

Township of Lopatcong
Planning Board Meeting

November 29, 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 Clymer, Coyle, Pryor, Samson, Weeks, Mayor Mengucci, Chairman VanVliet. Also present were Attorney Bryce, Engineer Wisniewski and Planner Ritter.

Chairman VanVliet – The first order of business would be approval of the minutes of September 22, 2021 meeting. Does anybody have any questions? I’m sorry, I should ask first, has everyone received a copy of them?

Mayor Mengucci – Yes.

Chairman VanVliet – Are there any comments, questions, statements? Hearing and seeing none, the minutes will stand as published. Next, we have to approve a resolution, the amended application of Bridge Development Partners, LLC for Preliminary Major Site Plan approval and Variance relief for property located at 80 Stryker’s Road designated as Block 99, Lot 6. Has everyone received that resolution? Are there any comments, corrections on that?

Member Pryor – Mr. Chairman, I’d like to propose two amendments.

Chairman VanVliet – Yes.

Member Pryor – And then, I’ll be prepared to move the motion as amended, but I’ll go over those first, if you don’t mind.

Chairman VanVliet – Okay.

Member Pryor – Page 14, paragraph 3. I’ll give you time to get there. Half way down, No. 3 says as to site access, etc. Does everybody get that? You know what, I mean thee things are printing differently on, it’s my Page 14, Paragraph 3 under the No. 3 as to site access. Yeah, we spent quite a bit of time talking about the interconnection and I would like to add a sentence

at the end and counselor can play with the language but this is ... there is no interconnection with the proposed warehouse on the adjacent property. Any interconnection would require an amended site plan and traffic study. That's my first one and on the following Page No. 7, it talks about utilities. It says the applicant has demonstrated to the Board's satisfaction that utilities are available to service this site. I would object to that; he did have with the exception of sewers. We spent quite a bit of time discussing that and as I would like to read that, have that read, somewhat of the following. "The applicant has demonstrated to the Board's satisfaction that the appropriate utilities are available to service the site with the exception of sewers. The applicant is required to confirm and obtain necessary approvals as maybe required from the appropriate utilities. With respect to sewers, the applicant shall approach Township Council, apply to Township Council as to the type of treatment works approval and/or capacity allocations necessary for appropriate discharge amount not to exceed 11,000 gallons.

Chairman VanVliet – Okay. Any questions on, I'm sorry Joe.

Member Pryor – I was going to say if nobody else has anything to add, I would make the motion to approve it, resolution as amended.

Mayor Mengucci – I'll second it.

Chairman VanVliet – Before we go to vote on that, I just want to check with our attorney, have you

Attorney Bryce – I did, I captured all that and I'll just add that in and reformat it as amended so you can adopt it.

Chairman VanVliet – Okay, very good. Our professionals, Adam do you have any problem?

Engineer Wisniewski – Not at all.

Chairman VanVliet – George?

Planner Ritter – No.

Chairman VanVliet – In that case, do any of the Planning Board members have any questions on it? Hearing none, we have a motion and a second. May we have a roll call vote, Beth please.

AYES: Members Clymer, Coyle, Pryor, Samson, Weeks, Mayor Mengucci, Chairman VanVliet.
NAYS: None

Chairman VanVliet – Okay, we have the next order of business Jessamine minor subdivision for Block 65, Lot 5 and this is for completeness only. There is no public participation on this one. Has everyone received a copy of the, I think we have a representative of Len Jessamine here.

Attorney Dornish – Yes, Mr. Jessamine is here and I'm Ryan Dornish, his attorney.

Chairman VanVliet – Yes. Proceed.

Attorney Dornish – All right so, Mr. Jessamine wants to do a minor subdivision to turn one lot into two lots, I believe for the purpose of putting a dwelling on the property, right Len?

Len Jessamine – Yeah, on 211 Second Street.

Attorney Dornish – Okay and so, we are here for a completeness hearing too. I guess there's information that you guys need to tell us that you need, is that correct?

Chairman VanVliet – Adam, do you have the

Engineer Wisniewski – Sure, I prepared a report in reference to the minor subdivision application that was filed by Mr. Jessamine and Mr. Dornish. As Mr. Dornish explained, the intention is to, has been to apply for a minor subdivision to subdivide an existing lot into two separate lots; one that will contain the existing dwelling and one will be vacant for the purposes of construction of a future dwelling. In terms of completeness, I reviewed the application against the checklist and there was one item that the applicant had requested a waiver from and that was from providing the topographic data on the plans. The plan currently just shows the outbound boundaries, the structures; it doesn't show any elevations which is typically provided or requested on the checklist for a minor subdivision as well there were a number of items which they had requested to be considered not applicable and those include, if you have a copy of my letter, those include lot lines to be eliminated that don't exist in this case, a lot of environmental features, wooded areas, streams, wetlands; things of that nature, stream encroachment lines; those don't exist, soil logs; items related to septic which is not applicable to this neighborhood. There are no septic in this neighborhood. Served by public sewer and finally, environmentally constrained areas, flood plains, steep slope areas, things like that which also don't exist in this area of the township. So, essentially those are the items that are being requested, waivers are being requested or the request is that the Board consider these not applicable to allow the project to proceed to a hearing at the next Board's meeting. So, that was basically, a summary of the completeness.

Chairman VanVliet -This will be dealt with when we have the public hearing for it.

Engineer Wisniewski – Sure, unless the Board has any questions.

Member Pryor – Mr. Chairman, I do have some questions for the Board's consideration. I really, I am interested in hearing what Adam and George have to say. I recognize this is a completeness hearing, I haven't seen any plans, but he is creating an undersized lot, self-created, he does have the room to create two conforming lots but I don't know what kind of variance he's going for. I don't know how you could go for a hardship on a self-created hardship, it's me speaking and if you go for, I don't know, a flexible variance, usually things like topo and improvements are part of the evaluation on whether he need to submit proofs or not. As far as these other things, I mean, they are part of the checklist and I understand that. Whose certification do you take that

these don't exist. I mean, it would seem to me that surveyor could have just said there's no streams within 200 feet, etc., otherwise, there's no testimony on the record.

Chairman VanVliet – You mean get this ahead of time?

Member Pryor – No, does it show no streams within 200 feet? Well, he's asking for waivers.

Chairman VanVliet – Well, no, he's asking to not include them because they don't exist.

Engineer Wisniewski – That's, it's not applicable.

Chairman VanVliet – It's not applicable.

Member Pryor – Well, whose saying that? The applicant?

Engineer Wisniewski – Yeah.

Member Pryor – You want to accept that? I go to wetlands, we put that on the checklist. Who says there's no wetlands? We don't go out there. Do we accept the owner's certification? I ask that. All he has to do is note on there, there's no stream within 200 feet.

Attorney Bryce – There are constraint notes on the plans.

Engineer Wisniewski – Surveyor did include some notes

Attorney Bryce – No, wetlands observed on the total tracks or nearby properties.

Member Pryor – You know, I will go with our professionals on this but I still question how you evaluate the variance, proofs for the variance without knowing what's going there and what the topo is. How do you know it's not creating a problem?

Engineer Wisniewski – So, I wasn't evaluating the merits to the application, just what was submitted and what, you know, whether the applicant can present their case to the Board so,

Member Pryor – No, I get that but topo not presented, the topo is often featured to go for a hardship; things like that, so

Attorney Bryce – Mr. Pryor, that's, if the Board's inclined to grant the waiver for that it would be a submission waiver. It doesn't necessarily mean that they wouldn't be required to demonstrate it as part of their proofs later on. It would just be a submission waiver and they may not present that but that's going to be up to them.

Member Pryor – We can ask for that later if that became an issue. Well, with that explanation, then I'll go along.

Attorney Bryce – And, just deeming it complete will just start the clock.

Member Pryor – Yeah, all right.

Chairman VanVliet – Anyone else?

Member Pryor – George, (inaudible).

Planner Ritter – Well no, I agree. I think if the Board finds, as part of their presentation, that additional information is required on steep slopes, any of that type of information they can request. As to the variances, that are required in the application, I look at this as a completeness issue now and obviously, they have to defend their plan when they come before the Board and have to address those questions in support of the three variances they require.

Member Pryor – Fair enough.

Chairman VanVliet – So, I'll entertain a motion, if there's no further questions, from the Board. I'll entertain a motion to deem the application complete.

Mayor Mengucci – I'll make that motion.

Chairman VanVliet – Do I hear a second?

Member Weeks – Second.

Chairman VanVliet – Roll call Beth, please.

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

NAYS: None

Attorney Dornish – Okay, thank you. Do we have a date for the next meeting or that will come at some point?

Chairman VanVliet – Will you be ready? I would probably think this maybe deferred to the February meeting only because we are in a state of flux with a lot of other applications and legal issues and that would take up the December meeting. In January we already have scheduled and that's also the reorganization of the Planning Board. I would think that if you are prepared, we would be prepared for the February meeting.

Attorney Dornish – Okay.

Chairman VanVliet – Are you in agreement with that?

Attorney Dornish – I think so. That should be plenty of time.

Chairman VanVliet – Thank you very much.

Attorney Dornish – Thank you.

Chairman VanVliet – Okay. Our next order of business is the Non-Condensation Area in Need of Redevelopment Report. This is for discussion and a public hearing by the Board, so, I'm going to call upon our Planner, Mr. George Ritter to give a presentation of what we are looking at.

