't believe it's needed there but I really hate to shy away from that because if it ends up being more offices and stuff, people can walk. The lighting issue, I think you do need to light that parking lot. Typically having had kids in this situation, people work until five o'clock, at least or after. It gets dark at four thirty. I think that's just a safety issue to have a couple lights out there. Other than that, I think it's a great project. I think it fits.

R. Carr: Yes. I mean, we had talked about having the building closer to the front. She also suggested to have a five foot landscaped area around the building.

J. O'Rourke: We have on the other side, she recommended five feet. We have a landscaped area in the front and along here. The only place we don't have it is basically in this area here. I don't know where else we could. You wouldn't want it between the drop off area under the canopy.

R. Carr: Where is the landscaping on the side?

J. O'Rourke: We're meeting your new regulations so we have extensive landscaping here and along this entire side. Along this entire side, also this median and in this area we have a landscaped area with a small creek proposed. Basically the only area that she's talking essentially is along here.

R. Carr: As far as the sidewalks, I don't know if we need it out there but on the other hand try and get it now kind of precludes us from ever having it. I feel we should get it now.

W. Capozella: I have to agree with Mr. Dulgarian about the lighting. It does get dark earlier. I would agree with the lighting. I like the idea of the parking lot to have some lighting. The sidewalk, unless I'm convinced otherwise, I don't know how we can one sidewalk out there and also other buildings in that area. I know we have to start somewhere but (not clear).

C. Najac: I agree with the rest of the Board. With regards to the sidewalk, people may be coming from other locations, parking nearby and walking to the site. Yes, you would be the

first, but if we don't start it will never start.

J. O'Rourke: Putting a sidewalk across the front of our property, it's not that far but it's not going to help walking back to our site. Rykowski Lane is just being accepted by the Town. It's been under construction for quite some time. There are a lot of other buildings in the area and none of them have sidewalks. We can put it in but it's not like it's in a City area.

C. Najac: Five years from now people may be walking from office buildings.

J. O'Rourke: Here is an idea. I'm just wondering if we put a note or something on the plan basically saying that at the direction of the Building Department at such time to be responsible to put in the sidewalk.

C. Najac: Or forming a Sidewalk District.

J. O'Rourke: Excuse me.

G. Lake: Forming a Sidewalk District.

J. Bacon: What does he want to do?

G. Lake: When the Building Department decides and, I say the comment to that is not to leave it to the Building Department. I think if we're going to ask somebody, and I'm for them myself. I know we've been asking for them a lot but out there right now where I see it happening at this point I don't think putting one there is going to help anything. But, when the time comes when I think it would be a lot easier to create a Sidewalk District.

J. Bacon: Yes. I also do.

G. Lake: And then, everybody has to and it would be something they would automatically do in this whole new district down here. Anything else, Mr. Najac?

C. Najac: No.

G. Lake: If we get the note on the map.

D. McGoey: Should we put a note on the plan that the property owner does not object to a Sidewalk District, if one is formed?

G. Lake: I think they should agree to it. As far as the lights in the parking lot goes, I think Mr. Dulgarian convinced me, there should be a couple out there.

J. O'Rourke: We will put some lighting out there and keep them.

G. Lake: As minimum as possible.

A. Dulgarian: And being able to shut them down when they're not in use.

J. O'Rourke: Yes, because we don't want to waste electricity.

G. Lake: If this Board has nothing else then

MOTION for a NEGATIVE DECLARATION subject to all of Mr. McGoey's comments and comments from this Board made by A. Dulgarian and seconded by C. Najac.

A. Dulgarian: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

G. Lake: Aye

MOTION CARRIED. 5 AYES

MOTION for SITE PLAN/SPECIAL USE PERMIT subject to all of Mr. McGoey's comments and comments from this Board made by A. Dulgarian and seconded by C. Najac.

A. Dulgarian: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

G. Lake: Aye

MOTION CARRIED. 5 AYES

2. PUBLIC HEARING 7:35 P.M. - **QUICKWAY #4** (Office Building) - Tower Drive (41-1-120) #28-00

G. Lake: Public Hearing started at 8:02 P.M. M. Hunt read the Public Hearing notice.

M. Hunt: NOTICE IS HEREBY GIVEN that a PUBLIC HEARING of the Planning Board of the Town of Wallkill, Orange County, New York will be held at the Town Hall at 99 Tower Drive, Building "A", Middletown, New York, in said Town on the 19th day of September, 2007 at 7:30 P.M. or as soon thereafter as the matter can be heard that day on the application of Albert Frassetto, 2 Park Way and Route 17 South, Upper Saddle River, New Jersey 07458 for Site Plan and Special Use Permit approval for a +/- 60,000 square foot office building located at Quickway Industrial Park, Site #4, located at Tower Drive, Middletown, New York, which premises are identified in the Town of Wallkill Tax Map as 41-1-120, which approvals are sought under Sections 249-13, 249-26.1, 249-38, and 249-40 of the Zoning Law of the Town of Wallkill. All parties of interest will be heard at said time and place. S/Gary Lake, Chairman

G. Lake: Your name for the record, please.

M. Blustein: My name is Michael Blustein with Blustein, Shapiro & Rich here for the applicant. With me is Mark Lukasik with Tectonic Engineering.

