

TOWNSHIP OF LOPATCONG
Planning Board Meeting
7:00 pm

June 27, 2018

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.

Prayer was offered followed by the Oath of Allegiance

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 Gazette and The Express-Times and by posting a copy on the bulletin board in the Municipal Building.”

Present: Members Correa, Johnson, Pryor, Weeks, Mayor Mengucci, Vice-Chairman Fischbach, Chairman VanVliet, Alternate Steinhardt and Alternate Clymer. Also present were Attorney Bryce, Engineer Wisniewski and Planner Ritter.

Old Business:

Minutes – May 23, 2018. Motion to approve the minutes by Member Pryor, seconded by Vice Chairman Fischbach. All in favor.

K&S Enterprises, LLC – Block 100, Lot 2.

Chairman VanVliet - Hearing was last meeting. A resolution memorializing that action. Has everyone had a chance to read the resolution? Any comments or corrections? See none; I'll entertain a motion to accept the resolution.

Motion by Vice Chairman Fischbach, seconded by Member Weeks. Roll call vote:

AYES: Members Correa, Johnson, Pryor, Weeks, Mayor Mengucci, Vice Chairman Fischbach, Chairman VanVliet, Steinhardt, Clymer.

NAYS: None

Chairman VanVliet – Thank you very much. We'll be moving onto the Redevelopment Study of the Phillipsburg Mall. This concerns a resolution that was sent down to me by Council indicating that Pohatcong Township is going to be looking at the redevelopment of the Phillipsburg Mall. Since a small portion of that resides in Lopatcong Township, they've asked us also to undertake a study to see if we could declare that in need of redevelopment. They've authorized us to use our Planner George Ritter to undertake this. George do you have any comment on this?

Planner Ritter – No, I think we're okay with the initial look to see if it's in need of redevelopment. I will coordinate with Phillipsburg since they're obviously doing the larger part of it.

Chairman VanVliet – It's Pohatcong.

Planner Ritter – I'm sorry, Pohatcong.

Member Pryor – Mr. Chairman, George if I recall, the amount discussed was something like \$2,000 or \$2,500 something like that.

Planner Ritter – That's what my understanding was.

Member Pryor – Yeah and um, your roll is basically one of liaison at this point more than. I mean for \$2500 worth of work, your effort isn't going to be

Planner Ritter – Understood.

Member Pryor – Yeah and I think like the Chairman said we have the small part of the site. So, we'll kind of be monitoring what's going on. They'll look for input from us as it goes forward.

Planner Ritter – That's fine.

Chairman VanVliet – Any other comments? If not, I'll entertain a motion to approve George undertaking this enterprise.

Member Pryor – I'll make that motion.

Vice Chairman Fischbach – Second.

Chairman VanVliet – Roll call Beth please.

AYES: Members Correa, Johnson, Pryor, Weeks, Mayor Mengucci, Vice-Chairman Fischbach, Chairman VanVliet, Steinhardt, Clymer.

NAYS: None

Chairman VanVliet – Our next order of business is I-78 Logistics Park – Preliminary and Final Major Amended GDP Bldg. No. 7 – Block 100, Lot 1 and Block 101, Lot 1 – this is for completeness only. Is the applicant here?

Attorney Rubright – Yes, Mr. Chairman. My name is Susan Rubright. I'm a member of the law firm Brach Eichler in Roseland, New Jersey, and I am here tonight on behalf of the applicant in connection with the completeness determination as well as the site plan for the second application which we filed. So, in terms of completeness, I don't know if you need to hear from any of our witnesses on that

Chairman VanVliet – Well, we had a problem with the completeness on it so

Attorney Rubright – I'm sorry.

Chairman VanVliet – We have a problem on the completeness on it, so

Attorney Rubright – Is there

Chairman VanVliet – Adam, would you like to explain that?

Engineer Wisniewski – Well, the problem, I guess, the outstanding, one of the outstanding items is the consistency determination from the Highlands.

Attorney Rubright – Correct.

Engineer Wisniewski – We understand that the Highlands received your application and they are planning a site visit to view the site and to work towards issuing that or reviewing that application, so at that point, obviously based on the Township's approved petition, we wouldn't be able to grant the application complete until that was received.

Attorney Rubright – Understood, so, what I would request is that because I did notice for this application, if we could carry it to the next meeting or date certain without need for further notice because the notice was quite substantial. I would appreciate that.

Chairman VanVliet – Okay.

Attorney Rubright – So, you're going to deem it incomplete and then carry it. What would the next Council

Attorney Bryce – Are there other completeness issue though?

Engineer Wisniewski – There were other completeness items that were requested to be waived and/or, let me see here, yeah, so if you review our memo of June 22nd, on this first application on the Preliminary Major Site Plan Details Checklist obviously the first item 1A was the letter from

the Highlands Council with the consistency determination that's outstanding, of course, and can't be waived. So, some of these other items are more technical in nature such as the grading information on the plan, location to the dimensions the proposed fences; all checklist items that are on the Township's Checklist and the profiles of the streets adjoining the property. This would specifically be for Building 7 driveway and the connector road. So, these are items that are obviously, are outstanding and would have to be addressed as part of future resubmissions as we're not recommending that those items be waived.

Attorney Rubright – You're not, all right, so, what we would do is then I would ask that we can work, our engineer can work with you and if we have to submit supplemental plans or plan amendments that you would be working with our site engineer in order to address those issues.

Engineer Wisniewski – Sure, of course, I mean we have been working with Dynamic through the process. We can definitely continue to do that.

Attorney Rubright – Understood. Okay, all right.

Engineer Wisniewski – In continuing, there was one request to, for a statement that an item was non-applicable and that it was specifically for the presence of wetlands and complies with DEP regulations and on the site, obviously, we have the major, the second application, the, for the pad-ready site plan for the entire, basically, complex that addresses the DEP requirements, so it would be not applicable to this specific pad-site application if we agree with that.

Attorney Rubright – So, you're referring to Page 5 of 6 No. 2A so, you would grant a waiver for that?

Engineer Wisniewski – Correct or just agree that it is not applicable to the application.

Attorney Rubright – Agree all right. I would feel better having the waiver.

Engineer Wisniewski – Okay, that's fine.

Chairman VanVliet – But that's just for the lot for Bldg. 7?

Engineer Wisniewski – Correct, yeah. So, again, now as we continue, obviously, the Final Major Site Plan Details Checklist Item 1A again, that the Highlands correspondence which is outstanding. Then the architectural floor plans, the current architectural plans I believe were kind of in development or are in development, obviously, so as those plans are further developed, we would just request that those get submitted as well through the design process.

Attorney Rubright – In terms of, can we, is that something we can have waived for completeness purposes.

Engineer Wisniewski – We can waive for completeness purposes at this point and then in the future, you know, as we go through the technical review, and then, obviously, in the future, when we get there, as we get there, do any kind of compliance reviews, we can get those items addressed. That's correct and then again, as we continue, the landscape plan details and that's just something that would be added to your landscape schedule that's on the plans.

Attorney Rubright – So, we need to comply with that? Would be waived for completeness.

Engineer Wisniewski – Waived for completeness but eventually would have to be complied with.

Attorney Rubright – Okay, fair enough.

Engineer Wisniewski – Then let's see

Attorney Rubright – D

Engineer Wisniewski – Right Item D, so that's a complete list of site improvements. Basically, this becomes, eventually would become the bonding estimate or estimate for bonding with the town regarding inspection fees and also the developer agreement. So, that will be typically is provided after the technical review is completed, plans revisions are completed so that would be waived for completeness as well and then of course the certification from the Tax Collector that all taxes have been paid. I know that was outstanding and that was being addressed by yourself. I don't know if you want to address that.

Attorney Rubright – I believe it's been rectified.

Engineer Wisniewski – Has it been?

Attorney Rubright – Yeah.

Engineer Wisniewski – Okay. So obviously, of course, we'll need that

Attorney Rubright – Right, we will make sure that we take care of that moving forward.

Engineer Wisniewski – So, when that issue's addressed then that will be provided.

Attorney Rubright – Understood.

Engineer Wisniewski – All waivers for Item 2 – waivers for the affidavit of owner. I understand that the owner/applicant are one in the same so you wouldn't exactly be waived.