Planner Ritter – Thank you, Mr. Chairman. What we're here to discuss tonight is basically, a project that has been looked at over the last several months. Back in January of 2021, Council directed the Planning Board to conduct a study to determine whether certain parcels in the town qualify as an area in need of non-condemnation redevelopment in accordance with New Jersey Redevelopment Laws. Since that request by Council, we've worked on putting together a report which the Board has on basically, the properties that the Council asked us to investigate. The Council requested that we look at essentially, a group of commercial and industrial properties that front on Rt. 22 basically, from its intersection with 57 to the Greenwich/Pohatcong Township border, and it included 21 specific properties that they requested that we take a look at and essentially, put together an investigation that will result in a formal report back to Council as to whether these properties meet the statutory requirements of the Housing and Redevelopment Law to be included in an area of need of redevelopment. The study itself, looked at, as I say, the strip running from Rt. 57, all the way to the Greenwich/Pohatcong border and the study included a mix of properties that, essentially, that the 21 lots, it comprised about 150.9 acres of property if you add them altogether and look at them and essentially, they fell in basically, three of our commercial/industrial zoning districts, the ROM, the HB and the Planned Development District and one of the lots basically fell within the AARC District. I don't, I'm trying to think what's the best way to do this. I think I'll go over to the exhibits; it might help everybody in the audience. The properties that are under investigation as we said, essentially, started at the (inaudible) and probably the easiest for everybody in the audience to recognize where we are in town rather than looking at the data maps, is to look at the aerial photographs you're probably very, very familiar of what's out along that section of the highway and it will help you key in better to what's actually being considered in the study area. Essentially, in our first map which is the aerial map, we marked in the black line, essentially, the properties that are under consideration and under study as being potentially in need of redevelopment and that's essential to properties that add up to be about 150.9 acres which is divided between 21 properties. Of those properties, which you can begin to see is, if they involve both open parcels of ground, parcels of ground that are partially developed as well as fully developed properties extending up and down the road, up and down Rt. 22. The primary anchor on the Greenwich/Pohatcong side

which is included in it, is part of the Phillipsburg Mall as most of you are aware of the mall is in a distressed condition and has been for several years and it's located both in Pohatcong and Lopatcong Townships and is being studied, it is our understanding, being studied by Pohatcong Township as a redevelopment area as it reflects their portion of the mall and it's been incorporated essentially into our study so, that the mall is being looked at as a unit, which is how it's developed today. Also, open space behind the mall has been incorporated into our study primarily because of its location and isolation from the general transportation network from Rt. 22. It's blocked by Lopatcong Creek, the environmental areas and basically, the current access for this over 50 acre parcel is either back through residential streets within Pohatcong or via single access point out onto the mall road itself; a private road that circles the mall so we felt that that was worth looking at as potentially in need of redevelopment because of the access, the isolation, and quite frankly, the development of the mall and the redevelopment of the mall, the character of that area could very much impact how that whole parcel is developed in the future. We also looked at coming in from the 57 area, basically the Christmas Tree Farm for lack of a better term, the older industrial mixed-use buildings directly across from the new warehouse. Also, the, what I call it, an old gas station, but it's actually the truck repair facilities that are located along there as another potential area of need of redevelopment. The self-store facilities that are located actually back from Rt. 22 but access to 22 and the various car repair facilities and self-store facilities as you come out on the Greenwich side of the mall. Essentially, as part of the evaluation, there's a set of specific criteria; maybe before I go into that just so that you all have a sense of what's going on, this is a process that the Township Council and Planning Board will have to go through. This process is only the beginning process, what's going on here tonight is a discussion of and a review of potential sites that might be in need of redevelopment. If the Planning Board, at this stage, is comfortable with that or would like to amend that, obviously, that's something that they can do. This Board would then recommend to the Township Council the area that they perceive is being in need of redevelopment. At that point, Township Council would actually review and formally adopt the report designating either all or some of these properties as redevelopment areas that are to be considered for redevelopment. The next step in the process, and this would be after receiving public input, receiving input from the property owners themselves as well as the Planning Board's recommendations, they would then develop a, basically, a redevelopment plan and that plan would be where the actual uses that would be permitted in the district, the actual design standards, the bulk standards, basically, what most people would consider zoning standards would be put together and assembled. The Township Council would then officially adopt those regulations as applicable to the redevelopment (inaudible). At that point, that action would then lead to amend the Township Zoning Ordinances to put the redevelopment regulations in place if a developer chooses to reuse those basically, design standards to develop. It would then come back and any application for development would then come back to the Planning Board for a standard hearing which you're all used to seeing in terms of site plan application, preliminary, final approval and go through the process. So, what you're seeing tonight is only the beginning process of this, but there's many steps going forward and it should be emphasized that Township Council is instructed the Board to develop areas in need of redevelopment non-condemnation. So, this has no implications that the Planning Board and the Township Council intends to take or basically take away anybody's

properties rights. This is not something where they're going to use eminent domain or anything like that to impose a plan on the property owners. These will be basically, redevelopment areas that will require the participation of the individuals that are affected and they basically, would be the ones that would have to initiate, through normal planning processes, a development process for their property. Just want to make that clear; there's no plans going to be developed tonight. There's nothing that involves recommending how these properties would be used. The only purpose of tonight is to discuss whether certain properties preserve or should be considered as a redevelopment area. Basically, the state, under their redevelopment laws have laid out very specific criteria by which we should do this evaluation and that's really what this report deals with is looking at the criteria and there's eight criteria that you're supposed to use to evaluate these 21 properties to determine whether they might be in need of redevelopment or considered for redevelopment. I'm not going to go through the whole eight criteria but I will give you the two that we used and then I'll discuss it as it relates to what the report recommends. One of the criteria for determining a property is in need of redevelopment is if the discontinuance and I'll read these just, probably easier than trying to (inaudible) the discontinuance of the use of a building or buildings previously used for commercial, retail shopping mall, plazas, office parks, manufacturing or industrial purposes, the abandonment of such building or buildings significant vacancies of such building or buildings for at least two consecutive years or the same being allowed to fall into such a great state of disrepair to be untenable. Essentially, what they're saying there is that the building should have a history of being vacant or that the facility has become so dilapidated if you want to call it that for any purposes that it's unusable. That's one of the criteria that can be used to get a sense that the property is in need of redevelopment. Another criteria that was considered, and one that was, I think applicable here, is what they call criteria "D", areas with buildings or improvements which by reason of dilapidation, obsolescence, overcrowding, or design, lack of ventilation, light and sanitary facilities, excessive land coverage, deleterious land use or obsolete layout or any combination of these factors. Essentially, what they're saying there, it's a very general one, but what they're saying is that if a facility even though it may be occupied, is obsolete, does not have efficient use of space or has excessive impervious cover and it's having impacts on the area around the site. You can consider it as in need of redevelopment. There's also one other criteria which is not related to the eight, but then the state also allows in their redevelopment plan to include properties that are interval to the redevelopment plan. What they're really trying to say there is, is that if you have two properties that are, let's say determined to be in need of redevelopment, there's one in the middle, that is perfectly satisfactory in its current condition but it prevents the redevelopment of the other two properties or is, could be instrumental to the redevelopment, you can include it, so there are some of the properties here that we consider that we feel fall into that category and I'll try to explain it. Essentially, to get right to the point, out of the 21 properties that Council identified as I said, the ones basically boxed within the black lines, it was determined that we feel that there's a potential for eight properties to be deemed in need of redevelopment and on the map we have up here, we essentially outlined those areas in red and basically across from the new warehouse, there are four properties that over the years, I think it originally started out as the Bell and Howell Industrial Complex, it's now a series of warehousing, a little bit of retail and office space and a very large parking lot, there's an old gas station facility and then the truck

repair facility in that location. We feel that they do meet the criteria for being considered in need of redevelopment. There was four properties there; it's Block 100, Lot 2.03, Block 100, Lot 3, Block 100, Lot 4 and Block 100, Lot 6.03. There basically in that location, the total area is about 12.33 acres of all three properties added together and it's an area that we felt did meet the criteria of Section D and what that was is essentially, the facility is outdated. It's the best way to put it. It has very large underutilized areas, excessive pavement and quite frankly, has very poor access on and off of 22 and could use some improvements in those areas. So, we've got those four lots in that location deserve consideration that properties in need of redevelopment. The other, which is probably far more obvious to the community today is the Phillipsburg Mall property which I'm sure you are all aware of and in terms of its decline over the years and the actual removal of the Sears building and another building on the site and the lack of tenants today, essentially, also make it a prime property to be considered for redevelopment and that's essentially, there are four properties that we want to consider there for redevelopment, three of which are directly related to the mall and that's the 31 or so acres of the mall within Lopatcong Township. We also want to consider there's a Friendly's, what used to be an old Friendly's restaurant that's been vacant for several years to be considered as part of the plan and also, the Taco Bell which is perfectly viable as it is today but about one acre of the site is in Lopatcong Township and those two properties control access to 22 and we felt that even though they are not necessarily properties that meet the absolute criteria in need of redevelopment, they clearly should be included because they control the access to the property and maybe part of a redevelopment plan as to how you link the property to the rear to 22 and also which is probably the most unusual one, it is felt that we consider the property to the rear of the mall and that's essentially a 51 acre parcel which is currently, essentially, a farm and it's located to the rear of the mall and we felt that that should also be included as part of the redevelopment plan for this area primarily because it is an isolated parcel of ground. Isolated between the mall, the Lopatcong Creek corridor which has steep slopes, wetlands and also access the road that runs along that area really is not in any kind of shape to handle any volume of traffic and the fact that any development here is either going to be forced out through a very minor private loop road or will be forced to have to come back to Pohatcong and it should be looked at as a comprehensive plan for the development of that area along with the mall itself. So, there's four properties in that area that we consider to be in need of redevelopment that's Block 102, 9.01, that's basically the old mall; that's the mall portion which is about 42.9 acres, Block 102, Lot 9.03 which is essentially the Taco Bell, the portion in Lopatcong Township, 9.04 which is the Friendly's and also Lot 9 which is roughly 51 acres in the rear. So, the report found that out of the 21 lots, those 8 lots are what the Board, what I believe the Board may wish to consider as properties in need of redevelopment and that brings us to where we are tonight for discussion of those and we can go into the background and the lots if that's any of the concerns and obviously the public to get your input on those thoughts and that's where we are on those 8 lots.

