

**TOWNSHIP OF LOPATCONG  
PLANNING BOARD MEETING**

**7:00 pm**

August 25, 2021

Chairman VanVliet called the Planning Board Meeting to order. The meeting was held in the Municipal Building located at 232 S. Third Street, Phillipsburg, New Jersey.

A Prayer was offered followed by the Oath of Allegiance

Chairman VanVliet stated “Adequate notice of this meeting has been provided indicating the time and place of the meeting in accordance with Chapter 231 of the Public Laws of 1975 by advertising a Notice in The Star Ledger and The Express-Times and by posting a copy on the bulletin board in the Municipal Building.”

Present: Members Coyle, Pryor, Samson, Weeks, Mayor Mengucci, Chairman VanVliet. Also present were Attorney Bryce, Engineer Wisniewski and Planner Ritter.

**Old Business:**

**Minutes** – Approve minutes of June 23, 2021 – Executive and Regular Sessions.

Chairman VanVliet – Has everyone received a copy of those? The minutes of the Regular Meeting are the court reporter’s minutes taken at that meeting but only concern the applicant on that hear. There was also a continuation addendum to the meeting concerning the P’burg Mall. Has everyone received that copy also? Are there any questions, comments? Hearing none I’ll entertain a motion to accept the minutes?

Member Pryor - Motion.

Chairman VanVliet – Do I hear a second?

Mayor Mengucci – Second.

Chairman VanVliet – Okay, all those in favor signify by saying yes.

All members said yes, none opposed and no abstentions.

Chairman VanVliet – Next order of business is the continuation of the Bridge Development Partners, LLC – Block 99, Lot 6 – Subdivision and Site Plan continuation of the hearing.

See Transcript of minutes provided by Court Reporter.

## **Non-Condensation Area in Need of Redevelopment Report – Discussion by the Board.**

Chairman VanVliet – Our next order of business is a discussion on the Non-Condensation Area in Need of Redevelopment Report – This is, George has had that report, he's got some exhibits that we can see tonight. What we're talking about, I think all the Board members got the, I think it was this report last month to look at and this is what we're going to review tonight. We're starting down the road of familiarizing the Board of exactly what we're going to do, what we're looking at and we're going to have a public hearing on this which, hopefully, we can get to in November. As we go through this, I don't know what's going to happen with the pandemic situation of what we're going to do or how it's going to work out but anyway, George, please.

Planner Ritter – Okay. Well, yeah, this is sort of, I wanted to give a little presentation of background of what the study was, how we came up with our recommendations in the study and then obviously, open it up to any questions, concerns, input, that, obviously, you have as part of this process. As you all know, Council requested that the Planning Board take a look at a study area to determine if the area was in need of redevelopment which is part of the redevelopment regulations for the state and the Council wrote down and asked us to take a look at 21 properties and essentially, there were 21 properties that they asked us to look at to try to determine if it was in need of redevelopment and essentially, the request is to look at a group of properties that are essentially part of the Rt. 22 corridor extending (inaudible) from Rt. 57 all the way down to the Pohatcong/Greenwich Township line and trying to determine if any of those properties in that area met the criteria to be designated as an area in need of redevelopment and as I said, it is comprised of 21 properties. The area itself is, just to give you an idea, is basically the 21 properties come out to be a total of 150.9 acres total that is involved in the study areas and it's essentially, the black line through here and then essentially, the triangular piece where Lopatcong Creek passes under 22 and then the mall, the large open space to the rear of the mall and then a small group of existing businesses that are on 22 just opposite the mall. As I said, that was about 150.9 acres of ground and just to give you a little bit of background in terms of how the area is currently zoned, the properties themselves are split between three zoning districts in town. Essentially, those to the, I guess we'll call it the north of 22, fall within our ROM Zoning District, that area and then the triangular piece on the opposite side of the creek next to Greenwich Township is in the HB District, the area, the triangular piece which consists essentially of the restaurant, the car dealership and then there's a residential property in this area and then there's a residential property running back toward the road in the rear our HB District. The mall itself is zoned HB and then the area to the rear of the mall is in the AARC District which is a Residential District. The properties themselves and what began to create the character that you see out on 22 really, was not the so much the development of the commercial development, but really what has created the character out at that area, is the existence of the creek itself and its tributaries. What you can begin to see when you look at this is that Lopatcong Creek which cuts through the property and dry run tributary essentially, has established a series of both wetlands, riparian corridors and buffers that really have established the pattern of development that you see in the road today when you drive up and down by creating regulatory zones within which very little development can be done and isolating specific pieces; this is directly across from the new warehouse thin strips of ground along the road that has development but then everything behind it is restricted and it basically has broken up the road