Attorney Rubright – Just waived, not even for completeness, yes, and I have a representative of the applicant who can certainly testify to that on the waiver as well.

Engineer Wisniewski – Sure. All existing and proposed signs. I guess this is specific to any signage on the buildings. I guess is the intent now to waive that and provide that in the future say for a zoning permit?

Attorney Rubright – I would say we would request the waived for completeness on that, I believe because there are no tenants known at this point so we would have to submit for sign permits and if there was something that was not compliant then we would

Engineer Wisniewski – Then that would be addressed at that time, so okay.

Attorney Rubright – Yeah.

Engineer Wisniewski – And then, as I noted here in our review summary here, the profiles for storm drainage and sanitary sewers Item C and D here, were for temporary waivers being requested. I guess that's until the final design is known. It's on Page 5. I don't know if you see that.

Attorney Rubright – Yeah, I see those, so are we, would you grant waivers for completeness purposes?

Engineer Wisniewski – For completeness yes, eventually.

Attorney Rubright – Okay. All right.

Engineer Wisniewski – that'll have to be provided

Attorney Rubright – Correct.

Engineer Wisniewski – and designed. And then finally under the Final Major Site Plan Details Checklist Item 3 at the top of Page 6 because again, the presence of wetlands, similar comment, there are no wetlands in this portion of the site where the pad site is being contemplating the

building will be constructed, so that can be waived or agree that it is not applicable, so it can be waived.

Attorney Rubright – Right, it's a permanent waiver then. Okay, thank you. Okay, I think that concludes it correct?

Engineer Wisniewski – Correct.

Attorney Rubright – All right, so the things that we have to provide then would be the letter from the Highlands and then Checklist Items 17, 31 and 38 on Page 4 of your report for Preliminary.

Chairman VanVliet – I believe there were some problems with the County Planning Board said that there were some issues indicated and they said they weren't being worked on. Did they give you completeness?

Attorney Rubright – We have a conditional approval from the County.

Chairman VanVliet – Conditional approval.

Attorney Rubright – Yeah which is pretty standard. There's, we'll have some testimony on that Mr. Chairman in connection with our other application but the bottom line with that is that there is going to be a meeting tomorrow morning. It's discussing the storm water management which of course

Engineer Wisniewski – I'm sorry, is the County also reviewing the site plan specifically, for Bldg. 7 or just the overall development plan?

Attorney Rubright – I believe; is it everything?

Engineer Wisniewski – It's everything okay. Yeah, we're aware that we received a copy of that conditional approval from the County. So there's some items that need to be addressed at that meeting we'll be discussing with them and planning revisions

Attorney Rubright – Correct.

Engineer Wisniewski – and eventually they'll need a letter from our office as well as Phillipsburg's office approving the storm water that's been proposed on the site and we'll be glad to issue that, in the future.

Attorney Rubright – Okay.

Chairman VanVliet – All right, you’ve heard the waivers that the applicant has requested. Do I hear a motion to grant those waivers?

Vice-Chairman Fischbach – Motion.

Member Pryor – Second. Would like to check with Maser all these; you recommend all these waivers?

Engineer Wisniewski – Yes.

Member Pryor – You are all right with them?

Engineer Wisniewski – Sure.

Attorney Bryce – And, most of them are for completeness only.

Engineer Wisniewski – Cause they’ll be provided in the future.

Chairman VanVliet – I have a motion and a second. Beth, roll call please.

AYES: Members Correa, Johnson, Pryor, Weeks, Mayor Mengucci, Vice-Chairman Fischbach, Chairman VanVliet, Steinhardt, Clymer.

NAYS: None

Chairman VanVliet – Next, we’ll entertain a motion to carry the notice to next meeting, and we’ll address it if there is any further delay at that point.

Vice-Chairman Fischbach – I’ll make a motion to carry the notice to the next meeting.

Member Johnson – Second that.

Attorney Rubright- I’m sorry, so that I’m clear, and for the record, the date of that and the time. What is the date of the next meeting? July 11, 2018

Mayor Mengucci – July 25th.

Attorney Rubright – Okay, at 7:00 pm. Okay, thank you.

AYES: Members Correa, Johnson, Pryor, Weeks, Mayor Mengucci, Vice-Chairman Fischbach, Chairman VanVliet, Steinhardt, Clymer.

NAYS: None

Attorney Bryce – And, for the public who's appearing tonight, just for everyone's understanding, there is this application, this particular part of the application for Preliminary and Final Major Site Plan approval is going to be carried for a hearing to July 25th at 7:00 pm. There will not be further notice. This is your notice for appearing on July 25th. So, no further notice will be required. The application is carried by motion of the Board, so.

Chairman VanVliet – Okay, anything else we need on that? We deemed that incomplete, so we'll move onto I-78 Logistics Park amended Preliminary Site Plan and Final Site Plan for Block 100, Lot 1 and Block 101, Lot 1 for completeness and hearing.

Attorney Rubright – Yes, thank you Mr. Chairman, members of the Board of Counsel. Again, my name is Susan Rubright. I'm a member of the law firm of Brach Eichler in Roseland, New Jersey, and I am here tonight on behalf of I-78 Logistics Park, Lopatcong Urban Renewal, LLC. The applicant is the property under consideration as I'm sure the Board is aware, is known as Block 101, Lot 1. It's at Rt. 22 and Roseberry Street. It's approximately 101 acres. It's located in the HB, Highway Business redevelopment area. It's also been the subject of a general development.

Chairman VanVliet – You said Rosebery Street?

Attorney Rubright – Isn't it Roseberry?

Chairman VanVliet – No, that's in Phillipsburg.

Attorney Rubright – Okay, well there you go, so the whole project has front on Roseberry. My apologies and it is the subject of a General Development Plan and I'm sure that the Board is familiar with this. The Board did grant Preliminary Site Plan and Subdivision approvals in connection with this property in September of 2017. We are here this evening amended approvals and Final Site Plan approval in furtherance of the connector road and the related approvals that were granted at that time. We did file two separate applications as the Board is aware and we just dealt with Bldg. 7. The application we are presenting this evening is with regard to the connector road. Please recall that on September 27, 2017, this Board granted preliminary approval to construct certain access and site improvements; specifically, the Board granted preliminary approval for the construction of the temporary access road, Rt. 22 intersection improvements, the connector road and storm water management facilities associated with the roadway improvements, as well as the grading of the proposed Lot 101 and construction of storm water improvements to create the pad site for the future Bldg. No. 7. We're seeking to amend the preliminary approval to address certain conditions that were imposed by the Board at

preliminary approval to make these conditions of final approval. Condition No. 4 in the preliminary approval resolution speaks specifically to certain conditions for outside approvals that were mentioned in Mr. Sterbenz August 18, 2017 report. These conditions pertained to specifically, certain outside approvals that we will hear more about from our site engineer this evening as well as the storm water maintenance agreement with the Township. We are actively working on these approvals and our site engineer will explain in detail where we are at with those approvals. The applicant is also requesting approval to undertake rough grading and other earth work that are permitted under NJDOT's Temporary Use Permit that was granted on May 23, 2017. A Highway Occupancy Permit granting permission for temporary use on the eastbound side of highway Rt. 22 at "various locations between Rt. 57 and Lock Street was issued by NJDOT on May 23, 2017" and as you'll hear, the permanent access permit is under review now by the NJDOT. Doing the rough grading work requires that a condition of the Preliminary Site Plan approval be modified and carried over to final approval as well. I would note that we are not seeking final subdivision approval at this time. My witnesses include John Porcek who is a principal of the applicant and he will review who the applicant is, their experience, their company values and philosophy and the quality of projects they have worked on. He will also review their involvement with their project and the property and their vision for this project. For my engineers, I have Tom McGrath who is, I'm sure you remember Mr. McGrath he is with CPL Partnership and he will provide testimony on the connector road and the status of the outside approvals. He was the engineer for the GDP and for the preliminary approval. As requested by your board engineer, I have Bret Skapinetz who is with Dynamic Engineering and he will provide an overview of the interim grading plan. So, without further testimony or discourse from me, I would like to introduce Mr. Porcek and he will provide the Board with, as I noted, history of the property and discussion about who the applicant is. Where would you like us to

Chairman VanVliet – I believe Mr. Porcek can approach the podium.