Chairman VanVliet – Thank you George. I guess the best way to proceed on this one is, I'm going to ask the Board if they have any questions. We've been kind of going over this for the last few months.

Member Pryor – I do, Mr. Chairman. A quick question. George, this report that was prepared here goes up to the Board, and if the Board accepts it, they'll pass a resolution and at that point, I'm reading from a summary, not the law, so here's my question. It can be assigned; it can be run either by Council or the Planning Board. Is that correct?

Planner Ritter – That's correct.

Member Pryor – So, they, they can keep and do it themselves in which case any ordinance they want to draft would have to come back to the Board for a general consistency determination or they could send it down here and our professionals and the Board could work on it here under whatever procedures we set up.

Planner Ritter – That is correct. That's totally up to Council how they'd like to proceed.

Chairman VanVliet – All right, I think at this point we'll open it to the public. If you have any questions of this, of our Planner, I should say and presenting the what the ultimate goals are as we see how we're going to proceed forth now. Are there any of the property owners here tonight that are affected that would have any questions on this?

Planner Ritter – Yes, can I say, when I say that part of this process of, is to, will involve and hopefully involve the property owners that are affected cause obviously their participation in this is, in a way, voluntary but it also input to Council if they're developing the plan or the Board, would be helpful to get as many ideas incorporated into this and try to identify any problems that are holding back these areas so that they can be addressed and worked into the plans. If there are owners out there, you should not feel uncomfortable with voicing your opinion on this.

Chairman VanVliet – John, you have something?

Attorney Bryce – John, are you going to make a comment?

John Betz – Yes, I am.

Attorney Bryce – I'm just going to swear you in for the purpose of (inaudible) because it a hearing now. Raise your right hand. Do you swear and affirm that the testimony that you are about to give the Board, is the truth, the whole truth and nothing but the truth?

John Betz – Yes.

Attorney Bryce – Okay, just state your name for the record.

John Betz – John Betz. Just in this property down here, this large property behind the mall, if that's the area, I think it should be used for residential. That's all I have to say about it. I don't think it's the right time to say anything else.

Chairman VanVliet – Yes sir, in the back. Would you come forward please and identify yourself and be sworn in.

Daria Kissenbirth – Daria Kissenbirth

Attorney Bryce – Daria, are you going to make comments as well as a question?

Daria Kissenbirth – Just a question. So, I under that there might be a need to redevelop sites like the Phillipsburg Mall and it's unuseful, unsightly. My question is, we live in a beautiful rural area, why would we need to redevelop the farm land? Why can't we preserve them?

Chairman VanVliet – It's always a possibility. I mean, that's why we're going through the process we're going through now.

Daria Kissenbirth – Thank you.

Chairman VanVliet -Yes, Ma'am.

Margaret Taylor – Sorry, it takes me minute.

Chairman VanVliet – Would you be more comfortable being seated?

Margaret Taylor – No, I'm fine. Margaret Taylor and I just have a question. Why isn't the intersection of 57 and 519 included in this? Where the abandoned liquor store is. It used to be a restaurant Morrie's Acres years ago. Why is that not part of this? It's a disaster.

Attorney Bryce – It may need to be. The Board and the Planner of the Board is constrained only to look at the properties referred to by Council. So, if that is not one of the properties that was referred to by Council, this Board does not have jurisdiction to study it. At this point in time.

Member Pryor – You know, maybe I can since I sat on Council at the same time. You know, this was prompted of course by the Phillipsburg Mall and the focus was Rt. 22 corridor. It's our gateway to town and people said gee, it looks, you know, pretty run down and that was our focus. I think Morrie's Acres is a good suggestion and I think

Margaret Taylor - It's been a disaster for years now and such an eyesore and there's much more traffic on 57 than there used to be. A lot of truck traffic but I thinks that's

Member Pryor – That's not a bad suggestion; good suggestion.

Margaret Taylor – Okay, thank you.

Chairman VanVliet – Yes, Ma'am.

Marie Hetem – Hi, I'm Maria Hetem. I just have a question. Do you have an idea of what direction you want to go to see what happens with these properties? Are you looking to make parks or residential areas? Can you give us a little bit of idea of what maybe your master plan is for the area? The areas that you're looking at?

Chairman VanVliet – You're getting into an area where we don't usually go into because we're not the owners of this property. The town I should say is not the owner of the property. The property owners have quite a few rights on how they want to develop their properties when they come forth with a plan and they would come to the Planning Board and there's where we would make, you know, see how it fits in, what's happening but up until this, point we don't know what's going to actually happen to these properties, so, there's rumors, there's all kind of things out there but there's been no application made to this Board on the Lopatcong portions of these yet to do anything with that property.

Marie Hetem – But do you have a feel for what the town would like to see be in there? Parks or nothing, just kind of open to fixing it up more, so.

Member Pryor – Again, maybe I can hop in here. There is zoning in place. All right and George, maybe I ask for your help here. There's several ways to implement this and one is as an overlay to that the owner has the choice of the existing zoning or we give him an alternative which he might find preferable. It be certain, you know, things in there which might make him want to do that, so, and again, our overlay could be very detailed, could be very broad.

Planner Ritter -Yes, what I want to say is that I don't think there is no hard plans for any of these areas if Council decides to designate them but a redevelopment plan as indicated first of all, could be considered as an overlay district rather than replacing the zoning that's there. It could go either way but let's say that's one of the considerations so that the applicant could continue to operate under the current zoning of his property and he could choose to do the overlay if he thought it was beneficial to him. Now, it should be pointed out that the redevelopment plan will have in the very standards that you're talking about, that is to say, how much open space must be provided, where it can be, must be provided, how wide the buffers have to be, in other words, that's all material that's reviewed and included in a redevelopment plan which then, if someone chooses to do that, will have to meet the same criteria just like he has to meet the zoning criteria for his property right now.

Maria Hetem – Okay.

Planner Ritter – But right at this moment, I don't think there's any hard and fact direction as to how many parks, if any, that kind of thing that's going to be created but those issues will be addressed as part of a redevelopment plan. Just to give you an example, the current warehouse facility that's built on 22, the entire stream corridor had to be preserved. They basically, the

Lopatcong Creek and within approximately 300 feet of that had to be put, set aside as open space, couldn't be developed and that extends not only on their property but all the way through back into Phillipsburg. So, those are the kind of standards that get written into a redevelopment plan. So those ideas would be addressed and also, the actual standards, the redevelopment plan will be open to the public, will be open to review and comment the same as a zoning ordinance. So, just say you get several opportunities to review and look at what's being proposed and decide if it's comfortable, you're comfortable with it.

Maria Hetem – Okay, thank you.

Chairman VanVliet – Yes, sir.

John Curtis – My name is, do I have to be sworn in?

Attorney Bryce – Question or comment? Or both?

John Curtis – Both

Attorney Bryce – Okay, then I'm going to swear you in. Raise your right hand. Do you swear and affirm that the testimony that you are about to give the Board is the truth, the whole truth and nothing but the truth?

John Curtis – I do.

Attorney Bryce – Great. So, please state your name for the record.

John Curtis – My name is John Curtis. My wife here is Cynthia. She is 79 and I'm 81. We own the Christmas Tree Farm and we're trying to sell it so we can retire and all I'm asking is don't muck it up so that we can't sell it. That's all.

Planner Ritter – It's not been included in any of the properties that are considered in need of redevelopment. In other words, as it exists today, that's the intent to leave it that way.

Cynthia Curtis – Pardon me, it's on your map as part of the redevelopment.

Attorney Bryce – Why don't we come on up and I can swear you in so that we can just make sure our record is nice and clear. And I assume you're Mrs. Curtis.

Cynthia Curtis – Right.

Attorney Bryce – Can you raise your right hand? Do you swear and affirm that the testimony you are about to give this Board is the truth, the whole truth and nothing but the truth? And you can make comments or questions.

Cynthia Curtis – Yes. So, you, yourself described it on the map as the so-called Christmas Tree Farm. So, it is

Planner Ritter -I don't know the official name but just so you understand

Cynthia Curtis – It is a genuine full-service Christmas Tree Farm.

Planner Ritter – I realize that. Just so it's clear, your property, the farm, is in the study area. As a result of the study, we, the study did not find that your property was in need of redevelopment. So, the study is basically recommending to do nothing in regards to your property; it would remain as currently zoned.

Cynthia Curtis – I still don't understand that because we're on the map and you even referenced it.