patterns so when you drive down today, you see large groups of trees with very little development that tends to be the areas that are in those stream corridor and then you have the older developments which have fully developed their frontage on 22 but again, cannot expand in the rear and then of course, you have, when you get up in the mall area, you begin to see that the Phillipsburg Mall and the property to the rear is actually pretty much an isolated piece of ground isolated by the stream corridor that cuts it off from Phillipsburg and the remainder of the Township and then it's separated by the Pohatcong Township residential area in the mall so that essentially, you have a large chunk of ground that has not been developed in the rear but it pretty much isolated from everything else around it by the stream corridor itself and as I said, that tends to reflect on the development pattern you see in the area which you can see in terms of what's actually developable or along the road and like you'll begin to see strips of open ground from the stream and then very thin parcels that have been developed along 22 again, because of the tributaries. So, you have very intense development directly across from the new warehouse and then you have pockets of development that begin to occur again out by the mall area itself which is out of the stream corridor and then you have a little bit of commercial development along the, I guess it would be the west side of the road between the creek corridor and the buffer as it turns the corner so that's the pattern you begin to see. Now, what we had to do in developing whether an area in need of redevelopment plan, essentially, establishes eight criteria that you have to look at to see if a property qualifies. I'm not going to go through all eight of these but essentially, anyone of these eight criteria if a property meets anyone of the eight criteria that are listed in the redevelopment authority, you can find, if you choose that the area is in need of redevelopment and then as one final option, in addition to the eight the redevelopment authority gives you the right to pick properties that are not necessarily in redevelopment, in the need of redevelopment but are part of an area, that they play a part in, in the sense that they are important to the redevelopment of the area. So, even though the property itself does not require redevelopment, they are essential to the redevelopment of a given area and can be included so you have eight criteria of various types of dilapidation, disuse that you can find and then finally, you have one that basically says that if it's an integral part, you can include it even if it is not in need of redevelopment. Essentially, the development that you have along 22, most of it, quite frankly, does not meet the criteria. Out of the 22 properties we identified 8, could be considered to be in need of redevelopment and essentially, they are in two groups. The four of the properties are located in relation to the Phillipsburg Mall. The mall itself meets basically two of the criteria for being found to be in need of redevelopment and that is that the buildings have been vacant; retail uses have been discontinued and that the mall is continuing to fall into disrepair and the time I was out to the site, which was several weeks ago now, the mall not only it seems now that even all those intermediate tenants, there was an antique type user in there, they seemed to also have left so that the mall today, at least in the Lopatcong portion, is totally vacant. There's nothing there and the area around the mall itself has begun to begin to pick up some deterioration both in terms of the quality of the landscape, the maintenance and the paved areas but also, it's starting to pick up derelict garbage dumping. It appears that some of the local, I don't want to say landscapers but essentially, it has become a dumping ground for tree limbs, mulch, planting containers like somebody's been backing up and just pushing it off the truck rather than paying to have it developed that's beginning to accumulate on some of the back and believe or not, there's even an abandoned vehicle there. It's been there as long as I've been out there. We've