Member Pryor – Please speak into the mike to, so everyone can hear.

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

Mr. Porcek – I do.

Attorney Bryce – Could you please spell your last name for the record?

Mr. Porcek – Sure B-o-r-c-e-k.

Attorney Bryce- Thank you.

Chairman VanVliet – Would you review your qualifications please.

Mr. Porcek – I am Executive Vice-President Principle of Bridge Development Partners of our New Jersey office.

Attorney Rubright – And Mr. Porcek, if you could then, based on my introduction, if you could enlighten the Board about who you are as the applicant and your experience as well as what you're planning for this property and then we can, obviously, answer any questions.

Mr. Porcek – Well first off, I want to thank the Board this evening. Hopefully, we can get you out of here enough for the Yankee game or the Mets I know who's a bigger fan, but first off, I know that there's been a lot of applicants on this project here and I know that I'm chose by a number of people here that came in and told the story but we're here to build the story. You know, this is what we do. A little bit about our company, Bridge Development Partners. We build nothing but industrial. We have offices in New Jersey, Chicago, Los Angeles, Miami and Seattle. New Jersey, we built 3 ½ million square foot of industrial space throughout New Jersey. We have another 7 million feet that we will be building. Bridge has built 18 million square foot national wide. This is what we do. We build Class A industrial buildings in key geographic locations. We also deal with, you know, complicated sites within a complicated geotechnical, environmentally; this is what we do. We closed on the property the end of January. Since that time, we've had multiple meetings with Maser, just kind of going through the whole history of the site. All the different approvals, what do we need to do to satisfy the various resolution items that were brought up, and that's what we've been working on for the last number of months. As Susan had mentioned, there was a couple of approvals in place, you know, one being the General Development Plan, and then the other approval is the Preliminary Major Subdivision and the Preliminary Major Site Plan and that was essentially, to build the Rt. 22 improvements and it was also get the site pad ready for Building 7. So, the application that was just spoken to prior to Building 7 completeness, that would be the application that comes in and shows the building itself, you know, shows the paved areas, the grading; all the information. That is the application that will be forthcoming. What we are here today for, is in this whole process of the various outside agency approvals which the engineers have been working on and Tom will testify further to it, we have a number of these approvals but certain approvals we do not have like the DOT and Tom will go through it, but we've had numerous meetings there and it's, obviously, getting closer and it's going to be imminent. We don't have that approval yet. So, what we're asking here is for the Preliminary Site Plan approval, that we're able to start earth work because now it's, obviously, we're in the middle of summer. We have good weather. We want to be out there actually doing work and want to be able to do that work while the rest of these other approvals are forthcoming and when those approvals come in, be it the DOT and some of the other ones,

than at that point, we will deal with the rest of the construction for the piece of the connector road and the 22 improvements. That's the one part and the second part is the Final Major Site Plan approval and that's strictly, for again, the connector road and the grading of the pad. There was commentary in the preliminary that we cannot, or the applicant cannot return to the Board unless certain conditions were satisfied with preliminary and we've again, numerous meetings with Maser and those specific conditions have been satisfied and we can't come back to the Board for final and that's the second part of it. So, we ask for that final approval and with certain conditions in preliminary that are logical to be shifted to final and the engineers will go over that, but that's in essence the purpose of our application.

Chairman VanVliet – Thank you. The Board have any questions? Okay at the point it's usually our practice to open it up to the public for questions of this person only. Is there anyone here that has any questions on his statements? Seeing none, we'll proceed to the next one.

Attorney Rubright – Thank you, Mr. Chairman. I would like now to introduce Thomas McGrath who is the site engineer on this aspect of the project.

Attorney Bryce – Just raise your right hand. Do you swear and affirm that the testimony you are about to give the Board is the truth, the whole truth and nothing but the truth? Please state your full name or spell your last name.

Engineer McGrath – Thomas T. M-c-G-r-a-t-h.

Attorney Rubright – Thank you Mr. McGrath, if you could, I know you've been before this Board before, but if you would just refresh their recollection on your experience, on your educational background and then as well your involvement in this application.

Engineer McGrath – I graduated from New Jersey Institute of Technology. I am a licensed professional engineer in the State of New Jersey. I've testified before numerous boards throughout the State over the years. This town, under the General Development Plan, and your Preliminary Site Plan and Preliminary Subdivision as well as Phillipsburg I did the General Development Plan there also. The coordination between the two towns and Site Plan and Preliminary and Final Site Plan in Phillipsburg and Preliminary Subdivision in Phillipsburg.

Chairman VanVliet – He is acceptable.

Attorney Rubright – Thank you, thank you, Mr. Chairman. So, Mr. McGrath you are familiar with the property, the application and what we are seeking this evening correct?

Engineer McGrath -Yes, I am.

Attorney Rubright – All right. If you could just refresh the Board's recollection in terms of the property, the surrounding area and then you can relate what it is that we are seeking tonight.

Engineer McGrath – The property has frontage along Rt. 22 east. It's on the corner of the intersection with Rt. 57; the railroad runs a little parallel to the property line on the west border of Phillipsburg. It's on the south side of the project and it borders the entire length of the Lopatcong lot. To the south, would be the Phillipsburg portion of the project and then, to the east, is the Lopatcong Creek and Lock Street. Lock Street is an interconnecting street or the street that wraps the corner of our property and connects to 22 and then runs back towards Phillipsburg.

Attorney Rubright – Mr. McGrath, Counsel, I don't know if this has been marked previously, this exhibit. We may want to mark this if Mr. McGrath has this been marked previously? Do we know?

Attorney Bryce – That I don't have the historical knowledge.

Attorney Rubright – All right, so if we could mark that as A-1.

Member Correa – I think the square footage of Building 7 changed as well so. Right?

Attorney Rubright – Right, well, it is, yes. It is a different

Engineer McGrath – Well, not for purposes of the connector road, at this point

Talking over each other

Attorney Rubright – The plan is. The exhibit is different. So, Mr. McGrath just if you can mark that as A-1 with your initials and then just explain briefly for the record what it is. It's colorized.

Chairman VanVliet – Mr. McGrath while you are there, would you point out the Lopatcong portion cause you're showing the entire

Engineer McGrath – I think just the lines indicating where, if everybody can hear me, okay. The Lopatcong portion on this pad is on the upper portion or the north portion of the panel. It's outlined by this yellow line here. It's the piece that shows Building 7. On this particular plan, it shows to be 950,000 square feet, to your question, in the next application, where there's going to be a modification for that.

Attorney Rubright – That was prepared by you under your direction

Engineer McGrath – Under my direction in my office.

Attorney Rubright – by your office. All right, thank you.

Engineer McGrath – It's done by CPL Partnership.

Attorney Rubright – All right. If you can then, describe the nature of the preliminary approval and what and why we are requesting to amend certain aspects of the preliminary approval?

Engineer McGrath – All right, the preliminary approval gave it, was basically, going through the Checklist, providing the information that's required in the Checklist and moving through the approval process. Under the preliminary approval, Susan indicated earlier there are certain items from outside agencies, not through the Township, that are required approvals. Some of those approvals are in process at this point in time, and

Attorney Rubright – Yeah, if you could go through those. Would it be, one of them was the Warren County Planning Board which was, the Chairman mentioned so, what is the status of that one?

Engineer McGrath – Okay. The Warren County Planning Board was submitted to the County Planning Board on 4/17/2018. It was approved 5/22/2018, conditional. Conditions on the approval was to meet with them to discuss the drainage throughout the site and they wanted a better overview. We had met with them previously to go over the general plan that we had but the general plan incorporates the whole project not just the Lopatcong piece. We needed to explain to them how the two parcels interact meaning Lopatcong and Phillipsburg, as well as how the drainage for the entire site is intended to be controlled. We did that, and then we handed them a stack of reports and we've gone through the reports and as of tomorrow morning, 10:00 our office will be meeting with them to discuss what there, you know, look I don't know whether there're comments or just whether we're going there to, you know, maybe do a little handholding to walk them through, because it is a lot of information to try to absorb. I think I can attest to that.

Attorney Rubright – And, then what is the next one?