G. Lake: Go ahead. Before I open the Public Hearing just tell us where you are at this point.

M. Blustein: Right across the street from the Town Hall, the roadway that was put in we're proposing a 60,000 square foot office building on the lot right across the street in the new Town Center District.

G. Lake: Let me go through the Board.

A. Dulgarian: After.

R. Carr: I will wait.

W. Capozella: After.

C. Najac: After.

G. Lake: Is there anyone from the Public who wishes to comment on this application?

MOTION to close the PUBLIC HEARING at, let's not close it yet.

G. Lake: Do you have Mr. McGoey's comments?

M. Blustein: Yes we do.

G. Lake: Let's . . .

M. Blustein: I guess item #1 and #5 is on the traffic.

G. Lake: Do you want to go to item #6 then?

M. Lukasik: No. Item #1 and #5 we will hold for a moment. Item #2 refers to the easement.

M. Blustein: The retaining wall is going to be on the property line between this site and the site down below where the hotel is.

G. Lake: So, you worked on that, the retaining wall because it's a major retaining wall? And, the last time you were here you just said, who's going to maintain it? I think that's what the Board was worried about.

M. Blustein: It fronts on both properties.

M. Lukasik: It's far simpler for the office part of the application but this applicant is before you this evening. The retaining wall that we propose to build follows just inside our property line and can be constructed on it's own and stand on it's own and maintained by the owner of this office building. When we get down to the hotel portion down below it will become more complicated.

G. Lake: Okay, but for this building the retaining wall is on your property.

M. Lukasik: On this property and the total wall can be built up.

D. McGoeys: Would you have to go on the other lot to construct the wall?

M. Lukasik: No. We would be able to build it on this property. Item #3 refers to the landscape comments. We had a couple of comments from them previously. We haven't received anymore to date as to whether it's acceptable. Your new code does have a provision for (not clear). We're currently proposing an irrigation and drainage as part of the landscape requirements. Item #5 we're skipping for the moment. Item #6, the last time Mr. Hamilton brought up the issue of whether the retaining wall in the front meets the rear yard setback.

M. Blustein: If you look at your current code, yard required here is the ground area between the rear lot line on the rear of the nearest building. It's the building and not the structure. If you read the definition of building in the code it says a structure holding or partially enclosed exterior walls for the shelter of animals or property, so there's clearly no setback requirements for a retaining wall. It is not a major structure but the building is the requirement for the rear yard setback under the code.

J. Bacon: I agree.

M. Lukasik: Item #7 the easement. It's indicated on sheet (3-102) but perhaps both your engineer and our office missed something on that one.

D. McGoeys: No. Item #7 is regarding storm issues. I just couldn't find it.

M. Lukasik: Item #8 we made the change on the hotel site. You're correct. Item #9 actually is part of the hotel property. The engineer requested just everything summarized. We will do the same thing for this one. Item #10 we do have comments on the stormwater system both for this site and the hotel site down below. We're in the process of providing those comments on the re-submission on the hotel project. It's something that has to be re-submitted. We can address all the items. Item #11 is referring to whether we've selected the right connotations out of your new code referring to stormwater. We selected what we thought was appropriate.

M. Blustein: Now, I would like to get back to item #1 regarding the traffic. I want to say I have a lot of respect for Mr. McGoeys. I've been before this Board as an Attorney for over ten years and I have come before you a lot and I respect a lot of his decisions he has made. I

think the problem here is a disconnection between the Town Board and the Planning Board in thought. Certainly agreements are made with the Town, then they don't follow through and advise you guys and then we come in here thinking that there's an agreement that has been made, you're not aware of it. I've previously submitted to this Planning Board and I want to submit it again for the record, the letter of May 31, 2006 to your Supervisor whereby waiving traffic mitigation contributions to this project.

G. Lake: For this building?

M. Blustein: For this project.

G. Lake: And, we did get that letter, the one you talked about before. I do not believe at this point we are questioning what Mr. Ward has offered you. Am I correct in saying that?

J. Bacon: Well, the only question I wanted to clear up was that Mr. Ward said that they waived the traffic mitigation contribution. I guess the lesson is whether or not that's for the entire lot or specific to the money per square foot that was allocated in the original agreement.

G. Lake: I believe it was for this particular lot. The reason I believe it and I'm not just defending anyone one way or the other but and correct me if I'm wrong, either one of you guys here. On that little side road and I think there was between Mr. Ward on the road coming in to get access to this building. I thought that was part of it.

M. Blustein: Mr. Chairman, you're entirely correct as you stated. When the Town wanted to occupy this Town Hall, well ahead of the schedule of the Frassetto site and an agreement was made whereby we would offer that piece of road to the Town, to re-align the road so the light would function and also to pay \$60,000.00 for the development of that road. That with our traffic mitigation contribution would have been under the 1992 agreement which also, I know the Town has, the Planning Board, I know they know about it, okay but I want it part of this record.