been around almost the past year. So, it's beginning to seriously deteriorate; the area as well as what's well known. The Sears building has been cleared from the site so that meets two criteria; one that it has been vacant and is falling in disrepair and also, that it appears, and I think you can say this for the whole mall, is a concept that is no longer valid on this site and then it's to say that it's outdated in terms of the way it's been laid out and handled and so, clearly, it would meet the criteria for in need of redevelopment. In addition, our recommendations included the Friendly's that is in the front which has also been empty now for more than a year and meets the criteria to be in need of redevelopment as does the portion of the Taco Bell site which is not developed. Essentially, Taco Bell's building and parking area is located in Pohatcong Township but there is about a half of their lot is located as an undeveloped parcel and the reason that these two pieces were considered to the need of redevelopment is that even though the Taco Bell obviously is not in need of redevelopment, the building itself, I felt it was important to include these two pieces in the plan because they control access to the rear of the property and that one of the things in any future development of this site is how it relates and ties to 22. So, I thought it was important to consider to put those two pieces in the plan, in need of redevelopment to give us the flexibility, if needed, to include or at least address those properties as it relates to access because right now, as you are all well aware, the mall itself has a private access drive that runs across the whole back and then you have a right in, right out at both ends of the mall property and then basically a full left turn essentially in Pohatcong, roughly in the middle of the mall property itself, so, clearing those three properties I think, can be classified in need of redevelopment and should be considered that given the general character of that area. I also thought that it was worth discussing the inclusion of the rear portion of the property in the back which is currently an agricultural use and also has some trees on it and some steep slopes. Primarily to include it because this development is so closely tied to the property in the front. It has no access to a public street in Lopatcong Township. It's essentially, its only access is to the private driveway that begins to loop the mall and also is linked to a private drive that runs through Sycamore Landing. Other than that, the mall blocks essentially all access to that piece and any development of this piece would have to go through the residential streets in Pohatcong. So, I felt that it's important to include it because I think it should be considered an area; the whole area could be developed and also, so that we could begin to address the fact that this contains almost 2,000/3,000 feet of the actual stream corridor borders this site and as part of this development, it would be very good to see if we could plan this as an area and still have the opportunity to try to protect the stream corridor. So, I felt that it was a good one to include to be looked at, to be considered and hopefully, coordinated with Pohatcong in terms of the redevelopment of their portion of the mall. The other four lots that were included in the study area and these four lots; the mall, the two lots in the front and the one in the rear generates a piece of property that contains about 87.1 acres; it's about 87.1 acres. The second redevelopment area that we felt met the criteria were a combination of the properties that border 22 directly across from the new warehouse. These properties that are across from the warehouse are primarily dated properties that the general layout of these properties is not really conducive to their long-term development and truthfully deserves how we could improve and encourage some redevelopment in this area. The site itself consists of the large parking lot which I was told was part of the Bell and Howell what was originally a Bell and Howell industrial complex which has since been converted to mixed use warehousing, some office space, storage space. They have a little bit of retail I think

has also been mixed in it but it consists of really, a large parking lot which is empty but totally paved and that's essentially on Lot 2.03 which is, at this point, which is essentially a parking lot which then seems to be related to the old warehouse industrial building that was Bell and Howell on Lot 3 which is looking down here; this is part of the, it's looking across the old warehouse sits in that part, but it's again a very date building, a building that does not seem to be actively used at this point or at least at a very low intensity use and also, you have some adjacent parcel which I think was part of the Bell and Howell complex at one point consists of some office uses and some, what appear to be storage buildings and that type of thing. They are not well integrated. The circulation down the site is very difficult. The way it's been laid out currently, you actually have to leave the site to go from this parking lot to the office building; you actually would have to go back out on 22 and come in. They've put fences up so you can't even circulate through the site. So, it's definitely in need of some redevelopment. The parking lot itself should be looked at in terms of how development might occur on it. The next site down to it is essentially, what appeared to be an old gas station at one point. It's now a heavy truck repair facility and the parking areas circulation, the pumps don't seem to be used but the whole area seems to be not fitted well to the use that's being proposed. The driveways are not well suited to get on and off the road and the whole facility is very dated and it would seem another property that would be well worth looking at in terms of gaining some improvements but even more so it seems that this use, the repair facility has taken over the property that's adjacent to it; the old gas station, heaving truck repair facility seems to be primarily on Lot 4 but they opened the driveway over onto essentially the adjoining lot, Lot 3. It's unpaved. They're working on gravel but it seems that the repair facility has moved over on to that lot and there's no site features on the lot, there's no curbing, there's no pavement, there's drainage facilities and generally they've taken over about a third of that lot has been converted to essentially, it's very hard to see on these pictures, but essentially, they're storing and working on trucks. They basically have the storage area there. There's been, the days I've been out there there's actually people working on trucks in that lot. So, that whole band, all of these, look like they're very much in need of redevelopment. The site plans, the facilities are very dated; there's no stormwater facilities that I could see on any of them other than direct discharge into the stream in the back and it's something that we ought to strongly think about seeing even if we can improve and also trying to get better access to 22 so that you have much cleaner ways to come on and off the road and circulate between the properties and I also think it's three properties that are worth looking at because they're probably 90% of the area that is impacted by state regulations, riparian corridors and buffers so, clearing if anything is going to happen there and improvements are made, they ought to be looked at and hopefully the owners can think about this, work together, to get a comprehensive plan because they can't expand backwards. There's no land to the rear of them that's usable and it's all under state regulation and those regulations overlap about 2/3rds of the site itself. So, those are the three areas and the eight properties that we thought were worth looking at, having deemed as in need of redevelopment, and clearly, if the Board agrees, then the next step would be to have public hearing. Hopefully, invite people, obviously they'd be noticed but hopefully the owners of these properties would come in and be willing to discuss if the their concerns or what they see is possible opportunities out there so that we might begin to think of how we do a redevelopment plan from here in but those eight properties are the ones that we though were the most significant