Engineer McGrath – And, then we have DOT on Temporary Occupancy Permit. We received the Temporary Occupancy Permit and we've been asked for an extension on it because when we received it, it only has a year window for it to start the work. The extension is in the process right now and we anticipate getting that shortly.

Chairman VanVliet – And, that is only for the temporary access.

Engineer McGrath – That's correct and the temporary access if I can go back to A-1 is intended to be in this area, I'm pointing to Rt. 22 just about where you come off of the sweeping turn as you come onto the street stretch of 22. We'll be putting a temporary access in this area which is a couple hundred feet in there so away from what would be the permanent access point to the site. Using the temporary access so the construction (inaudible) and things can move in and out of the site and still be able to construct that interchange.

Attorney Rubright – At which would lead us to the major street intersection permit. We are at planning review with DOT correct?

Engineer McGrath – That's correct.

Attorney Rubright – And what's the status of that?

Engineer McGrath – That was submitted on 11/15/2017. We've had multiple meetings with DOT, made multiple submissions to them. There is probably three or four different departments that we have to go through to get to the approval process. As of 6/22/2018, a couple days ago, last Friday, the last review package was resubmitted to DOT to address their final, hopefully, their final round of comments. We've been assured that the permit should be in hand; it's just that we have to work out all those details that they're, you know, they're looking for.

Attorney Rubright – And, the Soil Conservation District; we have that approval correct?

Engineer McGrath – That's correct. We met with the Soil Conservation District, the County went over the application and on 5/9/2018, they gave us approval for the entire site of Phillipsburg and the Lopatcong portion.

Attorney Rubright – And, dam safety?

Engineer McGrath – All right. Dam safety, actually dam safety and flood hazard kind of work together. That was submitted, the dam safety portion was submitted on 10/3/2017. That was the first application we were making to the DEP and the application was made from my office and French and Parillo's office. They had the additional application made. We've had multiple meetings with them to discuss how the plan is to function and as of 6/25, the last review, the last response, to the last review letter, was submitted to dam safety addressing the comments that they have or had. With relation to flood hazard, that was submitted on 3/26/2018. It was deemed complete on 5/30/2018, and there's a 90-day window for their review on that. We're waiting to see. So, you can see all these things are in the works, but they're not presently in hand. With regard to wetlands for the site, we have a LOI for the site. It was submitted on January 31st, 2018. We received the LOI on 5/22/2018. It expires 5/12/2023; so, 5 ½ year period for that. With relation to the TWA applications for Lopatcong and Philipsburg, the Lopatcong one is on the agenda for the 7/5 Council Meeting

Attorney Rubright – Next week, correct?

Engineer McGrath – next week to authorize the Mayor to sign the TWA of which would then move the process along, we can package everything and move it along. As far as Phillipsburg is concerned, it was signed by the town engineer on 6/14/2018 and signed by the Mayor on 8/20. I'm not sure if those were 12 or

Chairman VanVliet – 8/28/17?

Attorney Rubright – 6/20, 6/20/2018. In your opinion, you've been an engineer for a number of years correct?

Engineer McGrath – A couple of weeks, yeah.

Attorney Rubright – A couple of weeks, and in your opinion, would you say that you’ve been proceeding diligently to obtain these approvals after the September 17, 2017 preliminary approval that was granted by this Board.

Engineer McGrath – Yes, I would and the nature of the approvals that we’re dealing with are like for DOT, it’s a major access. So, it’s something like you know, simple tie a street intersection in. There’s new alignment for Lock Street which we show on the panel there. It’s a new traffic light on 22 so there was a lot of back and forth with them to do that. With dam safety, it’s another project, it’s a, as you can see by this blue area on the panel here, this is intended to be the detention basin for the majority of the site. Most of the drainage will go to this basin, it’s on the right hand mid panel of A-1 is where I’m speaking, but it says proposed detention basin. That review back and forth with DOT has taken a while. We’re to the point now, where we’re basically; it’s not to say we’ll think about whether we’ll approve you. It’s more comments are, we need you to, you know, to do this, to clean things up so it’s, you know, considered, the permits are imminent that they should be

Attorney Rubright – And, we added the 9 that you’ve mentioned; three are already in hand and would it be fair to say that the rest are substantially along in progress?

Engineer McGrath – Yes.

Attorney Rubright – Okay.

Chairman VanVliet – Have you developed the entire property’s Storm Water Management Plan yet?

Engineer McGrath – Yeah.

Chairman VanVliet – You have it already, okay.

Engineer McGrath – Yeah, and that’s what I alluded to before when I pointed to Adam just for that basin, the Storm Water Report, it’s in two books. It’s about this thick.

Attorney Rubright – So, we are requesting that the Board grant an amendment to the preliminary so that we may have, we may continue to proceed with the application and also obtain final approval and make receiving these permits conditional of final approval. Would that be accurate?

Engineer McGrath – That’s correct.

Attorney Rubright – There are two other issues, are there not? There are also two other items that we are seeking the conditions of final approval as those items really refer or relate to the completion of these approvals. Would that be correct in terms of the detention basin; the one is

submission of a legal instrument to ensure proper maintenance of the detention basins by the property owner. What kind of a document is that ordinarily? Is that the storm water that's a, it has to be designed correct?

Engineer McGrath – Correct, well it, what it is is a legal document that ties the owners of the property to provide the maintenance to all the storm water in the site not just the detention basin and it's 100% approved by the other agencies at this point in time. The document is really something that really can't be completed because you don't have all of the approvals in place to be able to reference in that maintenance agreement.

Attorney Rubright – And would that be the same? That was, I think it was Item F

Engineer McGrath – It's F.

Attorney Rubright – in Mr. Sterbenz Report.

Engineer McGrath – It's Mr. Sterbenz Report under, yes.

Attorney Rubright – The additional item is the consummation of the developer's agreement or redeveloper's agreement between the Township of Lopatcong and the applicant prior to the start of any construction and would that be the same rationale that we are seeking that to be made a condition of the final approval as well?

Engineer McGrath – That would correct what we're looking for now is to be able to go onsite and start to move the dirt and that material soil and the like. The Developer's Agreement would be more in place when we're actually doing, I'll call it real construction, in other words sticks and bricks, you know, being placed or utilities are being put in place.

Attorney Rubright – Is that something that generally in your experience, there's bonding that usually

Engineer McGrath – Developer's in the past have been able to start work on preliminary but it is on their own recourse. There is no guarantees or anything.

Chairman VanVliet – What is the course on remediation if you don't get your approvals?

Attorney Rubright – I'm not following the question.

Chairman VanVliet – You got in and you do a lot of earth moving, a lot of grading and all of a sudden something changes drastically, you walk away, what is the remediation (inaudible).

Attorney Rubright – I don't anticipate that happening, you know, I think there's a certain amount of work that would have to be done with anything to do with that property and I don't know Mr. Porcek wants to address them

Mr. Porcek – Working with Maser’s office, there’s a bond (inaudible) for the restoration – (talking from his seat inaudible). There would be a bond posted prior as well as engineering as well as escrow fees so that would be worked out with Maser’s office. They would calculate escrow fees and the bond and we would post that (inaudible).

Chairman VanVliet – Okay.

Attorney Rubright – Okay, so then in addition to seeking the amended preliminary, we are seeking then final site plan approval correct?

Engineer McGrath – Yes, that is correct subject to the

Attorney Rubright - Subject to those issues being conditioned and we have received a letter from Maser’s office where there is some items that we can go through just to ensure that we have complied with all other conditions of approval.

Engineer Wisniewski – For completeness are you referring to?

Attorney Rubright – No, I think this was with regard to the connector road. If there was anything else in there that we needed to comply with, otherwise we would ask that

Engineer McGrath – Yeah, completeness I believe, was for the site plan for Building 7.

Engineer Wisniewski – We also had completeness determination or review done for the Final Site Plan application.

Attorney Rubright – For the Checklist, yes but

Engineer Wisniewski – Do you want to do that first before?

Attorney Rubright – Well, if we look at, actually I was really referring to Mr. Sterbenz Report Page 12, and actually, what I have asterisked is that at the bottom in terms of the, to the Chairman’s point, with regard to any of the site work that we’re planning to do, we would post the bond and it would be at our own risk, but we would, the Township would have financial assurances with regard to that.

Engineer McGrath – Correct.