G. Lake: Let's stay with this issue first.

M. Blustein: The bottom line is the letter is very explicit, to waive the traffic mitigation for this site.

G. Lake: Now,

D. McGoey: I was involved in some of those meetings with Frassetto and John. The traffic mitigation contribution was per square foot contribution of all buildings. And, that was . .

M. Blustein: It was a dollar per square foot of office space and fifty cents a square foot for warehouse space. And, just for the record, Mr. Frassetto has honored this agreement since 1992 and he's contributed over \$208,000 in fees for traffic mitigation for the corridor. Where that money is or what the Town has done with that money, I can hardly tell you. I'm assuming that the Town has put it in a segregated account for traffic mitigation. I just don't want to have to challenge that but that money has been paid. We have the Chromolloy building down the street for which \$47,800 paid for traffic mitigation, the "Durasol" building \$46,270 paid for traffic mitigation; (not clear) \$76,500 paid for traffic mitigation and the site being built right now of \$37,900 and with this site \$60,000 which we paid in another fashion totals \$468,470. So, Mr. Frassetto has honored this agreement well before most of this has built up. It's a fifteen year agreement and he's been a good corporate citizen to the Town and created a lot of jobs. He's paid his share of the traffic mitigation as agreed upon in this 1992 agreement where it says that there will be no other traffic mitigation other than the square footage. On page 3 . . .

J. Bacon: On page 3?

M. Blustein: Do you want to go to the 1992 agreement?

G. Lake: I kind of want to just talk about this and then we will go to that. One thing I thought we did talk about was lining up a time frame to line up Industrial Drive where it comes out.

M. Blustein: That's correct and I sent the letter out to Mr. MacKay, the Town Attorney in July or August and we offered to donate the land to line that up and I've called him twice to follow up on that letter and I haven't received an answer yet. But, we have made that offer.

D. McGoey: It should be noted that in the configuration what site was shown for the Board's consideration.

G. Lake: If when the rest of the Town and you guys get together on this, is it going to affect your parking or will you maintain?

M. Blustein: Everything complies with your current regulations in terms of what's shown here less a couple of items and still offers that dedication.

M. Lukasik: In fact, the new code made it possible to do this without a variance. The old code would have required more of a buffer and would have required a variance. That was one of the reasons (not clear) because it would have had us get a variance. Now, we don't need a variance.

G. Lake: I guess you want to talk about the 1991-1992 agreement for the total impact of this area.

M. Blustein: Back in 1992, Mr. Chairman there was a traffic study done in 1990-1991 and Mr. Frassetto back then was the new owner of the Quickway Industrial Park and it is and was a nine lot commercial/industrial complex. Obviously there was going to be substantial traffic mitigation. At the time there was a Comprehensive Traffic Study done and an agreement had been agreed upon by the Town Board and by Mr. Albert Frassetto and set up a structure so that for every building built in this Industrial Park, there would be a fifteen percent traffic mitigation contribution for a warehousing space and a dollar per square foot for office space. As we previously stated before this Board, over \$208,470 has been paid for four buildings, \$37,900 of that will be paid for when site being built now is close to getting a Certificate of Occupancy then that traffic mitigation will be paid. In that agreement this lot was listed as an office building. That's what was proposed in 1992 and that's what is being offered today in 2007, fifteen years later. In the index to the traffic impact mitigation agreement it is again August 14, 1992, site #5 and site #4 had somehow been flipped over the years so the agreement for site #5 is now site #4. It's the same building that was proposed fifteen years ago. Again, Mr. Frassetto never shied away from his responsibility. He always paid those fees. He paid \$19,200 for the light. For each lot that was built he paid for the traffic light to be on the corner of Industrial and Tower where one is needed and that money has been paid by other developers as well. If you look at page five of that agreement that was signed by William F. Cummings, Supervisor for the Town of Wallkill and Albert Frassetto, page five, #5 states that Mr. Frassetto shall not hereafter be obligated to pay for, contribute to, or perform traffic improvements and mitigation measures for improvement to Quickway Industrial Park other than as herein said for unless that particular site created a separate traffic mitigation directly related to. We talked about earlier in the agreement that this relates to page two and talks about the overall build-out of Quickway Industrial Park and how it affects intersections Tower Drive; Industrial Drive; intersection of Tower Drive and Route 211. Page three of that agreement states the Town had agreed to accept the affirmed traffic study as a model that's used in accepting traffic impact mitigation if and when required. This

was all taken into account by your forefathers on this Planning Board and the forefathers on the Town Board. The money should be somewhere in this Town.

G. Lake: We're not worried where the money is. I think the traffic report that you used for this also was in 1991 and also took into account other projects that might be doing certain improvements that have not been done. We don't know that. I'm not really opposed to that agreement. I understand somebody in this Town made an agreement but I also understand that with the amount of changes, I don't believe that the Galleria was across the street, I don't believe Golden Triangle, I don't know if they're that much closer to getting that exit or not. I don't think this Board is trying to do anything here that we don't do with any other applicant except to make it good for everybody. The reason, Tower Drive is good, no doubt, is because your client has been (not clear) for this Town to put up some beautiful buildings but if we fail and I think that's what you're asking this Board to do right now, is if we fail and have problems that we still have. A fifteen year agreement back then it might have worked but you know and I know it's not working right now. And, if we fail to correct it, we fail and you fail and the Town fails in a very volatile area. So, somehow, I'm not here to argue and I'm not here to turn around and pick this thing apart but I think you've both got to realize that we really need to take a little bit better look and (not clear).