and clearly represented an opportunity to develop a redevelopment plan for and I'll try to answer any questions with you that you might have on that. Yes,

Attorney Bryce – George, just a quick question, on all the properties that you put in your report to look at, we're they all identified in the resolution of the governing body?

Planner Ritter – Yes.

Attorney Bryce – Perfect.

Planner Ritter – There was 21 properties originally. We concluded that eight of the properties, the one thing that was pulled out, one of the properties that was included in the list, which I wasn't aware of until we got into it, the county actually owns one of them. They developed it as part of their Morris Canal protection plan so they actually have owned the property that's directly adjacent to Sycamore Landing; that whole piece and I think they've acquired another property that's further down Lock Street but that's interesting that's owned by the county and part of the Preservation Area so there's actually 20 properties that were privately owned in the area but yes, these are all part of the redevelopment request of the Council put together. The next and most difficult part will be coming up with a redevelopment plan in terms of how we're suggest or come up with a plan to redevelop these areas. The piece directly across from the new warehouse is heavily, heavily impacted by state wetlands, riparian buffers, that type of thing so they're basically going to be working within the established footprints they have not really any room to play. So, anyhow, I can give you the exact criteria if you wish to give you an idea of this as an example of things that you must demonstrate. The, one of the criteria for establishing these (inaudible) applicant to the mall for example, the discontinuance of the use of a building or buildings previously used for commercial retail shopping mall or plaza office, manufacturing industrial purposes, the abandonment of such building or buildings significant vacancies of such buildings or buildings for at least two consecutive years where the same being allowed to fall into so great a state of disrepair to be untenable. I mean they basically are all like that; all the criteria and really what we're doing is, we went down and looked through the tax records to determine when the buildings were built. We went through and looked at whether there were any updates of those and then we actually, physically went out and took a look at them to see what sort of shape they were in and if classified and seemed to be warranted. So, that's where we are and as I say, our recommendation are those eight properties. We found the other properties, by the way, and the others that (inaudible) were all occupied and seemed to have viable tenants and seemed to be quite viable, quite frankly. Some of the buildings were a little old and some of the use could have been cleaned up a little better in terms of fencing and how they look. They clearly seem to be viable businesses operating and we're, I think, a viable part of the neighborhood. The one thing that we did find, in terms of looking and driving up and down the road, this has nothing to do with the redevelopment plan but just in terms of potential impact, in terms of just what you see out there, are, there's a tremendous number of billboards believe it or not that run up and down that street and many of them are quite small which is fine. One or two of them though were put in at full size that they can do under your ordinance and one of those is so large and constructed so low that it actually blocks out the entire view of one of the, I would consider probably one of the busier businesses out there and that's one of the car

repairs places. It maybe something that you want to think about through time. If these people come in and try to upgrade all these billboards, and bring them up to size, they would be 6, 7 times bigger than what they are today and it may be well worth looking at that because if you think the road looks busy and cluttered now, just image 10 or 12 of those billboards fully expanded. It's something to think about because the potential's there and as I said, there is one billboard out there that truly amazed me; it's only installed maybe 5 feet off the ground and it's got to be 25 feet high.