Member Pryor – Yeah, can I ask a question to clarify this in my own mind and forgive me, this project has been around a long time, has a lot of moving parts? A lot of people have shown up here, and I’m getting a little lost among all the approvals here. You have a General Development Plan approval, all right, and you want to amend that, and that’s what we declared incomplete tonight?

Attorney Rubright – Correct.

Member Pryor – So, that’s another application. Now you had a preliminary approval on a pad site. Then there was a subdivision which is not part of this, and you want to amend your preliminary approval on the pad site.

Attorney Rubright - Not tonight. No, this application is strictly for the connector road to move some of the conditions of the preliminary approval to the final in connection with that connector road, so that we can start doing some preliminary grading work, and I will have Mr. Skapinetz discuss that interim grading.

Member Pryor – So, the only thing we’re hearing tonight is the connector road.

Attorney Rubright – Correct and part of that was that no, one of the conditions Mr. Pryor, one of the conditions, of that approval was that “no construction” and I’m going to put that in quotes was going to be permitted until all the conditions were complied with. We cannot as Mr. McGrath has testified; we cannot comply with some of those conditions because they’re outside approvals and the outside approvals we are still working on. We have been diligently pursuing those, and so in order to as Mr. Porcek’s stated, in order to be the guys who come in now and really get this done, cause that is what they do, is industrial projects, we are asking that this Board amend that approval, the preliminary and then grant us final with those conditions that were initially, the outside approvals that they be moved to the condition of the final, so you’re not losing control of those conditions.

Member Pryor - Yeah, but in my mind I’m trying to line up all these approvals all right, so we’re taking the connector road what out of the pad site approval?

Engineer Wisniewski – No, I guess what you’re referring to is the pad site, you men

Member Pryor – Well, they have rough grading,

Talking over reach other.

Member Pryor – That’s the approval we got.

Engineer Wisniewski – So, that’s what we’re amending.

Member Pryor – We’re amending that with respect to the connector road.

Attorney Rubright – With the rough, because that was all part of that approval.

Member Pryor – That’s the amendment.

Engineer Wisniewski – So, they’re looking for work to begin prior to receiving all the outside agency approvals.

Member Pryor – Yeah, okay, and then when are they going for on final the whole site?

Engineer Wisniewski – The whole site.

Member Pryor – All right.

Attorney Rubright – Explain what it is that we're going for for the finals. It's not the, no that's actually, it's not the building. We haven't even introduced the building to you.

Member Pryor – So what final are we going for?

Engineer Wisniewski – It's a final for that preliminary approval that was

Engineer McGrath – Pad ready site plan.

Attorney Rubright – The pad ready site plan and the connector road.

Chairman VanVliet – Is the Highlands passed on this already or have they made that application or not?

Engineer Wisniewski – Well, the Highlands application is in conjunction with the Building 7 development.

Chairman VanVliet – So, there's been no Highlands application for the connector road?

Attorney Rubright – We don't need to do that.

Engineer Wisniewski – There's no need for that. To my knowledge, that wasn't required when they applied for the original application for the GDP.

Chairman VanVliet – GDP which was only really a preliminary plan to show us generally what was going to happen on the site.

Engineer Wisniewski – Right, so now that specific pad site

Chairman VanVliet – Now they want to go ahead and start construction without that approval.

Engineer Wisniewski – Well, they're starting construction on the grading.

Chairman VanVliet – Connector road and grading.

Engineer Wisniewski – Grading of the connector road. Right.

Chairman VanVliet – Which is a lot of what the Highlands is looking at what's going to happen.

Attorney Rubright – It's not really construction as we say in its, well I

Chairman VanVliet – Your construction is building construction. Our final site plan approval is mostly grading and topography of the property. What we're going to do with the storm water, what we're going to do with the sanitary sewer. You're not giving us any information

Attorney Rubright – So, I'm going to have Mr. Skapinetz come up and talk about that because that is in Mr. Sterbenz Report, it's on Page 14 and Mr. Skapinetz has submitted some documents on that so, why don't we move to him then. If that's, we can pull

Member Pryor – I'm going to hold my question open and let this go and then we'll try and from my purpose try and pull this together to exactly what we are approving here and what approval it applies to and so on.

Attorney Rubright – I will say that it was, we were trying to determine how to submit the application and it was suggested that we do it this way and try to keep it a little more discrete in terms of the nature of what we were asking for and help me out here

Engineer Wisniewski – We, you know, back in September, August all of last year basically, beginning of all of last year, this application was presented as shown on that board with kind of place holders for

Chairman VanVliet – It wasn't shown as that

Engineer Wisniewski - The buildings

Chairman VanVliet - When we first approved this. There were 11 buildings shown on the previous application. That's what we acted on.

Engineer Wisniewski – Well, that was

Engineer McGrath – That was the General Development Plan

Chairman VanVliet – That has now changed.

Engineer McGrath – It was amended many times

Engineer Wisniewski – It was amended last year.

Attorney Rubright – Well, but it's always been one building in Lopatcong correct?

Chairman VanVliet – It has.

Attorney Rubright – Yes, and just so we're clear that the amendment to the GDP that we will be coming back with for Building 7 is to increase the square footage. I believe that the initial approval in the GDP was a certain amount, then it was reduced and now we're going back because

Chairman VanVliet – That therein lies our problem. The fact that we've been told so many stories from what this property is going to be and when it's going to occur we're kind of confused on where we're at on that.

Mr. Porcek – The application, the utility connector road is exactly the construction of a piece of road and the grading of that site, right so when we were talking to Maser’s office, as we were waiting for the outside approvals, we said we would like to get started with installing storm soil erosion measures and earth work. How do we accomplish that and Paul told us the way you need to accomplish that is you have to go in front of the Board and request that. So you know, Maser’s office couldn’t say yes you can so that’s what we’re doing here, we’re formally coming here to request and we’re not constructing, just to be clear, we’re not constructing sanitary, we’re not constructing the water, this is strictly soil erosion and earth moving that’s what we’re requesting here and then part of the application, at that time, only preliminary was able to be heard so, where as you would normally at that application ask for preliminary and final, there was a whole bunch of discussions and it was decided that only preliminary could be done at that time so as we came back here, then the next logical step was to combine this request with the final approval for that plan. To answer your question, Chairman, we are, the size of the building and how it’s been shown now there is a full set of documents that have been submitted that are fully engineered, there’s storm water, there’s sanitary, there’s water, nothing like that has ever been submitted before that shows the building, the elevations, the floor plan and what’s going to be next and that’s the package that Maser’s office didn’t have time to write the technical review for it. It started with completeness and that’s what we’re trying to comply with and directly, we have been told that in a couple weeks we’ll have the technical review. That’s a separate hearing that will address all those items. So, to answer your question, that’s the difference here is that you have that additional information that’s going to be forthcoming.

Member Pryor – Well, I’m going to go back to Mr. Bryce and our engineer, I mean, what exactly are we doing tonight? Are we granting a preliminary and final approval or are we just giving them permission to build the connector road?

Attorney Bryce – Well, I think the species is that it is technically an amended preliminary approval because you are amending the conditions that were attached to the previous preliminary approval and also, a final approval, but limited to the connector road and making the conditions of the preliminary now conditions of the final approval.

Member Pryor – I’m going to take that one step further. Limiting it to the connector road, there’s a lot of engineering that has to occur around that before we get a final on everything else. I mean can’t we just amend the preliminary and then give them permission to start construction on the connector.

Attorney Bryce – I think that generally you have to; that’s a good question

Engineer Wisniewski – And then not grant the final until

Member Pryor – Till we see the whole package. I mean, they’re proceeding at their risk right?

Attorney Bryce – Generally, and it's an interesting point because it's kind of a, some of its honored in the breach when you do developer's agreements that you can do them in preliminary, developer's do, but under the Land Use Law, people can get preliminary approval, act on that approval put, in their improvements, and do that in lieu of bonding and then get final approval when they're done.

Member Pryor – And, that's what I'm seeing here.

Engineer Wisniewski – You don't get your C/O until you get your final approval.

Attorney Bryce – Final approval now, if you applied simultaneously for preliminary and final approval that's when you really want bonding and that's when you really want

Member Pryor – There still going to have to bond on the rest of the site.