M. Blustein: We're not asking to do anymore.

G. Lake: To the 1991-1992 agreement.

M. Blustein: What I'm saying is you mentioned the Galleria wasn't in. When the Planning Board considered the project that came up then they were the people. Okay, we already had a formula for how the traffic mitigation was going to be dealt with. I don't know what you required of Hannaford. I don't know what you required of anybody else. That's not my problem or my concerns other than we have a binding agreement with the Town and if you had problems with Tower Drive there were plenty of other people that came before this Board for approvals, they had the opportunity to get some level of mitigation. There should be a couple of one hundred thousand dollars from Mr. Frassetto already. I don't know what other traffic mitigation you want. In your new Master Plan this is exactly the type of uses you want here. You re-zoned all of Crystal Run Road for office/research to have more office buildings because you wanted to get away from PID and MI. This is exactly what you want there. What kind of traffic does an office building have?

G. Lake: Blue Cross/Blue Shield?

M. Blustein: This is . . .

G. Lake: I'm just kind of at a loss as to . . . The last time you mentioned that it was all based on square foot. It didn't measure lots.

M. Blustein: It was based on the square footage of each lot. Mr. Bacon has read the agreement. I know Mr. MacKay has read the agreement. Somewhere along the line, as I said, it's tough for you guys but somebody between the Town Board and the Planning Board has to get together and either say; look, you're agreement is binding or give us back a couple hundred thousand dollars or let us sue. One way or the other, because we can't be held up forever because nobody in the Town can talk or make a decision that the agreement is binding or it isn't binding. We've been before this Board now for almost two years for a relatively minor impact, an office building and there's really no reason to bring this project down anymore. We've offered the Town land, we've given the Town land, we've given them \$60,000 or will be giving them \$60,000. We're not asking to be treated better or worse than anybody. We've paid our share. We did our share for fifteen years.

G. Lake: Mr. Bacon?

J. Bacon: I spoke to Mr. Blustein today and certainly nobody on the Board is questioning the agreement. The one thing that I would like to see is the update from the Town Board to see exactly what that mitigation contribution covered by square footage of the building and the lot; and what you're proposing now.

M. Blustein: When we did that, the Town wanted to get into Town Hall so we said, go ahead and build the road. We didn't quibble with the language. We let them build the road totally.

J. Bacon: We have a disagreement about the memory of that meeting.

M. Blustein: With all due respect, I think . . . I don't even want to go there. It is what it is and I'd like to see a Judge interpret about waiving the traffic mitigation based upon your other contributions. But, okay, you want to talk to Mr. Ward, let's get it done already.

J. Bacon: And, I did look over agreement and one of the things are if any changes or circumstances that might relate to this project with environmental impacts, etc. that might change. John Sell's, the agreement does talk about the models in 1992 and he also talked about the future development and the traffic impacts and the mitigation measures. We can't really look at it in that fashion. One of the things that Mr. Kalus pointed out was that in that traffic report it never came to pass. One of them was that after the third lot was developed

that there be a re-examination of the traffic at that time and I don't think that ever occurred. Really, their job at this time is to make sure that updating occurs. So, Mr. Kalus do you want to talk? I know this is catching him off guard. It's his memory about it.

B. Kalus: My name is Bernie Kalus from Sell's Engineering. Mr. Lake, what you discussed is really on the assumption of Golden Triangle. And my answer to that as part of that traffic study they did that and re-assigned traffic from the Tower Drive intersection over to that new road, by the way, which has really never been accomplished. So that's the major assumption. Also the types of uses, I think in the original study it was on a warehouse. There is now from what I see a hotel and other uses which would also be brought up in that update study that was recommended in 1991 in the traffic report.

M. Blustein: If I might just respond to that without having . . . It would seem to me, first of all, Golden Triangle has been approved.

G. Lake: Phase I of it has been.

M. Blustein: So, I'm assuming that as part of this study they would have imposed some of that on the Golden Triangle.

G. Lake: We have imposed on nine (9) other applicants in this area. We have gone through with the other applicants up and down this strip all the way to Cottage Street Extension, Bert Crawford Road. I mean, I think you're very aware of that and it would be a crime for everybody. It's good business on your part as well as good business on this Planning Board's part to continue making sure that this area is properly and can move in and out and so, yes we have imposed. We've had many work sessions with these other applicants to try and make it the absolute best and the fairest as possible. So, we have the 1.6 million and the work is being done today in a couple of spots. It's been assigned. So, not all the projects are on line yet but we know where we're going.