Mayor Mengucci – Are you talking about the one by Warren County Collision?

Planner Ritter – Yes, thank you. That's it. Just how much impact (inaudible) so it's something I think to think about. Like I say, it has nothing to do with the redevelopment plan but if you try to think of maintaining a cleaner looking road scape and you don't know the pressure to increase those billboards as more development occurs on this section of the road maybe there, maybe people that are interested in upgrading; who knows.

Mayor Mengucci – So, you're really talking about the gas stations, the two storage places, Warren County Collision all being viable businesses and beyond that you're?

Planner Ritter – Yes, I, yes.

Mayor Mengucci – Okay.

Planner Ritter – And, well, all these businesses, just to give you an idea and again, we didn't find it but this vacant lot happens to contain the septic field for the self-store. I mean it's fully developed. This lot coming in the back, believe it or not, it just stunned me, it's actually a wetlands parcel. It's supposedly unbuildable and then you have the gas station and the gas station facilities and but they're all viable. They all seem to be doing quite well and the collision place, actually the two times I went out to it, they were so busy you couldn't even get off the road and park. They seem to be doing quite well in that area. Now the reason these in the back we didn't feel were worth considering is because they are all tied to larger parcels in Greenwich and the Greenwich zoning and your zoning is very close together and we didn't really see a reason to separate them from the larger parcel in the back. The area here is the self-store facility. Most of this area is all wetlands; it's nothing left. Obviously, the self-store facility has developed its own. This large piece is the farm, tree farm, Christmas Tree Farm and the reason we felt that that was not worth considering for redevelopment, is that 85% of the property is in our municipally important ground water area and bottom line is, is that its's restricted to 15% disturbance. So, the odds are that there's virtually nothing, not any type of intense development can be done there besides the fact that the stream corridor divides it and the top portion is under the par lines so there is very little opportunity there. Hopefully, some type of actually the use its in is sort of ideal. Some type of low intensity business would be the ideal thing for that. None of these properties can expand back because of the stream corridor itself. So, there's virtually no flexibility on the site so that was not included in consideration of what we're doing there. So, I don't know, that's essentially where we are. If, like I say, if you feel uncomfortable with any of those or have things to add or think we missed something, let me know and we can, the next step, if the Board is comfortable would be to hold a public hearing, invite the public in including the

owners and hopefully get some feedback on whether how much interest they have, whether they are interested at all, whether they have some things to add or their own ideas to it, but those are the areas we think are worth having it. At that point, the Planning Board, by resolution, recommend it to Township Council. Township Council would have to decide whether they are comfortable with the recommendations and want to actually deem those areas in need of redevelopment. If they do, it would be referred back and the Planning Board for the actual development plan. If it gets that far, my recommendation would be you'd end up with two redevelopment areas because they are completely different. I mean what's going, any redevelopment plan for the mall in that vicinity is going to be completely different than any type of redevelopment we would probably come up with for the four properties directly across from the new warehouse. We would develop it, we'd have to hold public hearings and the redevelopment plan, the Board would have to look at a set of design criteria, design in terms of area bulk requirements use, essentially, you'd be looking at it as creating a zoning district for these sites or a plan for the development of these sites which would then be put into ordinance form, recommended to Council and they would have to do their hearing on the redevelopment plan and at that point, we could go forward. Now, I shouldn't say that the redevelopment plan could either be an overlay district to the existing zoning. In other words, we'd say that the existing zoning whatever it is, stays in place and you could continue to do what you want as long as you're consistent with that underlying zoning your fine, but if you want to, you could take advantage of the overlay district and develop it under these other set of regulations and so we could do it that way or you could do a redevelopment plan that says we're changing the zoning and these are the standards and then these people in these different areas would have to, if they came in with new development, would have to respond directly to that. It's essentially, for lack of a better term, it's a zoning criterion and it can be as detailed or as simple as you want. Some of these codes and I'm not recommending this, I'm just saying, some of them get into, you know, the peak of the roof, the width of the building, the paint that goes on the building. I mean, they can be very detailed or they can set down general design rules like, you know, if you provide multiple access points from the highway interconnected so people don't have to go out on the road. You can do this. It can be just that type of thing where you encourage better access or allow reduced parking if they give you more open space; something, you can actually look at standards. So, they can be as detailed or as simplistic as you like to go with but that's where we are, it's just a first step in the process.