Attorney Bryce – Let me try to explain. The governing body, which is a separate body from this, charges this Board

Cynthia Curtis – City Council thought it was but you don't?

Attorney Bryce – No, they just said here's and area, we don't know. You guys take a look and see if it qualifies as an area in need of redevelopment. So, the job here, is to see whether or not what the governing body outlined is actually in need of redevelopment and I think what the planner is saying, is that they looked at your property and said well, it didn't really qualify as an area of redevelopment.

Planner Ritter – Correct and so

Cynthia Curtis – So, we are not going to be part of this?

Attorney Bryce – No, but I will say this and I don't want to muck up the words. There are times when people want to be part of a redevelopment.

Cynthia Curtis – Why would they? What is the advantage to is?

Attorney Bryce – There can be other types of land uses in the area that are approved that can be lucrative to people that want to develop. So, it all depends. Some people don't, some people do.

Cynthia Curtis – Okay, so Mr. Ritter said this is just the beginning. So, would you give me an estimate about how long it's going to take for you to figure out the redevelopment zoning? That's what I figure it is. You're going to make new zoning for certain areas that will maybe help them redevelop if they want to.

Chairman VanVliet – You will probably not be part of the rezoning at all, we're not going to touch the property. It's already been determined that it's not in need of redevelopment so we're not going to (inaudible – others speaking)

Planner Ritter – Yeah, well, it would not be part of any redevelopment unless Council, you know, didn't follow the recommendations but in terms of when this will happen, it will be months

Cynthia Curtis – Months, not years?

Planner Ritter – Well, I suspect Council hopes it isn't years. That's just my opinion but it could very well be a three-to-six-month period with no, it could consume that amount of time with little difficulty and even possibly more.

Cynthia Curtis – And, one other question, because like John said, our property is for sale. I've been trying so hard to find out what uses my property is good for in an HB and ROM Zone. It is not so easy to go to your pages on the internet and figure out what things are allowed. I would really like to know that and I would also like to have the property removed from all your future publications or meetings and not include our property in this. We're not included; don't include us.

Planner Ritter – Okay. Well, it's not included in this recommendation and the ROM Zone, if you like, we can easily, just give me a call. I can permit a list of permitted uses in your district.

Cynthia Curtis – Mr. Ritter, I will. Thank you so much.

Planner Ritter – That's fine.

Cynthia Curtis – Oh, one other question. Does this mean until you rezone, or change zoning for certain areas, that the zoning that now is in effect, remains?

Planner Ritter -Yes.

Cynthia Curtis – So, somebody could put warehouses on my farm?

Planner Ritter – No.

Cynthis Curtis – Why?

Planner Ritter – Because technically warehousing as a result of Council's actions of several months ago, has been repealed.

Cynthia Curtis – But you can't just repeal that? I mean you can't just; you have to do something to repeal things. You can't just change it on city council.

Member Pryor – Yeah, you can. It's a complicated process which we went through.

Cynthia Curtis – I heard it on zoom.

Member Pryor – An ordinance was drafted, it came down to here and it's in a lawsuit right now but the reason involves the timing and procedures, not our right to do that and we, no matter how you look at it, we feel that the current version of that ordinance is in place and from here forward, we expect that to be enforced. Jim, is that

Attorney Bryce – I think that's accurate. There's a subsequent

Cynthia Curtis – Do I understand correctly that warehouses really were not an allowed use until you decided it was a use and then all of a sudden, they put them up and now they were all up and now it's not an use.

Member Pryor – No, no, no, that's totally incorrect.

Cynthia Curtis – Well, you can explain it.

Member Pryor – I mean if you want an answer, I can offer you one.

Cynthia Curtis – I can hear from here. I would like an answer

Member Pryor – Warehouses have been around. We have warehouses; there's warehouses on Strykers. What wasn't allowed until about 2012, the ordinance was changed, the bulk requirements were changed to allow and the intent was in warehouses, we were trying to land the data center and these are essentially structures that require a higher height from 45 feet to 60 and larger footprint and that was changed in 2012. Then low and behold what hits the market, they call them these high cube warehouses which are the big things you see popping up all over and that is the most recent change to the zoning ordinance. So, warehouses have been here.

Cynthia Curtis – They have on Strykers Road.

Member Pryor – Sure and that one right at 57 and Strykers; that's a warehouse. It warehouses construction equipment till it's ready for the site. It's the dimensions. It's the dimensions that were changed about ten years ago and the intent wasn't warehousing, it crept in. It was really, it targeted a different type of construction. If you read the master plan, they were talking about large manufacturing particular the data centers and a few other things.

Cynthia Curtis – I think, if I could just say one thing more, that my property holds the only historic building that I can think of a 1700's house in Lopatcong. It's open space. You put in smelting plants, asphalt plants, you put in, John's telling me to sit down, if you could find a way to keep that open for Lopatcong, at least they would have some history, they'd have open space, they could have gardens, they could have whatever. Just think about that.

Chairman VanVliet – Anyone else from the audience have questions or comments?

Person in the audience - Is this back on the topic or just on, not on warehouses

Member Pryor – The hearing is on the redevelopment. You will have a chance when this is over if you want to say something.

Chairman VanVliet – This is on the redevelopment. We'll have another portion where you can ask any question you want or make a statement, I'm sorry. John, did I see your hand go up again?

John Betz – No, no.

Chairman VanVliet – Okay, I'll ask one more time. Is there anyone else that would like to make a statement or ask a question? If not, I'm going to close the public portion of this hearing and where do we go from here?

Attorney Bryce – Motion to adopt

Chairman VanVliet – No more public comment here, I'm going to back to the Board and ask for a motion to adopt the plan before us here now, recommendation on the study of it. So, under that, I'll entertain a motion to do that.

Member Pryor – I will say I'm familiar with Council's objectives. I would ask the Planning Board to conduct a study under the Local Redevelopment Housing Law. It's exactly what the Board did. I think George did a thorough and workman like job. I read it several times. As George said, we started out with, what was the initial number of properties George?

Planner Ritter – Twenty-one properties.

Member Pryor – Twenty-one and we whittled it down to how many?

Planner Ritter – Eight.

Member Pryor – Eight. The criteria is laid out fairly clearly in the statute. George applied that reasonably. It's been discussed here among this Board and I see no reason not to accept it and forward it to Council with our recommendation. So, I'll make that motion.

Chairman VanVliet – Okay. Do I hear a second?

Member Weeks – Second.

Chairman VanVliet – Beth, roll call please.

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

NAYS: None

Chairman VanVliet – You’ll prepare a resolution?

Attorney Bryce -Yeah, I will prepare a resolution for the Board for the next month’s meeting. Certainly, the Mayor and the Council now the action that was just taken but then the Township Council will be able to act on the Board’s recommendation.

Chairman VanVliet – Very good. Thank you very much. At this point, we have no further business to conduct so I’ll reopen the public portion. You may ask any question you would like on any subject that you would like here; this, warehousing, Strykers Road.

John Betz – John Betz again, Brakeley Gardens in Lopatcong Township on Red School Lane. This truck repair place that’s on here, are these places going to be contacted as to what they want to do with their properties eventually?

Chairman VanVliet – They’ve been notified that they’re under the study. I don’t know if anyone’s here from that property.

Attorney Bryce – Mr. Betz, I can tell you a little bit of the process? So, this Board has now adopted the recommendations of the study. That’s going to go back to Council. The Council is going to be adopting the resolution notifying all of the people as part of that designated as an area in need of redevelopment. When it gets time to a plan, they also are going to be put on special notice of any type of action that’s going to be regarding the plan which will encompass any type of future use for the property. This is not done without people knowing, the people specifically in and affected by the redevelopment area are specifically notified.

John Betz – They’re specifically notified and the public is also you know on everything that goes on with it just like anything else that’s gone on here on the Board of the last so many years I’ve been coming to Board meetings.

Attorney Bryce – And, it’s actually the Council and the Board that will give the notice of so it’s not just an applicant.

John Betz – This is a slow entry into it for people that own the property and the public. Okay thank you very much.

Attorney Bryce – You're welcome.

Chairman VanVliet – Yes, sir, gentleman in the back. He had his hand up.

Jim Belske – Hi, good evening. Jim Belske 1020 Deerhaven Terrace, Overlook. Just a couple quick questions regarding Bridge Development and the sewer requirement. Is it possible that the developer could propose a septic or sewer treatment plant on their own to meet that requirement?

Chairman VanVliet – That's a possibility.

Member Pryor – You know most of Strykers is under septic. That would be one of the larger buildings to have a septic. It has a big site. Who knows, if the numbers aren't outrageous. I can't guess. They can always propose one.

Attorney Bryce – Yeah and I just want to caution the Board the record for Bridge is closed and that matter has been determined and adjudicated by the Board with the resolution so frame the question and the answers as generally speaking and not as to a specific applicant that is otherwise represented but not here because we are not reopening the record as to the Board's decision for that.

Jim Belske – Okay

Attorney Bryce – Does that make sense to you?

Jim Belske – Yeah, yeah, right, so, they have preliminary approval, correct?

Attorney Bryce – Yes.

Jim Belske – So, for them to receive final approval would the applicant in general need to provide another design to accommodate this sewer?

Member Pryor – That was right in the resolution that was one of the amendments that I offered. They have to go to Council now and work out their sewerage use. So, that issue is still open.

Jim Belske – As the Township Council?