M. Blustein: Part of what I said Mr. Lake, I respect a lot. I've been to a lot of these Boards. I remember a lot of those applicants would have had to make some of those improvements. I know you guys have worked hard on it and I think you've done a pretty darn good job keeping up with all of the development in the Town. The point is, again I think you're not getting a fair shake from the Town Board in respect to what's happened in the past that would be binding on the Town. And, that's not your fault. There is a disconnect going on between the Town Board and the Planning Board. Now, with respect to this the fact that it's not a warehouse again, this sixty thousand square foot was always anticipated to be office

space as part of this agreement. So, that's not an issue. Down the street there's a hotel proposed. That's not part of this application so, that would be an argument for the other applicant. This is a sixty thousand square foot office building proposed where it's always been proposed and the Supervisor has already waived the traffic contribution. So, in the nutshell it's a done deal.

G. Lake: Let me go through the Board because I think what we need to do is to get our people, you guys, Mr. Ward and just hash this thing out so when we come to a meeting like this nobody is getting surprised.

M. Blustein: I couldn't agree with you more.

G. Lake: So, let me go through the Board.

J. Bacon: Mr. Lake, I just want to say something and I don't mean to argue with you. But from your prospective there might be a lot of (not clear) that it's a done deal but the point is there are a lot of projects that are in close proximity, no Draft Environmental Impact Statement was done back in the 1990's and you're still seeing and how long ago was this seen by the County Planning. The Board is rightly concerned on what's going to happen right next door with the hotel. In most subdivisions it was the lots going on.

M. Blustein: But, it was based on square footage even with the hotel.

J. Bacon: But that's your . . .

M. Blustein: The square footage even with the hotel.

J. Bacon: So with that you're talking about the economic contribution.

M. Blustein: It's a different application and that's not before the Board at this time.

J. Bacon: I know but the thing is the Board can't look at this in a vacuum. They have to consider that there will be another development right next door including projects that aren't owned by you guys. We're looking at the total of what that traffic is going to be. The Board wants to make sure.

G. Lake: Do you have anything Mr. McGoey?

D. McGoey: No. I think rather than talk about fees and the mitigation contributions you

should do just as Mr. Bacon said. Let's get SEQRA over with. Let's make sure that the project should be included in the traffic study that has been included in the traffic study. And, so far they have not been. We should look at the whole picture. That's where we are.

G. Lake: Mr. Dulgarian, do you have anything?

A. Dulgarian: Well, you guys have me thoroughly confused or thoroughly concerned, or both. I agree with what Mr. McGoey just said and it was to his reference on #5 of his comments that I can't believe with all the traffic studies we've done that have been inclusive of all the projects somehow the Fisher project wasn't included in the corridor along with this project, is that correct?

D. McGoey: Sure.

A. Dulgarian: So, I think that needs to be looked at. Other things that were mentioned actually I probably shouldn't even go there. We just need to get through the agreements and the traffic. I would like to see all the information we can get and who's responsible for what and look at the big picture and see if we can come to some kind of an agreement. Again, we're looking at the applicant and it's representatives have always been friends on the Town but on the same token it's our responsibility to look at the big picture to see that everything fits and somewhere we have to find what has been agreed to. We have to find some common ground and I think we need more information.

R. Carr: I like the project. I think it's a great project. It fits in with the Town's Master Plan. I think it will be a showcase when it's done. The Frassetto's have always done a good job by the Town and everything was done good for the Town. It's the part of who pays and that is a legal issue. I looked at it and I'm not really sure. Some of this I'm just hearing for the first time. Somehow when this is done that intersection has to be done. It's a terrible intersection.

M. Blustein: The Town put the new road in.

R. Carr: That needs to be addressed. I don't know what the discussions has been with you and the Town Board regarding the dedication of the property or the transferring of the property. The Planning Board's job just to make sure that the traffic here works before somebody gets killed out there. To me it's not just putting a light there. Somehow that road has to be aligned and I think that has to be looked at. I agree to set up a meeting with the Town Board and have the Town Attorney (not clear). I can understand your frustration too.

M. Blustein: I sent a letter to Mr. MacKay in November 16, 2006 on the traffic agreement.

R. Carr: That's part of your frustration but I mean I think it's this Board's responsibility. I think you're absolutely right to find out what is, what needs to be done to mitigate any thing. I like the project. It will be a nice project when it's done.

W. Capozella: I like the project. (Not clear). As far as the other issues we're not knowledgeable enough to make a decision based on (not clear) between the lot numbers and square footage and then how the 1992 agreement goes.

C. Najac: I like the project. We need to know exactly what that agreement did and still does. Our job is to make sure. You may have paid your fair share but we need to find out on that.

G. Lake: I would like to just table this at this point and we will go to work tomorrow on getting news to everybody to iron out the other side of the hall and will make sure it's late in the day so anybody who wants to be there to get it done and hopefully the next time. There's no doubt everybody likes it.

M. Blustein: Mr. Chairman, I would request a motion to close the Public Hearing.

G. Lake: Will you waive the sixty three days?

M. Blustein: No.

G. Lake: What was that?

M. Blustein: No, but . . .

G. Lake: Was that a no?

M. Blustein: Yes.

G. Lake: Then, I make a motion to get the Public Hearing open.

M. Blustein: Then, I would request that we be put on the next agenda and have a meeting with the Town Board as soon as possible and get this project on the way.