Chairman VanVliet – Any questions of George on this? Anyone from the public have any questions for George on this presentation? This is not a hearing here obviously. It's general information and we'll make sure the Board and get the process going.

Donna Schneider – Are any of those properties, are any of those zones for heavy industrial? What are they zoned for? Is it mostly commercial?

Planner Ritter – The properties are ROM; Industrial Zone essentially covers the properties on this side of the road in the HB District covers these and the one property on the back that we're talking about is zoned for Residential; it's behind the mall. So, today these could have anything we allow in the ROM and these can have anything we allow in the HB.



Donna Schneider – Okay, thank you.

Chairman VanVliet – Anyone else? Seeing none. Thank you, George, for the presentation.

Attorney Bryce – Just so everybody knows just to (inaudible) for these property owners. We'll put out of notice of the hearing whenever it's going to be established. We are going to be noticing all the 21 properties that were identified by the Council even though they may not be incorporated into the ultimate recommendation of the Board. They will be noticed of the hearing.

Chairman VanVliet – Okay.

Attorney Bryce – Individually. Any property identified by the Council's resolution is going to get notice of the hearing. They may not be included in the plan but because they were in the delineated proposed area, just so if you're out and you know somebody at the collision place and they may say what the heck is this, you know, they may not be actually included.

Chairman VanVliet – Okay, well at this point I have one other, it's not on the agenda, but I'm going to ask you is that NFI's scheduled to come in, in September, however we only extended them to August 31<sup>st</sup> by their request – can we extend them tonight?

Attorney Bryce – But happenstance, counsel is here. I think that there was an extension that was granted. I don't know how formal it was. It was kind of like (inaudible).

Chairman VanVliet – Well, we actually stated the date to August 31<sup>st</sup>.

Attorney Bryce – Oh, I see what you saying the Board

Chairman VanVliet – Already extended that to August 31<sup>st</sup>. That was the date they requested to be extended to.

Attorney Bryce – I see what you're saying. So, now it's a question of notice going forward. So, yeah, I guess that you'd to file, make a motion to further carry application to September 22<sup>nd</sup> without further notice. Just for the benefit of the record and public hearing.

Member Pryor – Can I ask why would we want to do that? He's made a request, we granted it and what happens if the 31<sup>st</sup> comes and we've done nothing?

Attorney Bryce – I don't think I'm following.

Member Pryor – He asked

Attorney Bryce – Yeah, I think it's so, they don't have to re-notice.

Member Pryor – Yeah.

Attorney Bryce – It's because they were adjourned to this date, so now we're not hearing them tonight, so it's just to adjourn them that they don't have to go through (inaudible).

Member Pryor – So, if we didn't extend it tonight, he'd have to go through the expense of re-noticing. That's really the only impact.

Attorney Bryce – That's as far as I can tell.

Member Pryor – Yeah, why I don't want to do that.

Chairman VanVliet - He had originally requested that he wanted to be heard at this meeting tonight and he already had the schedule pretty much filled up. I didn't think I wanted

Member Pryor – No, I don't want to make them re-notice.

Chairman VanVliet -Make them all come up with their professionals and the cost involved in that and then no hear them at all so, you know, not only trying to do it as a courtesy to them.

Attorney Bryce – Just so there's no continuity lost which makes perfect sense so, that's just a motion to further carry it to September 27<sup>th</sup>.

Chairman VanVliet – Can I have a motion?

Member Pryor – I'll make that motion.

Mayor Mengucci- I'll second it.

Chairman VanVliet – Roll call Beth, please.