Member Pryor – That's a Council, yes, they give out the allocation. They sign the treatment works approval. It will be handled there.

Jim Belske – So, then the public will have that opportunity once the developer comes up with a suggestion or design for solution that will be presented again to the public where input can be provided?

Member Pryor – It's the developer's proposal and he works within the law.

Jim Belske – So, it would be a hearing yet for the final approval?

Member Pryor – It won't be a hearing. It will be an action by Council. It's not an ordinance, it does not require a hearing. It will be on the agenda. People are welcome to come. People are welcome to comment.

Chairman VanVliet – It will still have to come back before the Planning Board for their final site plan approval.

Attorney Bryce – And, that may not be noticed. I'd have to quick look at that. It would be a public hearing but it may not be noticed the way that the original was.

Jim Belske – So, would it be in the agenda though? Posted?

Attorney Bryce – It would be on an agenda. I'm going to say generally speaking, I'm not speaking about any specific applicant before the Board. In the land use law, you have for site plans, two types – preliminary and final. Sometime they apply for them simultaneously. What they really do is we have an ordinance that provides what is required to obtain a preliminary approval and then we also have an ordinance that sets forth the requirements for a final approval. Usually, a final approval is a small checklist, few items because bulk of the work was done at the preliminary stage and that the final becomes a formality. What preliminary and final really does, I mean, it lasts forever really, is it protects people from a zone change. So, if the zoning were to change, preliminary grants them a certain number of years that any ordinance can't affect their site. Same thing with final and the final then extends that out for an additional period of time. So, you're allowed under preliminary, generally, to start undertaking site work especially public improvements that are on-tract and off-tract. If you're going to be getting preliminary and final, then you have to do bond or developer's agreements and other things but just to be clear, the bulk of, if an applicant is seeking preliminary and they achieve preliminary, that's where the bulk of the merits have been discussed.

Jim Belske – I guess what, maybe just I'm naive in this and I'm sure I am, the size of this development would require an excessively large septic system. So that would be currently allowed in the zoning for that property?

Talking over each other.

Member Pryor – County Health Dept. ultimately approves that and that's what I'm saying, if they present something and it meets all the regs, you know, there's going to be no effort to go out and solicit opinion and have a hold on it, you know, they'll show up with an approval.

Chairman VanVliet – It's changed to that degree.

Jim Belske – Right, if we see a big treatment center there

Chairman VanVliet – If they physically affect what the size of the building would be, it has a whole other consequence to look at that they'd have to come back and we may have to review the preliminary site plan approval then. That's only one aspect of going to it.

Attorney Bryce – That's correct and if they were gonna be doing any type of additional structure out there because let's say, and I'm saying generally, somebody was going from planning on sewerage a property and then they were going to be converting after approval to a sub-surface septic or even something that is a structure above ground, it would most likely impact the site that was approved. They probably need to get generally an amended site plan approval preliminary, preliminary site plan approval to accommodate those structures because usually those types of structures will impact the size and design of what was originally proposed. If that makes sense.

Jim Belske – Just two other quick questions. Are there any current traffic studies being done that's looking at the region in general with the increase in traffic going on right now?

Chairman VanVliet – The County conducted one of those and I believe it's a record now. Adam, would you know that?

Engineer Wisniewski – There's a recent study done by the what they call post development study of the new warehouse that was constructed on Strykers Road just finally amended, not amended, post development study about two weeks ago they filed it with the County. They also forwarded us a copy as well which was a condition of this Board's approval. So, we have some comments that we have to provide to the developer but you know, it's clear in the report, I don't have the report here with me, but I did read through it. There is some clear evidence that, you know, the numbers that we're seeing really are focused towards the Uniontown Road/519/Strykers Road intersection which the County is well aware of. It's in Greenwich Township and the County is in the process and that developer is provided \$250,000 to the County to construct a signal at that intersection. When that signal is going to be built, I don't know that's with the County but there is, you know, work in process to try to improve that situation there.

Member Pryor – And, you know, I want to, and you did this (inaudible) Jim, so, I may turn to you. Our jurisdiction, we get these traffic studies and they're used by the County but our jurisdiction is the immediate ingress and egress. Problems created down at 519 and so on, they're not the Planning Board's jurisdiction. They get into a higher level of planning.

Jim Belske – From a regional level, I guess that's kind of where I was

Chairman VanVliet – There was a study made by the County Planning Board.

Member Pryor – And, they amalgamated all these individuals, all the data that was out there.

Chairman VanVliet – They surveyed the entire County identifying where warehouses would most likely be, could be built, shall we say and their evaluating the traffic study, increased truck traffic and stuff like that.

Member Pryor – And, use of all these individual studies.

Chairman VanVliet – I'm sure it's available if you

Member Pryor – It's online.

Jim Belske – Is that up at the County?

Chairman VanVliet – Under the County, Warren County Planning Department.

Jim Belske – And, that would include what is being built now, projected especially in Phillipsburg.

Chairman VanVliet – Yeah, they took the existing on through what they would consider a future possibility. Nobody said that if somebody would go there and do it but a lot of other factors come in on that but this is a study. Read it for yourself and make your own determination. That's basically what they're telling you on this thing.

Member Pryor – I think it was last October, right?

Chairman VanVliet – Yeah, I believe it was.

Member Pryor – It's pretty recent.

Chairman VanVliet – And, looking at both intersections on the end of Strykers Road there, the one in Lopatcong which is 57 and Strykers Road, we have no jurisdiction on that because it's a state highway. The Department of Transportation takes jurisdiction over all of that. We've made the good fight off trying to come up and get our own information from some of the things. There was a study done along Rt. 22 intersections all the way from Bate Street on through the intersection of the 122 alternate up there were is connects basically to Rt. 78. It's all on record so that was another county.

Jim Belske – So, county is where I need to go for a regional.

Chairman VanVliet – There is a lot of information up there you can take a look at or read. I mean the resolution that we passed tonight on here is some 17 pages long of conditions and

things that were agreed to on the preliminary site plan approval. A lot of it has to do with what you're talking about here now. It goes even further than that on having the revised a lot of things with the New Jersey Highlands Commission so, I mean, it's quite a process.

Jim Belske – I certainly appreciate that and I know there's multiple elements and I think the hardest thing to grasp is that all these municipalities are doing their own thing and one I would personally just ask, is anybody working together to look at the regional impact and I guess what I'm hearing is it falls at the county level to give an understanding of what individual decisions that are being made at the municipal level as it impacts regionally on more specific areas as far as traffic patterns.

Chairman VanVliet – Our jurisdiction doesn't extend past the borders of Lopatcong Township.

Engineer Wisniewski – But the county did just that as you're describing. As Mr. Pryor described, they did a study.

Member Pryor – But even their jurisdiction is limited.

Engineer Wisniewski – Right.

Member Pryor – If I were elected for office, I would have stopped this. The approval, the county planning board, they have constraints just like we do. State came out with, state development (inaudible) some years back. Tremendous problems in implementing that. So, we're onto the Highlands now. The Highlands is trying. We're a conforming municipality. Not everybody is. Unless you like one entity that just has total say, it's a very complicated puzzle to put together.

Jim Belske – And, I appreciate that perspective and from a lay person, from the outside, from a public viewpoint, it's difficult to get a clear indicator of where the issue is, who's responsible for the issue. I will say though, Lopatcong, at least, seems to be resistant to the continuation of the warehouses whether or not that succeeds. I mean it is to be determined but other municipalities may or may not be and they're continuing in their own direction that where everybody is going to feel an impact to this, in particular where I'm focusing is, the safety impact. Potentially, environmental. I don't know enough about air; that's a whole different topic but I understand the bits and pieces and I appreciate the explanation and trying to get an accurate understanding of truly what's going on, who are the resources that we need to ask the questions to on and where can we get answer, you know, and again, I said this, I was at the Township Council meeting, I buy everything from Amazon. I get it, I have no issue whatsoever with warehouses there. Absolutely critical. I have no issues whatsoever with transportation. They're absolutely critical. The thing that just keeps blowing my mind in conversations I have with our community is just it's all condensed in particular area seemingly and that is just it just scratches my head you know

Engineer Wisniewski – With the function of the road network unfortunately.

Jim Belske – Exactly.

Engineer Wisniewski – Route 78

Jim Belske – And, just on that, and I can actually show this out. You look at other regions that have done development and they're clearly separated from the residential. You go out 25 miles and you look at Bethlehem and you look at up in Bath, off of 33, it, again, I'm completely from a lay person but you look at those regions and really updated satellite images of current images, and it just looks like oh, that looks like it was developed with a road structure. That looks like it done with a road structure and you look in our area and like let's just plopp those buildings in; see what happens.

Attorney Bryce – It's not just this area. Even out in Morris County and even further east along Rt. 80 corridor, it is a function of the road network, available space and there's a lot of different types of pressures that go to it.

Jim Belske – I know the area well. I grew up in Morris County, so. Final question – so next meeting to come to for issues regarding warehouse development. That would be, is NFI still up for discussion, I believe?

Chairman VanVliet – Right now I have no idea if Bridge is going to come in. If they're ready to come in.

Attorney Bryce – NFI.

Jim Belske – Both. I'm actually talking about both but, yeah.

Chairman VanVliet – Just preliminary but they have a lot of hearings left to go on what they're going to present, when they can get it done. NFI right now is scheduled to January's meeting

Jim Belske – That's the 6th.