Attorney Bryce – That's correct but that's and that's really in subdivisions; you don't want them to be able to sell lots when the sewers aren't put in and the roads not even put in so that's why you see a lot of developer's agreements and bonding when you're dealing with preliminary and final approval. From a preliminary standpoint, I don't know why they couldn't get preliminary and be able to act on it. Counsel may have an opinion as to that.

Attorney Rubright – Yeah, thank you. I've just been conferring with Mr. Skapinetz. I think he, I'd like to have him testify with regard to what the, what the Interim Grading Plan is and how we would be able to address your question.

Chairman VanVliet- Is this gentleman finished with his testimony?

Attorney Rubright – I believe so unless the public or the Board has some questions. We can always bring him back.

Chairman VanVliet – I'll open it to the public do you have any questions of this gentleman? Yes ma'am. Would you please come up and state your name and address and then ask the question.

Gail Denise – So my name is Gail Denise and I own the property at 1011 Rt. 22 that's across from the development and so my question is, can you share some of the DOT's concerns with the traffic light and that left hand turn that's holding up your approval, cause I have concerns (inaudible).

Engineer McGrath – I'm not sure if I understand your

Gail Denise – Well, you said, you said that you don't have your approvals from the DOT.

Engineer McGrath – That's correct.

Gail Denise – Because of the concerns.

Engineer McGrath – Not necessarily concerns but they were comments; there were things that needed to be revamped on the plans as far as like detailing curb locations, utilities; I believe the signal layout has been modified once or twice. Things like that that they're working through. It's not the actual signal itself. We have an approval from DOT that they are okay with the signal, what we are doing is working the details out with them.

Gail Denise – Because I have tenants that need to come in and out of there and we're concerned about the gas station next store with those oil tankers coming in and out and that's just about where the backup of the traffic is going to be for the light; it's going to be really tight with all those trucks.

Engineer McGrath – It wouldn't be any tighter than what you're dealing with right now with putting in two new lanes for the left turn slot. We're moving the highway closer to this property should, you know, from a maneuverability standpoint; you're still going to have your two lanes in front of your buildings and gas station? What you will have is two left turns lanes now to

Gail Denise – Yeah, but they're very long trucks all backed up.

Engineer McGrath – That's correct.

Gail Denise – Okay, that's my concern.

Engineer McGrath – Thank you.

Chairman VanVliet – Sir, do you have a comment? Any further comments from the public? Hearing none, you may proceed.

Attorney Rubright – Thank you, Mr. Chairman. I would like to call Brett Skapinetz.

Attorney Bryce – Raise your right hand please. Swear and affirm that the testimony you are about to give the Board is the truth, the whole truth and nothing but the truth.

Engineer Skapinetz - I do.

Attorney Bryce – You can spell your last name.

Engineer Skapinetz - Sure the first name is Brett. Last name is Skapinetz.

Attorney Bryce – Thank you.

Attorney Rubright – Mr. Skapinetz if you could give the Board the benefit of your educational and professional background please.

Engineer Skapinetz – Sure. I have a Bachelor's of Science degree in Civil Engineering from Rutgers University. I'm currently Director of Dynamic Engineering Consultants located in Chester, New Jersey. I'm a licensed professional engineer in the State of New Jersey as well as

professional planner. My license is still current in the State of New Jersey. I've testified before 125 boards in the State, various planning and zoning boards. I've not been before Lopatcong. I've been to adjacent towns; Phillipsburg and Pohatcong so, thank you for having me here. It's the first time.

Chairman VanVliet – He is acceptable.

Attorney Rubright – Thank you. Thank you Mr. Chairman and Mr. Skapinetz you're involved now with this project correct?

Engineer Skapinetz – I am. Dynamic Engineering Consultants and Bridge have collaborated on several other projects. Bridge brought us in to help facilitate the beginning of this project; help facilitate and work with CPL on getting those outside agency approvals as well as then proceeding with the final site plan development for each one of the pads. For both within Lopatcong and Phillipsburg. So, that's where we're at, and we are the ones that have developed the plans, part of the other application that was held for completeness earlier for the full design of Building No. 7 and we also were again as assisting CPL in that we worked on finalizing the interim grading plan. If you recall on the CPL plans there was preliminary grading of the connector road as well as for pad No. 7 and because we are working on the final design for the pad, Building No. 7, we had to refine that so we in turn developed this Interim Grading Plan that I have up on the board and was submitted to Maser for their review. We received their comment letter of the 22nd which had about nine comments that had to be addressed. I want to say that we did address those comments. They were submitted to Maser which included a revision to the plan and this actually is the revised plan as well as actually create the second plan from the one behind it and additional drainage calculations so

Attorney Rubright – I'm sorry Brett you're referring to plans; have they been submitted to the Board and if not, we should mark them. So, that would be A-2, and just note what is the title, how would we refer to it?

Engineer Skapinetz – So, we'll refer to this as Interim Construction Grading Plan for Building No. 7 with a preparation date of 6/1/2018 and a revision date of 6/26/2018.

Attorney Rubright – You mentioned that there's another plan behind that.

Engineer Skapinetz – Yes.

Attorney Rubright – Mark that while you're over there. What is that?

Engineer Skapinetz – I'll mark this one A-3. A-3 was prepared as a result of the comments from Maser as I noted earlier, this is Sheet No. 2. I will, let me go back A-2, Sheet No. 1 of 2. I'm sorry A-2, is Sheet No. 1 of 2 and A-3 is Sheet No. 2 of 2 and it's entitled Profiling Details which has a preparation date of 6/26/18 and if we go through the letter there were comments which were the request for the profile of the discharge out of one of the seven basins that we're

proposing as part of the Interim Grading Plan as well as adding specific details to that proposed design.

Attorney Rubright – So, in your opinion, does that address some of the, you've been present tonight correct?

Engineer Skapinetz – Yes.

Attorney Rubright – And if you could, you've heard some of the comments and the concerns that some of the Board member had with regard to, what are we proposing construction, what is the nature of the inter relation of our request for this interim grading as opposed to the approval for the connector road and the approval for Building 7?

Engineer Skapinetz – Well, this is, this is just a refined version of what you approved as far as Preliminary approval for the connector road. The connector road had the road itself which we are showing was described earlier the entrance of the connector road and its location within Lopatcong as well as preliminary grading for Building No. 7. That was in the preliminary plans and was approved.

Attorney Rubright – For the connector road?

Engineer Skapinetz – As part of the connector road application. So let's just talk the connector road and the preliminary grading for the pad are one and the same. You granted preliminary approval for that; it had those conditions, have the outside agency approvals which we're looking to shift towards final, obviously, that will and also the same time, looking for the permission and approval to then proceed with the preliminary grading of this pad while we're waiting for those outside approvals under this refined design and just to give a little description about this design, if you look at the CPL plans for preliminary grading, it has very similar to this, shows contours and a mockup of a disturbance in the same area as is proposed here however, again, we've refined the contouring and refined the way that the land is going to be shaped as a result of what our final design is intended to be for Building No. 7 which is the next application we proposed that we're going to present in July. So with this design, you'll note the key feature here No. 1 is do we have soil erosion approval and we checked that box, that's yes, we mentioned that earlier. The other part of it though is the storm water management and making sure that that's okay and that's in two parts here you have a part that's on this site that we're all aware, we're driving down 22 and you look up the site grades down towards Rt. 22. So as a result, there's a need for storm water detention/sediment basins on the, along Rt. 22 and each, each of these basins is actually part of the application to DOT. We've been approved actually from a storm water standpoint in the design as we show here today. So, those are intended to collect storm water right at, there's a line that runs right, no I wouldn't say to the middle, not exactly the middle but at least the top third of the graded pad heading towards 22 to the east, I'm sorry, this would be yeah, to the east. The water will flow and swales will be created to drawl water and collect it into each of these basins. As we went through the design, we also note that we created this at which

point and water will now also be flowing towards to the west. Well the interim grading, in the original plans, there was no other sediment basin per se to care or collect that water. All there was on the CPL plan was the water basin located in Phillipsburg okay. Obviously, that's where the water will end up going under final. It's not, was not designed or intended for the preliminary grading to take place under the preliminary approval that was granted, so we are refining the grading to also introduce a basin in the southwest corner which has been designed, reviewed by Maser. It's been also, it's located in Phillipsburg, it's been under review by Phillipsburg's Engineer Stan Shrek and that is a another, a third sediment basin which will take and collect water that is going from that ridge line towards the southwest and ultimately, once final construction takes place, down the road, that larger basin is constructed, this basin may or may not remain; likely it will be removed where all the water then goes to final basin located in Phillipsburg and remains as part of the final project so that in a nut shell is what this plan is about. It takes care of the disturbance it illustrates the disturbance takes care of how we're maintaining, working with storm water that will be coming off the site as a result of that disturbance and as was mentioned earlier by Mr. Porcek, a Mr. Chairman, there's no other improvements taking place as part of this plan; no sanitary, no water, no other work. This is just for the earth moving portion of it to get it to that next station.