G. Lake: I'm one hundred percent in your corner as far as getting this resolved. Okay. I'm just trying to get the chance is I can't get the Town Board or Mr. Ward from that side to sit

down in a timely manner. So, I would put you on the next available meeting as soon as possible where we resolve it but at the same time I'm going to recommend to the Board that we table it. I don't want to see you get sixty days for this. I would like us to see done because it's going to be a beautiful project, no doubt about it. But, you already know our hands are tied sometimes too and I just can't take that chance here. It will be better for everybody. I think the final product is going to be better for you and better for your client.

M. Blustein: I agree with that. You have the influence, get the meeting set up and let's get it done.

G. Lake: We will work on that beginning tomorrow. Okay.

M. Blustein: Yes.

MOTION made to keep the PUBLIC HEARING open made by A. Dulgarian and seconded by C. Najac.

A. Dulgarian: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

G. Lake: Aye

MOTION CARRIED. 5 AYES

MOTION to TABLE for further review made by A. Dulgarian and seconded by C. Najac.

A. Dulgarian: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

G. Lake: Aye

MOTION CARRIED. 5 AYES

3. **ORANGE REGIONAL MEDICAL CENTER** - SITE PLAN/SPECIAL USE PERMIT - Acceptance of FEIS - East Main Street (78-1-77, 20, 40.2, 77.1, &3 &74) E60-06

G. Lake: Your name for the record, please.

A. Cutignola: My name is Ann Cutignola with Tim Miller Associates. We are here tonight to request the Board give acceptance to the Final Environmental Impact Statement and to begin the public comment period. I'm in receipt of Mr. McGoey's latest comments and to be the best of my knowledge we've addressed those comments. I have submitted a draft of the notice of completion for review by Mr. Bacon and Mr. McGoey.

G. Lake: Mr. Dulgarian, do you have anything? This is just to accept so they can . . .

A. Dulgarian: I have nothing.

R. Carr: I just have one question. I know a lot of work has gone into this application. Is there something regarding the timing of all the various improvements by the various parties so that when the County is going to do theirs. There's something in the documentation.

P. Griely: My name is Phil Griely from John Collins Engineers. I believe that in the document we put together a plan that is spelled out with the responsibility. For example, the improvements along East Main Street, the County has made an indication of starting next year. We're dependant on the improvements that are in there. So, we're working together with the County, with the Department of Transportation to make sure that everything gets done in a time frame. That table plan spells out what we're responsible in terms of the individual improvements but the bottom line is that we're responsible to get that section of

the corridor from Route 17 over to Route 84 done in conjunction with the hospital.

R. Carr: In was that table that made be think because you have all these parties involved and I was concerned about the time frame.

P. Griely: Well, we're working with the County on the permitting and designs to make sure. It's an issue but we have everything in place. At this point, it's all we can do.

G. Lake: Anything else, Mr. Carr?

R. Carr: No.

W. Capozella: Are we accepting tonight? I have some comments here. If we accept this, does that mean (not clear). If we accept this does it mean that it's fully approved?

G. Lake: Well,

W. Capozella: Can we accept this now?

J. Bacon: Essentially, yes because the Final Environmental Impact Statement by accepting it you're including the provisions that are in there and that the impacts are mitigated by the maximum. If you have any objections about the waiver you should make it known now and explain why and what your intentions are.

W. Capozella: My question was if we accept it (not clear).

J. Bacon: Pretty much.

W. Capozella: Okay. The other one is just that originally the Fire Department had made a comment on their concerns.

A. Cutignola: That is correct. They're using . . .

W. Capozella: We kind of waived the idea of (not clear) along that line.

A. Cutignola: I spoke with them directly

W. Capozella: The other night you had a little letter saying and it would be nice to have a

letter from them.

A. Cutignola: I can request that they submit a letter to that request. He's been very helpful and I actually spoke to him today because there was a comment about the height restriction and to confirm general acceptance. Their ladder truck is one hundred feet. The difference between one hundred feet and one hundred twenty feet is the elevator shaft. And, the Fire Department was perfectly fine with the waiver as long as they could gain access to the roof at one hundred feet. We will give them a spot where they can access the roof.

C. Najac: I was happy to see that I was not the only person that asked about parking garages. Is there a reason why you're not talking about a garage now?

A. Cutignola: There is room on the site for ultimately consideration of a parking garage. The question right now it's a question with financing from the hospital point of view and the logistics of a garage, there's room for it but in terms of economics and the hospital that is really not considered. We did actually look into it but it's not feasible at this time.

C. Najac: I know we talked about it a couple of times in work sessions. I'm also looking at how you would mitigate the runoff, etc. and be washed out by the rain. We should do something now.

A. Cutignola: The stormwater plan has been designed to deal with that question.

G. Lake: Mr. McGoey, your comments?

D. McGoey: Yes. We went over them this afternoon. There's nothing that they can't resolve. Mr. Bacon, are you satisfied?

J. Bacon: Yes. The parking garage brings up one question and that's an expansion in the future years down the road. Is there a long-term expansion plan for the hospital?