Chairman VanVliet – and I'll just leave it there. They are scheduled for that meeting and they will be continuing their hearing for preliminary completion.

Jim Belske – And, we can check agendas and be able to look at the agendas – thank you very much.

Attorney Bryce – They applied for preliminary and final, so.

Chairman VanVliet – Well, both of them did.

Attorney Bryce – Bridge only applied for preliminary.

Chairman VanVliet – Last go around, yes. Beth, we have the schedule published yet for next year.

Secretary Dilts – No.

Chairman VanVliet – Okay, well, when we figure that out.

Jim Belske – Okay.

Chairman VanVliet – Normally, we meet the 4th Wednesday of every month except when we run into Thanksgiving and sometimes Christmas when it falls on the wrong Wednesday or something like that. They are the two that we usually have variances on what day it's going to be held.

Jim Belske – Okay, so, Bridge waiting, NFI appears to be looking for preliminary and final at the next meeting in January.

Chairman VanVliet – That's what they proposed so, I don't know exactly what their agendas going to be or what they are going to have but that would be part of the continuation of their public hearing. Whether you realize it or not, that public hearing has been going on since last March so, it just what develops, so, but feel free to check our website. I know when I go on it, it's a little confusing to go and find this and that, what department where in but anyway it's on the website. Council meets on Wednesday; the first Wednesday of every month. We meet the 4th Wednesday.

Jim Belske – Any of the meetings that would have any discussion on the warehouse, but in particular, I think it would start here with the Planning Board for like NFI. They would have to come here first with their proposal and then

Chairman VanVliet – Well, it's not always and absolute. I mean, I've known developers that came in and they had, they weren't exactly hearings but they were informational sessions before Council, before they to the Planning Board.

Jim Belske – Okay, so, safety to check the website, looks at the agendas and then we can

Chairman VanVliet – That's the best way to keep abreast of what's happening. I, you know, sometimes it's 4 o'clock in the afternoon of when the Planning Board meetings going to meet that they back out or they're not going to make appearances. It's not uncommon.

Jim Belske – Thank you very much. I appreciate it.

Austin – My names Austin. I'm here on behalf of Green Power Energy. We're a local solar company. I'm here because we ran into a reoccurring issue when trying to install ground

mounted solar system. The issue we ran into is an error in the ordinance in that the ordinance does not state specifically that ground mount solar systems are prohibited but it also does not permit them and this is going on a farm assessed property. We ran into this issue three years ago on Scott's Mountain Road and we did exactly this we were able to approve the permits the next day. I was wondering what process that would look like.

Chairman VanVliet – You are before the wrong Board here. You should be on the Council, they're the only ones that can pass ordinances.

Austin – And, that would be the Wednesday meeting then?

Chairman VanVliet – Yes.

Member Pryor – I think ultimately the Zoning Officer would take it to the Board of Adjustment.

Attorney Bryce – Yeah, if the Zoning Officer denies a permit, the right of appeal goes to the Zoning Board of Adjustment.

Member Pryor – Council would hear you but they wouldn't give you an answer. It's probably the right path then, the Zoning Officer.

Attorney Bryce – I'm just trying to think of the last three years of solar here, I don't recall anything.

Member Pryor- No, I don't either.

Austin – It was in 2018 on Scott's Mountain Road. I think Joe, I forget his last name, I think he was the one we spoke with.

Member Pryor – Joe Rossi.

Austin – Yeah.

Member Pryor – Joe's gone.

Austin – So, yeah, I spoke to somebody at the office. They mentioned to come to the meeting so but you thin the Wednesday meeting is better?

Member Pryor – I don't know what Council would tell you. This guys in one day a week. I think that, if you follow your administrative remedies, I think he the place you want to start right now.

Attorney Bryce – Well, he's the Zoning Officer, so.

Austin – Okay.

Member Pryor – If he can't resolve it. He might come to Council or send you to the Zoning Board.

Austin – And, what day did you say he was?

Secretary Dilts – Tuesday's, 8 to 4.

Chairman VanVliet – Does anyone else have any questions?

Bob Bruce – I'm kind of late to this whole thing. My name is Bob Bruce. Something you said Mr. Pryor.

Secretary Dilts – May I have your name for the record?

Robert Bruce – Robert Bruce.

Member Pryor – Okay, can you do me a favor sir, you're six feet away, can you just pull that mask down so I can hear you a little better?

Robert Bruce – Something that you had said addressed warehouses and 2012 and

Member Pryor – I believe that that's what I remember.

Robert Bruce – Yes, I'm not trying to hold you to anything. I'm trying to kind of get an understanding. As I said, I'm late to this game of all of these warehouses that are going in and the impact thereof. You had said that it was repealed. In other words, warehouses are not allowed anymore?

Member Pryor – No, in 2012, the master plan and the zoning ordinance was amended to allow the structures in the ROM with a larger footprint. All right, so you can always have a warehouse use, but now we simply made larger warehouses permissible around that time. I don't remember the exact dates but we recently passed legislation eliminating warehouses from the ROM and what's the other district Adam?

Engineer Wisniewski – Highway Business.

Member Pryor – It was the second district where they were allowed and that was litigated right away so, you know, we have our opinions but it's in the courts right now.

Robert Bruce – Well, that was my other thing and this is kind of like one after the other. I'm late to this game, but it was my understanding that basically for a layman, you changed a zoning too late, you got sued and you lost. Is that any accurate type of an understanding?

Member Pryor – I don't know of a decision yet. It's in the courts, there's stuff happening.

Robert Bruce – So, you didn't lose a court decision on that to the developer?

Member Pryor – Not yet. As of today, no.

Robert Bruce – Okay.

Chairman VanVliet – There was an injunction issued against both Council and the Planning Board to proceed under the old rules. They couldn't use the ordinance that was recently passed. That's still under adjudication.

Member Pryor – As a matter of fact, it's right in our resolution tonight. It says, by virtue of a January 29 Order of the Superior Court, blah, blah, blah and we had to decide this under the old ordinance.

Chairman VanVliet – Which allowed warehouses.

Robert Bruce – Okay, and so, it was, right now, possibly zoning change too late and they sued and it's still in court right now and under an injunction you have to go with the old ordinance.

Member Pryor – Yes, I keep looking at our attorney here.

Attorney Bryce – I'm not sure, warehousing uses, George, in your history may know better than mine, warehousing in the ROM Zone District has been a permitted use.

Member Pryor – It's these large footprints that were changed.

Robert Bruce – What is an ROM again? I'm a lay person.

Member Pryor – Research, Office and Manufacturing.

Attorney Bryce – That's the zone district in which they were allowed and they were historically always allowed there and it was an outgrowth of these new mega warehouses where at the Council level they sought to change the law and change the status quo to ban them.

Robert Bruce – Okay.

Attorney Bryce – Okay and those were challenged on a variety of basis by people who were interested in developing warehouses.

Robert Bruce – And they didn't already have approval under the old ordinance?

Attorney Bruce – No.

Robert Bryce – So, that could continue then under the ROM?

Attorney Bryce – So, that was challenged. One of the challenges was a procedural challenge based upon the technology that was used in the public hearing and the courts have, when we adopted that ordinance, it really went into the effect that courts said at that point is that under the Public Meetings Act, the Open Public Meetings Act, I don't know if everybody got a fair shot at the public hearing for this ordinance so, what the court ultimately did, is say that ordinance from 2020, that's not going to stand because I'm going to invalidate that ordinance but all of these people that now put in applications under the face of a zone change, I'm going to say to you Board, you have to go to the old rules even if now there's going to be a zone change. That's also the product of the Municipal Land Use Law which vests applicants with the rights as of the time they apply. Okay, so you apply on day one, the ordinance changes on day three, you still get covered under day one.

Robert Bruce -Okay, but if you apply on day five, you don't?

Attorney Bryce – On day five, no, you are out of luck.

Robert Bruce – Okay, so

Attorney Bryce – Okay, so it's called the Time of Application Rule. So, now, the municipality and the Council adopted a second ordinance that's still under challenge okay, but that ordinance is in effect of (inaudible) warehousing. Anybody that applied before that ordinance, is still protected.

Robert Bruce – Right, okay. As I said, I'm late to the game. I'm just trying get my head around this. So, there was reference to a master plan. I'm not really sure what that means, other than, does the master plan allow warehouses in Lopatcong going forward that I'm not yet been

Member Pryor – Yes, and that was essentially put to a vote. It verified within the past year. Your zoning really start under the land use law. It starts with a master plan. A master plan is kind of a vision of your town. It doesn't have all the rules and setbacks and so on, but it says this area is residential, this is multi-family and the town adopts that and we actually have a master plan before there was a municipal land use law. Our master plan goes back to the 50's and it's updated every ten years; it's revised and sometimes in between and the master plan gives you this basic framework and then when we put a zoning one, I say we, the Council puts a zoning

ordinance together, it sent to the Planning Board for consistency and they have to advise this is consistent with our master plan or its inconsistent with our master plan.

Robert Bruce – The other side of warehouses and ROM's and master plans that allowed uses, what about truck stops?

Member Pryor – I don't want to issue an opinion. I don't know. I don't, you'd have to look at the zoning ordinance. I don't know off the top of my head.

Robert Bryce – Will Council know if I show up Wednesday?

Member Pryor - I don't want to issue an opinion here cause it is not our charge.

Chairman VanVliet – It's like a gas station basically.