Member Pryor – And, the earth moving goes beyond (inaudible) you're grading the pad site, upgrading the pad site and you're here doing whatever storm water you have to do to handle that.

Engineer Skapinetz – That's right. Correct.

Member Weeks – Do you feel if they choose not to follow through and they don't get this, they have enough in the money to put it back where it came from? The same position of ground.

Chairman VanVliet – Assume they're going to take control initially (inaudible) to use it for.

Engineer Wisniewski – Well, maybe Mr. Skapinetz can explain how the earth work is being completed. My understanding is that the grading is envisioned to be balanced on the site.

Engineer Skapinetz – Throughout the entire site, yes.

Chairman VanVliet – Moving that excavation to Phillipsburg.

Engineer Skapinetz – What's that.

Chairman VanVliet – You'll be moving that excavation to Phillipsburg.

Engineer Skapinetz – Yes, there's going to be earth to be moved in Phillipsburg.

Chairman VanVliet – How do we get it back if you don't complete?

Engineer Skapinetz – Well, I don't know if you do get it back but as far as restoration you're going to be cutting down obviously, there's going to be removal of top soil which will be pushed

and moved aside and maintained, you know, ultimately what this is doing is, is leveling out the pad here, so instead of having the slope, you have a level pad and then the top soil will end up being put back on top and it's seeded and obviously, end up stabilized and that's what will be part of the bonding. So you wouldn't get it back in the exact condition, to the exact same grades and slope that's out there today, but you would end up having again the land restored and vegetated if that should occur.

Attorney Bryce – So, that would be a condition of approval to have a restoration bond for temporary.

Engineer Skapinetz – Yeah, that's part of it. That's part of the notes.

Engineer Wisniewski – That's part of the notes and one of the conditions we asked to be included in the approval and also a note on these plans is that in the event that the DOT approvals or the DEP approvals change significantly, the nature of this approval and something happens in that Bridge decides not to proceed with the project, then yes it would have to be restored to a permanent condition spreading topsoil on the site, seeding and restoring it. Obviously, we wouldn't be restoring it back to the grades currently that are on the site, but it would be a grass and then ultimately, we vegetate the site.

Chairman VanVliet – So we'll have a deep hole in the ground with grass in it. Is that the conclusion?

Engineer Skapinetz – Yes.

Chairman VanVliet – Does the Board have any questions of this expert?

Member Clymer – The two drainage detentions, are they going to remain?

Engineer Skapinetz – No, only one will remain. So we proceed, we move forward, you know, the building goes to final construction, the majority of the storm water from the building actually goes to the pond that's in Phillipsburg so you know when I say this third is the (inaudible) falling off towards 22, once the pad is built, the majority actually of this pad goes towards, to the big basin, however, there is still some storm water as a result of the roadway that will flow towards 22 and one of the basins remains; one goes away after final.

Member Clymer – You are aware of that right, you look at that?

Engineer Wisniewski – Yes, yeah, we looked at all that so, right as Mr. Skapinetz explained, that second basin, I guess to the south, the new access the permanent new access and improvements on 22 are going cut in right there where he is showing on the plan. So that basin to the right on the plan will become a permanent fire detention basin, it will be vegetated with landscaping and capture all that to address water quality, discharge to DOT's drainage system at 22 and as he explained also, the rest of it will be going to the pond in Phillipsburg.

Member Steinhardt – So, Ma'am you had said before that one of the conditions in the pre-approved plan was that no construction was to begin until all your approvals were in

Attorney Rubright - Correct

Member Steinhardt – So, what you're asking is that, that be amended, that you can start with the ground work

Attorney Rubright - It is interim grading

Member Steinhardt - before all the approvals are in?

Attorney Rubright - Correct. Yeah and strictly it's I think Mr. Sterbenz said no pipes, no pipes in the ground, strictly this interim grading. So, it's technically I think, that the Chairman indicated it is construction.

Engineer Wisniewski – It's construction in that it's grading to further clarify right, there will be, besides what's shown on the current Interim Plan, one of our conditions also is that no further drainage, sanitary sewer, no paving be installed. Using that connector road is going to be a gravel, dirt road for haul access for the equipment that's going to be working on the site so there won't be any and obviously the Lock Street realignment won't be constructed. Basically nothing else can be done on the site in Lopatcong Township until all the outside approvals are done, the developer's agreement and any kind of other financial agreements are in place with the Township and everything else has been addressed satisfactorily based on the preliminary plan.

Member Pryor – Mr. Bryce, having heard this and I understand the concept and I see what you're trying to do and I don't have a problem with that, but I don't see a final approval here. I see an amended preliminary with some conditions to make sure we don't get stuck with a big muddy hole if something goes wrong.

Attorney Bryce – I think Ms. Steinhardt is actually spot on. It sounds more like it is a relief of a condition than even an amended approval. What I was going to ask is if we could just do a brief continuance that I could, I don't have a copy of the 2017 preliminary resolution

Attorney Rubright – I do.

Attorney Bryce – I would like to see that because I think that may be the real application is not really amending anything. We are looking for relief of the condition to allow them to do temporary earth moving with conditions before final approval is given.

Member Steinhardt – Are they asking, they're not asking that? (Inaudible) asking for that to be included in the final they're not asking for (inaudible)

Attorney Bryce – That's right, they just want that condition from preliminary to be put, tagged onto the final.

Chairman VanVliet – I think they're also asking for final site plan. They're also asking under this application for final site plan.

Attorney Bryce – Right. I think that was because they wanted final to be able to proceed to do this.

Attorney Rubright – To do the interim correct and Mr. Skapinetz and I think if you are going to look at that counsel, it's pretty long, there's some conditions and actually they do refer back to Mr. Sterbenz Report from the 17th or the 18th of August which I have a copy of as well. If you would like to look at that and then I can confer with my clients as well, and actually, if we could, could we take any questions from the public at this point or would you like to defer those?

Chairman VanVliet- Well just for this witness, for him, then we'll have a countenance that you can confer with the attorney.

Attorney Rubright – All right.

Chairman VanVliet – Does the public have, I'm sorry, is there any further questions from the Board? Don't see any. Is there anybody from the public that would like to ask questions of this expert? John.

John Betz – This pertains, say the roads been built, the usage is there for the purpose of, all of the other buildings and it comes down the road and economic times go bad, the pad it sitting there, there's no completion of building so, the only usage for the road, is the access to the other buildings in the other site, in the other half of the site in Phillipsburg, is there any guarantee that that pad will be used to put a building on? Are there any penalties against not completing that situation?

Engineer Skapinetz – That was what was mentioned before, so all we're looking to do is move dirt in the Lopatcong site and not construct the building, that's the application in July. We construct a temporary road, however, that's it. If nothing else happens and it needs to be restored, there is a bond that will be put up with the town and go in and say no action happens they can restore, plant this, it will be green again.

John Betz – I'm not worried about it being green, I'm worried about the usage of that property. It was all a basis of uncertain factors which would unable the use of that road to go through. The fact that the building is going to be built in there and there would be actual business being in there.

Engineer Skapinetz – Yeah, and this is only for the grading. The next application we are going to get into the final design of that building which has all those other improvements that are needed to build that building.

John Betz – Then at the July 25th meeting you are going to bring up situations pertaining to the final approval of the building on that site.

Engineer Skapinetz- Correct. Yes.

Chairman VanVliet – Any further from the public? Seeing none, at this point we'll take a 10 minutes continuance. All right, Mr. Bryce.