A. Cutignola: We do not have a long-term expansion plan. The question was raised about the parking garage. In order to really analyze the project property, we said well, could we do this? And, we can't but when we looked at it but it was never our intent to have a secondary expansion the way the site plan shows. So, there's no proposal and no consideration at this time of making it larger.

J. Bacon: I guess I just thought that overtime the population would expand and there may be

a need to expand.

A. Cutignola: Hopefully, there will be no need for expansion in the future.

G. Lake: Mr. Becker?

W. Becker: I thought maybe I could add to that.

A. Cutignola: The only piece of fact that we have is we have not maxed out the property on the site. There are no proposals to expand but there is additional room on the site.

G. Lake: Anything else?

MOTION to accept the FINAL DRAFT IMPACT STATEMENT as complete and ready for public comment made by W. Capozella and seconded by A. Dulgarian.

A. Dulgarian: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

G. Lake: Aye

MOTION CARRIED. 5 AYES

4. **McGOVERN** (Bosco) - 2 LOT SUBDIVISION - Extension to Preliminary - Lybolt Road (12-1-29.1) #04-04

G. Lake: Your name for the record, please.

M. Blustein: My name is Michael Blustein for the applicant.

G. Lake: Okay.

M. Blustein: This was, in looking at Mr. McGoey's comments item #1, just to clarify. This

was a four (4) lot subdivision at the time of the moratorium so it was a three (3) lot subdivision with the balance remaining lands. That was done in 2005. What happened in March 2007 was that was when the moratorium ended, the balance of the lands we proposed the three (3) lot subdivision and you didn't like the flag lot so, we did a two (2) lot subdivision. I have a letter requesting an extension and the Planning Board file should reflect that. The reason the applicant needs the extension again, in the Planning Board file there should be a letter from Eustance & Horowitz dated September 12, 2007 verifying the plans. We didn't get their approval until a couple of days ago. That's the reason for the request for the extension.

G. Lake: I will go through the Board.

A. Dulgarian: As long as we are within the letter of the law, I have no problem.

G. Lake: Do you know how long you may need?

M. Blustein: Not being the Project Engineer I was called at the last minute.

A. Dulgarian: You're asking for an extension on Final?

M. Blustein: No. We have final.

R. Carr: I have nothing.

W. Capozella: Are we going for six months or . . .

C. Najac: I have nothing.

J. Bacon: You got final conditional, right.

M. Blustein: No, we got final approval subject to.

MOTION for a ninety (90) day extension of Final Approval made by A. Dulgarian and seconded by C. Najac.

A. Dulgarian: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

G. Lake: Aye

MOTION CARRIED. 5 AYES

5. **AIDEN ESTATES** - 17 LOT SUBDIVISION - Bart Bull Road (31-1-29.4) #81-02

Cancelled.

6. **FONTAINE** - 2 LOT SUBDIVISION - Dosen Road (13-1-222, 3.2) #109-06

G. Lake: Your name for the record, please.

P. Hutton: My name is Patrick Hutton with MJS Engineering. We were last here in March for a two lot subdivision on Dosen Road. There were concerns about the lot width, the lot frontage. We were trying to avoid wetlands on one of the parcels. I consider it more or less a lot line change. Since then our Attorney has spoken to the Town Attorney and agreed that there is no prohibition on having (not clear).

J. Bacon: The lot has two different frontages.

M. Blustein: I'm here for the applicant as well. There actually is two hundred feet.

D. McGoey: There is still a lot width requirement in addition to the lot frontage. The lot width has to be met at the building.

P. Hutton: I have a setback of two hundred feet at the building itself.

D. McGoey: Where the building is?

P. Hutton: Right. It meets all the setback requirements.

D. McGoey: You need the lot width requirement at the building.

J. Bacon: He can be referring to the Zoning Board of Appeals. Your lot frontage appears to be okay but the lot width is measured at . . .

P. Hutton: That is the definition?

MOTION made to refer applicant to the ZONING BOARD OF APPEALS for an interpretation of lot width made by A. Dulgarian and seconded by R. Carr.

A. Dulgarian: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

G. Lake: Aye

MOTION CARRIED. 5 AYES

7. **AOK** (Food Service) - SITE PLAN/SPECIAL USE PERMIT - Wesley Court
(41-1-116) #54-07

G. Lake: Your name for the record, please.

G. Bergman: My name is Gerald Bergman with Clough Harbour. I'm here representing AOK Food Service.

G. Lake: Go ahead.

G. Bergman: We're proposing a fifteen thousand square foot warehouse/slab office building at the cul-de-sac at Wesley Court which is at the corner of Wesley Court and Wes Warren Drive where the Senior Center is for the Town. We propose twelve thousand five hundred feet of warehouse distribution and twenty five hundred square feet of office space, office space to be associated with our business only. The project will store food products for AOK

four restaurants which are the Gasho Restaurants. Here representing Gasho is here tonight and the Project Engineer, David Wieboldt. The project is located in the new (not clear) district which is the old M-I district. The project confirms to the new district by a special permit. In addition to the fifteen thousand square foot building the project proposes sixteen parking spaces, fifteen and a half are required. We estimate ten employees. Two of the parking spaces will be handicapped. We propose four loading docks, two are required. The project has two trucks which will make the deliveries. We estimate right now approximately seven (7) round trips a day. The trucks will be parked there at night. It will be serviced by public sewer and water, an eight inch water line, an eight inch sewer line on Wesley Court. Stormwater presently comes from the north to our site to a ditch that comes to the site.