Planner Ritter -A gas station would be what they tend to fall under.

Chairman VanVliet – But again, we have giant warehouses and we have warehouses. We have 76 truck stops out on 78 and we have Speedway gas station up here that has a mini-mart.

Member Pryor – A mini-mart is different than services trucks and so on.

Robert Bruce – It's effectively 78. I just

Member Pryor – It starts with a zoning ordinance; he sees how it reads and it goes that way. This is really the wrong place to get an interpretation.

Robert Bruce – Okay. What about an interpretation on parking? Is parking legal on Stryker Road?

Member Pryor – Well, that's a question for Council.

Robert Bruce – Okay. Okay, I'm not sure if your capable of answering my question. I'm still left a little unsure as to whether warehousing is allowed. That day one, three and five, is that something I hang my hat on the fact that if on day three you did this ordinance but on day one, they had the application in, you can't do anything about that. That's what the court said.

Attorney Bryce – An that's what the statute says.

Robert Bruce – And, that's what the statute says okay, but anybody coming in on day five, provided that ordinance holds up, that's still in court?

Attorney Bryce – Generally speaking, yes.

Robert Bruce – Okay, and so, that map, that shows all of these warehouses within a 2 ½ square mile radius, those are all basically day one applications or

Attorney Bryce – (Inaudible).

Member Pryor – It depends on what you're talking, everybody's referring, you know, there's Ingersoll Rand and we only have one warehouse there in our town. There's other buildings there and when they talk about the square mile area, we usually talk about Ingersoll Rand and most of that is out of town and so then you come to Strykers, we have the one under construction.

Robert Bruce – The one built and the one

Member Pryor – The one is you know in the process of opening and there are two proposed across the street.

Attorney Bryce – Berry Plastics pre-exists which is a lot of warehouse.

Robert Bruce – And, there's one on 57. Am I not, correct? Basically, farmland on 57.

Engineer Wisniewski – Behind Berry Plastics

Robert Bruce – Yeah. So, you know,

Engineer Wisniewski – That's a pending application.

Robert Bruce – Okay, and was that a day five or day one or

Engineer Wisniewski – That was a day one.

Robert Bruce – That was a day one so

Engineer Wisniewski – There's two that are considered the day one applications and that's the solar field and the one behind Berry Plastics.

Robert Bruce – Okay, and that's still in court?

Attorney Bryce – Those are in litigation.

Robert Bruce – Okay, because you guys took action. Okay and I'm just getting the impression, Wednesday is good to be a little bit more like with the parking question and so on. That's

Member Pryor – We have a traffic ordinance; the Township does. That’s passed at Council and that controls your speed limits, your parking, no parking and so on. I don’t recall. What’s posted out on Strykers off the top of my head. Whatever, you can get that in, whatever’s in our parking ordinance, that’s what it is or in our traffic ordinance.

Robert Bruce – Okay, would they pass ordinances so they would be one

Engineer Wisniewski – It should be in the ordinance. Are people parking on Strykers? Is that what you’re getting at?

Robert Bruce – What I’m getting, that’s step two. Step one is that trucks were basically parking in the Morris Canal parking lot. Okay, and so I called going into work, the second time I saw one there, I called Greenwich PD

Engineer Wisniewski – Is this on the Greenwich side?

Robert Bruce – Yes, it’s before the bridge. I understand at Greenwich ends and Lopat begins where the bridge is.

Engineer Wisniewski – It’s between 519 and the bridge is Greenwich.

Robert Bruce – Yes, okay. That’s why I called Greenwich PD. That is what I understand. So, I called them, I checked up with them at night and the officer, they had the officer call me back and it was his understanding there was no signage there. It’s not illegal. I said what about parking on the anywhere else on Strykers and he said well, if there’s a line on the side of the road, like a shoulder line, if they’re blocking that shoulder line, there not allowed to park there. He could site them. He could ticket them. So, there’s no signage on the majority of Strykers is us and there’s no signage and the lines along the sides of Strykers basically begin at Rath’s Deli, go to the bridge and end just before you get to the warehouse.

Member Pryor – That’s all Greenwich on that side.

Robert Bruce – The warehouse, the exit point

Member Pryor – From Rath’s to the bridge.

Robert Bruce – Yes, they have lines there.

Engineer Wisniewski – But the Lopat side doesn’t you’re saying

Robert Bruce – The Lopat side doesn’t and you have no signage. Now, Frank Marchetti, Greenwich Committeeman, he got knowledge of the fact that they were parking there. There’s signs up less than a week later. You can’t park there. There’s a sign that says “Merrill Creek

Parking Lot” and now it says “no truck parking”. So, again, I’m being told by Greenwich PD trucks got to have some place to park which is why I asked about truck stops. They’ve been using that no more. You put in two more warehouses; one on the solar field another one right off of 22 behind Berry’s or is it on Berry’s. It’s not on whatever.

Engineer Wisniewski – It’s behind Berry Plastics.

Robert Bruce – Yeah, it’s behind Berry. The point is, I’m picturing trucks doubled parked on Strykers; parked on Strykers and now, that’s illegal and according to the Greenwich PD, if there’s a line on the side, they can site them. But there ain’t no line.

Engineer Wisniewski – Well, he’s saying if they’re blocking the line. If they’re crossing over the line.

Robert Bruce – He says if their car goes over the line, that the line on the Greenwich side is not wide enough to park anything but a motorcycle. So, anybody that’s parked there is, according to the cop, he can site them for that. We ain’t got no signs that say no parking on Strykers Road and I’ll ask on Wednesday.

Engineer Wisniewski – It’s definitely something for the Council and if something needs to be passed, it can be passed. I don’t know if it is a problem or you are foreseeing a problem.

Robert Bruce – I’m foreseeing a problem; that’s step two, I mean step one is what’s legally gonna get done.

Member Pryor – That’s something that Council can address, so.

Robert Bruce – And, as I said Frank Marchetti in Greenwich, I don’t know if he had to go and get an ordinance passed, but there’s signs up there now. Unless, there’s a sign there, you call a cop, a cop can site them.

Engineer Wisniewski – And not to say how these guys are operating these warehouses, but if you have a warehouse with multiple hundred spaces for parking a truck, you shouldn’t have trucks parked out in front of the warehouse.

Robert Bruce – Maybe it’s a truck and it needs to sleep like at a truck stop.

Engineer Wisniewski – They should let the guy in and park, you know, but

Robert Bruce - Point is, as a town, you got to prevent that from being on the road, right? Now, the way that you do that is to make that illegal and the next time I call the Lopat Police and they can site them if I see them. Which I think I will if I see them, unfortunately. Thank you, guys.

Jim Belske – I just have one quick follow up question. I just want to make sure I'm understanding correctly and maybe the phrase was day one applicants; Bridge and NFI. So, from my understanding, the court ruled that the approval process had to proceed, but that is still being litigated whether or not they're going to be allowed to continue to develop their warehouse. Is that an accurate statement?

Attorney Bryce – No. No.

Jim Belske – So, those are done deals.

Attorney Bryce – No. Bridge is a done deal so to speak and I have to be very careful. You know, we're talking about applications that are pending which is probably, let me just put it this way, generally, applications that came in for land use approvals prior to the ordinance being vacated, are covered under the old zoning rules. There was a second ordinance that was adopted that is perspective in application which is still under challenge. Don't know what the courts going to do with that. This Board has nothing to do with that but to be, I guess more direct, we have two applications; NFI and Bridge. They're both covered under the old zoning ordinance.

Jim Belske – But the second ordinance that is being litigated, so there is current litigation still going on with Bridge and NFI.

Attorney Bryce – No. Well, there is. I should strike that. There is still ongoing litigation.

Jim Belske – And that is litigation between the Township saying we should be able to not have these warehouses developed.

Attorney Bryce – I don't know what's going to happen in the future. There's, I don't want to get into the litigation but the Board, it's not really the Board's place to even comment as to because now the Board is almost not involved in litigation.

Jim Belske – So, when you say done deal. What does that mean?

Attorney Bryce – I didn't say done deal; you did but I'm trying to get into an understanding with you. There is, an ordinance was adopted. That ordinance was challenged. During that challenge, the applicants put in applications. The court said that ordinance is not valid. Council adopts another ordinance. The court says okay that application was in before that subsequent ordinance. They're still protected under old rules against that zone change. So, the two that made the applications are looking at the old zoning. What's still being litigated is whether or not that ban prospectively is going to be allowed to stand.

Jim Belske – For future.

Attorney Bryce – For future.

Jim Belske – So, applicant one is, so this is my misunderstanding then. Applicant one which is Bridge and NFI, there's no litigation going on that the Township is in litigation with to prevent them from building the warehouses.

Member Pryor – I just don't think that's true.

Attorney Bryce – That's not true. There is ongoing litigation that doesn't necessarily have to do with the

Member Pryor – We've really said enough there. Until you get, you know,

Jim Belske – Is that like the Township, do I go through the Township even more?

Member Pryor – They're not going to give you an answer because even if a decision comes down, it can still be appealed and so when they're in litigation, they just can't talk about it.

Jim Belske – Understood. So, there's currently still litigation going on to try to prevent the warehouses from being developed.

Member Pryor – Litigation is ongoing till everybody signs off in the end and they agree it's over, it's over.

Attorney Bryce – I'm mean, I'm just trying to explain procedurally how this Board is affected by the litigation. That's it. I'm not trying to comment as to litigation. I really don't even know what the current status of the litigation is.