AYES: Members Coyle, Pryor, Samson, Weeks, Mayor Mengucci, Chairman VanVliet.

NAYS: None

Attorney Bryce – So, if anybody is here for the NFI application, this is your public notice that that has been now carried to September 22<sup>nd</sup> and there is no further notice that is required.

Chairman VanVliet – Thank you. Anyone have any comments from the public? Absolutely John, please come forward.

John Betz – Just as you said, when it occurred in the first place, there are the now the two organizations which you didn't want to referee for. The warehouse people who were here tonight and NFI will be here on the same night once again. Will you still have them in separate situations or will you be

Chairman VanVliet – As you heard before the Bridge application, they fully well understand that they may not be heard on that evening. Just doing it so and last few times out, I was only notified 24 hours before that they weren't (inaudible) they at 4:00 the night we were supposed to have the hearing (inaudible – interruptions). We still have the

John Betz – Will that be considered jointly or individually or

Chairman VanVliet – They're individual. We asked that question; are these individual applications or you coming in jointly? Kind of obvious that they're individual. I didn't want to put the Planning Board in a position of having to as I said for a better word referee to include them and trying to negotiate, that's between the two of them and the legal process that they would have to go through if they don't agree with each other. It's just a, we didn't have time tonight to hear both of those applications. The NFI was left off on the exact same position.

John Betz – I just wanted to get that clarified. Thank you very much sir.

Chairman VanVliet – I saw another hand back there. Would you please come forward and state your name please?

Attorney Peck – Yes, sir. Good evening, Mr. Chairman, members of the Board for the record Mark Peck. I'm here on behalf of NFI. Anyway, on behalf of NFI just want to confirm and clarify that that NFI's professionals can communicate with the Board's professionals under the same terms, conditions and limitations as applicant Bridge was given this evening.

Chairman VanVliet – We would all consent to that. Again, as long as anything you come up with comes before the Board for approval.

Attorney Peck- Absolutely understood. Thank you very much.

Chairman VanVliet – You're welcome. Any further questions?

John Betz – After all this is done with Planning Board eventually things will have to go to the council, right?

Chairman VanVliet – If we're talking about the redevelopment.

John Betz – (Inaudible)

Chairman VanVliet – We will have a hearing and our recommendations go up to Council on how it should be developed and if they don't agree with it, it comes back here. It could go back and forth a couple of times. Eventually, the only body that can make the actual zoning changes if they're recommended is Council.

John Betz – And as far as the warehouses are concerned, is there any interaction with the Council after the Planning Board gets done with approving it or disapproving it their applications?

Chairman VanVliet – When you say interaction with the Council, we don't have a formal declaration to go up. Another public hearing or anything like that at the Council. The decision that the Board renders will be the decision that's going to be enacted. You have to realize that we're still under a lot of legal situations that are coming up here and I don't know where that's going to go. I mean, I'm trying to get clarification myself to know what we're going to be doing and I was going to ask our attorney to, do you have any further information? Do you want to go into Executive Session?

Attorney Bryce – And, there's nothing to go into Executive Session about. It's public knowledge. The Board's application for jurisdictional clarification to proceed summarily, not on the merits, just to proceed summarily is also for a stay of applications and hearing the

applications is on for August 31<sup>st</sup> with Judge Miller. So, I don't know what's going to happen but my final briefing is going in tomorrow and we'll see what happens with the court on the 31<sup>st</sup>.

Chairman VanVliet – Okay.

Attorney Bryce – I will then report back but do not expect that the courts going to resolve the jurisdictional question on the 31<sup>st</sup>. It's just a determination as to whether or not the courts going to hear it in a really fast manner which it has not done to date, so.

Chairman VanVliet – Keep going we're were going until we get a decision and away, we go. Okay no further action, I'll entertain a motion to adjourn.

Mayor Mengucci – So move.

Chairman VanVliet- Second.

Member Coyle – Second

Chairman VanVliet – Signify by saying aye.

Secretary Dilts - All said Aye.

Chairman VanVliet - No opposed, no abstentions. Thank you very much. Thanks to the audience for attending. Have a good evening.

Respectfully submitted,

Margaret B. Dilts  
Secretary