G. Lake: Is that the sub-station for Orange & Rockland?

G. Bergman: This is their property.

G. Lake: That goes back there.

G. Bergman: Yes. We researched the plans to see if (not clear). We could not find that anyplace therefore, we took the water from the north where it comes through now and then we will build a stormwater basin for our facility only. The amount of water coming from a combination of off the site and from our site, the rate would be equal to or less.

G. Lake: So, you're going to take the stormwater that's coming down through the ground now from the site from the north and pipe it and put in the pond right now?

G. Bergman: That is correct.

G. Lake: And then, you're going to build your own little pond right down below?

G. Bergman: Yes we are. Both sites always discharged into that pond.

G. Lake: Right.

A. Dulgarian: Place it around.

G. Lake: And just dump it out.

G. Bergman: Around their pond, there's no place to put it. There's no public property around

that pond.

A. Dulgarian: He's saying treat the water that's coming onto your property instead of piping it around and directing it to the pond you treat it on your side of the property.

G. Lake: Just to put all that pipe in seems silly to me when you might have a chance.

G. Bergman: I would have to increase the size of that pond also to take care of the whole off stream.

A. Dulgarian: Doesn't it make it a wetland area?

G. Bergman: Not necessarily. At the most intermittent.

G. Lake: Okay. Just look at it.

G. Bergman: Well, we still have to supply our stormwater management plan and that will be done. Included in our plans are landscape plans and lighting plans. The lighting has been designed with shoe box fixtures where cutoff features where needed so there's no spillage off site. The maximum foot candle is three feet on this site. We passed out elevations which you asked for. I think you all have a copy of the elevation plans. Do you have any questions for Mr. Wieboldt?

G. Lake: Between now and the Public Hearing will you have any problems with Mr. McGoey's comments?

G. Bergman: I have no problem with any of his comments.

G. Lake: Mr. McGoey, are you going to need him back for another work session?

D. McGoey: Yes.

G. Bergman: We'd like to come to a work session between now and the Public Hearing.

G. Lake: Okay. Let me go through the Board to see what they have to say and like I said, we will be scheduling the Public Hearing.

A. Dulgarian: I know we will be scheduling a Public Hearing but initially I like the project. What are you going to use for the porous pavement and what's the purpose of that, just so

that you have another turn around?

G. Bergman: Turn around and access for the rear of the building.

A. Dulgarian: What will it be constructed of?

G. Bergman: It probably be a grass surface.

A. Dulgarian: I have nothing else.

R. Carr: I have nothing other than Mr. McGoey's comments.

W. Capozella: Could not hear.

G. Bergman: Had a conversation with Mr. Capozella.

C. Najac: Nothing other than Mr. McGoey's comments and sidewalks.

G. Bergman: Well, I heard the earlier applicant and this is a little different situation. I'm not sure there is any on either Wes Warren or Wesley Court. I understand your reason for the comment.

G. Lake: I think everybody on the Board has time to take a second look at it and maybe discuss it. I am really aware that's near the dead-end.

MOTION to schedule a PUBLIC HEARING for November 14, 2007 made by A. Dulgarian and seconded by R. Carr.

A. Dulgarian: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

G. Lake: Aye

MOTION CARRIED. 5 AYES

8. **CRYSTAL RUN AMBULATORY** - SITE PLAN - Ballard & Crystal Run Road
(60-1-52.22) #77-06

G. Lake: Your name for the record, please.

M. Archangel: My name is Michael Archangel from Columbia Development representing the applicant.

G. Lake: Please give us a little update.

M. Archangel: Yes, it's been a while. With me is Dr. Teitelbaum and I brought Mr. Griely to see if there are any questions on traffic which we've discussed at several work sessions. The purpose of tonight's meeting is, it's been a while since I've been before this Board. We've gone through a little bit of a journey. The first journey was back in January the Planning Board told me that we should go seek a variance for parking, which we did. I've given Mr. McGoey a copy and I can give Marylynn a copy. Last February or March we were granted a variance to reduce the parking requirements as you see on your map there is a little schedule.

POWER OUTAGE AT THIS POINT IN MEETING.

**Applicant in for Sketch.
Tabled for further review.**

9. **SPROUL** - 3 LOT SUBDIVISION - Mount Joy Road (60-1-115) #57-07

Applicant referred to the Town Board for an Open Development District. 5 ayes

10. **AUGENBAUN WAREHOUSE** - Tarbell Road (1-1-46.122) #37-07

**Applicant in for Sketch.
Tabled for further review. 5 AYES**

11. **BAUM** - 9 LOT SUBDIVISION - Route 211 East (31-1-17.2) #111-02

Cancelled.