Jim Belske – And where would residents go to get that status?

Attorney Bryce – Court.

Jim Belske – So, to the Superior Court.

Attorney Bryce – They can go to the court.

Jim Belske – So not, not, so we can't go to the Planning Board or the Township. We would have to

Member Pryor – They'll have a decision at some point and that's when everybody will know.

Jim Belske – And, I guess

Member Pryor – And the Township, if it wants, can appeal it.

Jim Belske – I guess what I'm saying is the understanding is that there's current litigation going on that could potentially prevent these warehouses, applications one, Bridge and NFI from developing and the Township is still in the courts fighting that. That was my understanding at the Township Council. If I'm

Member Pryor – My understanding as a Councilman, that's still true. I have not seen the final decision. It's ongoing.

Mayor Mengucci – You're really looking for an answer that's forthcoming.

Jim Belske – So, it's in the courts.

Member Pryor – Right and that's what everybody's been saying all along and even when it comes down from the courts, it can be appealed so, nobody's going to build something, why I shouldn't say it, but I mean, things get overturned. It depends on how much you want to invest in it, how hard both sides want to fight.

Jim Belske – Yeah, I guess I'm looking for residents getting accurate information on what's going on. I understand courts. I understand to go Superior but it's very frustrating, difficult

Attorney Bryce – This is not the Board to ask because this Board is not currently involved in the litigation.

Jim Belske – That's the Township Council.

Attorney Bryce – That would be the Township Council. I think the Township Counsel to the Council will probably say it's in litigation, we're not going to be able to comment as to it.

Mayor Mengucci – If you come Wednesday night, that's what I'll tell you.

Jim Belske – But I'm hearing now. Ok, so it's litigation, no further details whether or not that has an impact on their ability to develop, we would have to wait until the ruling is made, ruling is determined to understand what

Member Pryor – I keep going back to this and here is an order of the Superior Court before this Board is preliminarily enjoined from taking action under the new ordinance and that's where we sit. The rest of this will play out.

Chairman VanVliet – There are additional lawsuits.

Jim Belske – So, it's wait and see.

Attorney Bryce – Here’s what I can tell you of the Board and without commenting as to litigation which we shouldn’t be commenting on, it’s not the right Board. This Board was required by the court to look at the applications given by certain applications by certain applicants, excuse me. They did, one got an approval.

Jim Belske – That was at the last Planning Board meeting.

Attorney Bryce – There’s another one.

Jim Belske – That was preliminary approval correct.

Attorney Bryce – It’s an approval. An approval is an approval.

Jim Belske – But not final?

Attorney Bryce – Not final. That’s the status and there’s one that’s still pending.

Jim Belske – And, there would be a need to be a vote for final still for them.

Attorney Bryce – They still need to be, it’s an ongoing hearing.

Jim Belske – And, the courts separate. We would need to wait to see how the impact of the litigation

Attorney Bryce -If it has any impact at all. It’s beyond the purview of this Board.

Jim Belske – So, that’s the Township Council and that’s from what I’m hearing, that it’s still in litigation which is vague on details which I understand but from a community perspective, Township’s fighting on behalf of the residents, maybe not. That’s what I’m getting out of this.

Member Pyro – They were sued, they’re defending themselves. Now, that’s got to play out.

Jim Belske – Again, from just layman’s terms from a resident perspective, the way it’s being understood is the Township is still fighting on behalf of the residents to enforce the ordinance.

Member Pryor – Come to Council, you’ll get less information than you get tonight. They don’t comment on ongoing litigation. I don’t know what you’re expecting.

Jim Belske – Yeah, I guess what happened was in the previous discussion, my understanding was completely turned around from what I heard at the Township Council unless I misunderstood at the Township Council but I think that was the impression that the litigation going on even though, even though there was an objection and the hearings had to continue for the development of Bridge and NFI, it was procedural that they were given that privilege or

ability to go through with the approval process, however, the final approval, or the ability for the developer to actually break ground and build those warehouses they're still being fought by the Township to enforce the new warehouse ordinance. That was the take away that I got at the Township Council meeting.

Attorney Bryce - This Board can't further inform that.

Jim Belske – So, that goes back to the Council, right. So, I can ask a question again at the Township Council is the understanding accurate or

Attorney Bryce – You can ask whatever you like.

Jim Belske – I'm going to get.

Member Pryor – They don't know what you're thinking. The

Jim Belske – I'll tell you what I'm thinking.

Member Pryor – We enacted the ordinance twice. We were sued. It's in the courts.

Jim Belske – And, outcome, it could be whatever.

Member Pryor – And, the outcome can be challenged or dropped or whatever so, it's all speculative; anything we say

Jim Belske – All right, I'll just end on this. Just feedback, comment. Tremendously frustrating. Something as impactful as this, just to get an answer of who, what are the facts, where are the players involved here and what can residents do? I can't even

Member Pryor – You can't do anything. What are you? You want to launch your own suit? I don't know. Whatever you want to do. The resident, what can he do that the Township's already not doing. You pass an ordinance.

Jim Belske – I think that's the question. Is the Township still fighting the ordinance? I can't even get that out of this conversation.

Member Pryor – We passed them. Should we rescind them?

Jim Belske – Talking developer; one applicant Bridge and NFI specifically. Not talking future, I understand that.

Member Pryor – No, no there for the

Jim Belske – That’s what I’m saying, can the residents just get a clear understanding of where the Township’s position is and I’m all over the place. Maybe it’s me.

Member Pryor – We passed two ordinances and we got sued.

Jim Belske – But it’s still in litigation?

Member Pryor – Yes.

Jim Belske – And, the outcome could potentially be; it could be no warehouse could be developed or yeah, you have to have a warehouse built. That’s all I’m asking.

Chairman VanVliet – We don’t have that answer.

Jim Belske – So, for me to get that answer, I need to go to Superior Court, file a lawsuit (inaudible).

Member Pryor – You do whatever you feel you have to do but the Township can’t comment on ongoing litigation. Too many things going on.

Audience person – But the Township can say what their position is.

Jim Belske – That’s all I’m asking.

Member Pryor – We passed two ordinances. We got sued. We defended ourselves.

Audience person – You didn’t lose, you got enjoined.

Member Pryor – I can’t understand what you’re saying with the mask on.

Audience person – You didn’t lose when you got sued, you got an injunction that said you have to develop

Member Pryor – Well, we would have preferred if (inaudible) but that’s what came back. We were told we had to hear it under the old ordinance.

Jim Belske – But that was my understanding as well

Member Pryor – I don’t want to talk about it anymore. You come, you talk to our attorney and I’m not doing this to be stubborn. I don’t know what you’re looking for.

Jim Belske – The position of the Township on which direction

Member Pryor – I think we told you about six times here.

Audience person – Are you going to be fighting for us? We live in Overlook which will be in our back yards.

Member Pryor – Don't you think we did that when we passed those ordinances?

Jim Belske – Are you continuing to do that? That's the question.

Member Pryor – We passed them twice. That's as far as ordinances go. All we can do now is defend our actions. If we pass a third ordinance, it doesn't affect your fellows or ladies and gentlemen. We did, what we did, it's in the court and there'll be a decision.

Audience person – But you can appeal.

Member Pryor – Like I said, it can be appealed. Sometimes if it recognized, people think appeals are a magic bullet. They're not under trial, you can't introduce new witnesses, new testimony, it comes down to was there an error of law.

Attorney Bryce – This is a quasi-judicial board. We are constrained by what the court told us. There was an approval. We have to do certain things. We're not currently involved in the litigation. This Board shouldn't be commenting as to it at all.

Jim Belske – Litigation is being imitated by the Township Council?

Attorney Bryce – This Board (inaudible).

Jim Belske – The ordinance. Then you got sued.

Attorney Bryce – No, this Board didn't get sued. The ordinance was challenged and there was other allegations in both Federal and State court. That's in litigation. The answer is yeah, the Township Council I think yes, is still fighting it, but this Board is, it's beyond this Board.

Jim Belske – You've been pointing in the Township Council direction.

Attorney Bryce – We have, we have. I don't know how else to say it. I can sign language and say go talk to the Council, I don't know what they're going to be able to tell you.

Jim Belske – I guess, what, coming back to what we were saying before, it's just the position of the Township. So, I guess, maybe my misunderstanding is the Planning Board has one particular role, the Township Council has another role.

Attorney Bryce – Completely different roles.

Jim Belske – So, the lawsuit, as it pertains to enforcing the ordinance, and the continuation of that lawsuit is on the Township Council side?

Attorney Bryce – That is correct.

Jim Belske – And, that’s what we’re hearing, it’s still in litigation, which I understand but getting an indication of if the Township is still fighting on our behalf is just a fair question and that’s what I’m hearing this is not the venue for that.

Mayor Mengucci – I’ll leave it go for Wednesday night. If you want to come Wednesday, you’re free to come.

Jim Belske – Thank you.

Attorney Bryce – It’s not the venue.

Chairman VanVliet – Any further questions? Seeing none, I’m going to close the public session. I’ll entertain a motion to adjourn.

Member Pryor – I’ll make that motion.

Mayor Mengucci – I’ll second it.

Chairman VanVliet – All those in favor, signify by saying yes. All, yes, no, nays, no, abstentions.

Respectfully submitted,

Margaret B. Dilts
Planning Board Secretary