Attorney Bryce – Okay, thank you, Mr. Chairman. I did have an opportunity to take a look at the prior approved Preliminary Site Plan and Subdivision approval that was granted back in August, I'm sorry September of 2017 and the application tonight is looking for limited permission for limited purposes to do the grading and the site work as pertaining to that interconnector road and the reason why they're here is because in that prior approval, the preliminary approval, there were a few conditions that were placed in the approval that said you can't begin any type of construction until certain things are done so one of them was the plans have to be revised to address technical comments. One of the technical comments was nine and that nine in Mr. Sterbenz Report at the time which was incorporated in the resolution said that no construction was permitted until taxes and fees are paid, all outside agency approvals or waivers thereof, are obtained, the site plan is revised and satisfactory to the board engineer and board planner, performance guarantees and inspection fees are posted, the maintenance agreement document is approved and recorded, the developer's agreement or redeveloper agreement is consummated between the applicant and the Township and the applicant attends a preconstruction conference to be scheduled by the municipal engineer. So, that basically, prohibits them from undertaking any kind of interim work for grading, but it doesn't end there. The preliminary approval also put a condition in there that said no construction permit shall be issued until appropriate performance guarantees have been furnished by the developer to ensure the restoration of the site to a safe and suitable condition. Said guarantee, shall be in favor of the Township and at a 120% of the cost to restore the site. The performance guarantee shall run until such time as the site is made safe and stable condition certified by the board engineer and it goes onto several other conditions and less notable of which prior to the commencement of construction, the applicant shall enter into a financial agreement with the municipality regarding the pilot which is a payment in lieu of taxes and other related matters. So, when you boil down what the applicant is asking for tonight, what they're really asking for is not for amended preliminary approval, they're asking for relief of those specific conditions to allow temporary or interim construction for the grading on that limited basis only by not meeting those conditions of the preliminary approval prior to construction. So, that's really what in essence is for the Board is on, should the Board allow them to undertake interim construction prior to meeting those conditions and giving them relief of those conditions so that they could proceed temporarily and in a very limited manner, and I think if you look at Mr. Sterbenz recommendation at that point was that as to condition four of the September 17 memorializing resolution, you modified and amended only to the extent that once other applicable conditions have been satisfied, the applicant shall be permitted to construct, commence construction limited to the construction of improvements required to construct a

temporary site access approved by NJDOT in their May 23, Highway Occupancy Permit as depicted on the site plan entitled “Interim Construction Grading Plan – Building 7” as prepared by Brett W. Skapinetz, PE dated June 1, 2018. So, this is a relief of conditions application. You’re not really amending anything, you’re just relieving them of a condition. All of the conditions that were otherwise imposed would still remain conditions of the approval and that would be conditions of final approval so, it’s a matter of semantics and how you are juggling these different balls in the air. They’re going to be coming again in July hopefully with a complete application that you’re going to be hearing (inaudible) what’s going on and at this point, as I understand it, the applicant is just seeking to allow this temporary grading to take place absent having the pilot in place, absent all other outside agencies. They do have the DOT permit for this; they just don’t have every other permit.

Chairman VanVliet – But that’s the DOT permit only for the temporary access

Attorney Bryce – Only for temporary

Chairman VanVliet – it does not include the permanent and in Mr. Sterbenz letter it was strictly to allow that temporary access and the drainage associated with it to connect into the DOT’s drainage system that’s on Rt. 22 now correct?

Engineer Wisniewski – Correct so this

Chairman VanVliet – Nothing was put in there about general grading of everything.

Engineer Wisniewski – Regarding, what do you mean by this?

Chairman VanVliet – Well, this is a major when you said just temporary, it’s a major undertaking of the

Engineer Wisniewski – Are you saying in the DOT approval?

Chairman VanVliet – Not in the DOT approval. This is our approval. It was not authorized to do that cause no construction would start and we may have a conflict with the definition of what construction is. Our applicant seems to think construction consists of the building only. Our aspect of the construction is

Engineer Wisniewski – The preliminary approval did include the grade, the rough grading of the pad site.

Chairman VanVliet – The pad site.

Engineer Wisniewski – Grading the pad site to grade.

Chairman VanVliet – Not that site.

Engineer Wisniewski – That’s the site, that’s the pad site for Building 7.

Member Pryor – But did the grading change? The grading in the preliminary pad site approval that's been changed on this submission has it not?

Engineer Skapinetz - The preliminary grading that was approved by the Board with the CPL Plan and the grading in this Interim Plan is different, yes. There is

Member Pryor – Significantly different or

Engineer Skapinetz- Based on the size of that, no, not significantly different based on the overall size of this.

Engineer Wisniewski – The main reason that the revision's that Mr. Skapinetz' s office have been made was that since the NJDOT, NJDEP Flood Hazard and Dam Safety Permits haven't been issued, none of the other drainage improvements that were approved as part of that preliminary pad ready site plan approval and connector road approval can be constructed yet because there is nowhere to put water, so right now, the grading can be modified slightly to direct all the water to sediment basins and to that new sediment basin to the west.

Member Pryor – Let me offer this, I mean the conditions that are in the preliminary approval and that grading remain in place, this was characterized as an interim plan and the changes are essentially deminimis, if something that has to be corrected, you know, when they come in for final, I okay with that. I see what they're trying to do. They just want to get their road going.

Engineer Wisniewski – Well, this is the best time of year to start this construction work. Once it gets wet and cold that soil will not work very well, so this is the time to do it. The other thing is, on this plan that is prepared by Dynamic Engineering, the temporary access that was approved on the DOT plan prepared by Menlow Engineering which were approved and the remainder of that connector road it is looped down along the pad site. The only thing, that's basically going to be a gravel and dirt access for hauling material in and out and around the site, so there's not going to be any paving constructed, curbs constructed, retaining walls constructed or any types of utilities associated with the plans which were approved back to last September.

Vice-Chairman Fischbach – It will be construction access basically construction road.

Engineer Wisniewski – Exactly, that's what they're requesting now is to be able to give them construction access which was approved by DOT and start this grading which was also approved by the Planning Board before they are able to install all the other utilities, sanitary, water and everything else that's required, that's going to be needed to build this site.

Member Weeks – So, how long, how long is they graded that, and this took another three years all right, how long would you let dirt sit, all right, before you took care of that? I mean what limit do we have?

Engineer Wisniewski – Well, the Soil Conservation District would of course, in addition to our office, have jurisdiction on the project and they're requirement I believe now at this point is 14 days. If the site is left vacant or idle and everyone pulls off, for 14 days they're required to permanently stabilize the site.

Member Weeks – That's my issue because of past things that have been going on and stuff, that's what makes it so hard to jump here, all right. So that's, I want to make sure that we don't end up with like Joe said a hole in the ground. I do know that my thing is that it will, makes it nice to be leveled out but at the same time I want to make sure we have something that is presentable at the end of it, you know what I mean, if nothing materializes.

Engineer Wisniewski – Well, part of the review of this plan, by myself and Paul, was that Dynamic Engineering prepared cost estimate for the work under this phase, this interim phase of the project. So that cost estimate which I reviewed this afternoon, is going to be issued to the Township Clerk for bonding purposes for inspection fees being posted and for the safety and stabilization guarantee that's required as part of the Municipal Land Use Law that would provide those funds for stabilizing and restoring the site to some permanent condition if Bridge were to ever pull off the site.

Vice-Chairman Fischbach – And, and as I understand it, the grading would happen, the three detention ponds would go in right; three which would, is all part of this whole thing so that runoff isn't running out onto 22 and just, you know, basically, you know, that's all, that's all controlled; that's the purpose of all of this.

Mr. Porcek – (Inaudible).

Member Steinhardt – So, we would grant relief for preliminary approval just not the final?

Attorney Bryce – That's correct. You'd only be acting on the preliminary; that's been approved as of this point, and you would be granting relief of certain conditions to allow this temporary construction as limited by Adam and Paul as they've indicated; just to allow that to go forward. The conditions, I guess that you would be granting relief from is condition 4, 5, 18, not 20, they still have to provide the guarantees, and 29 which is the pilot so that's really what you would be acting on here today. It would be an amendment technically to the preliminary subdivision approval, but all other conditions would remain as applicable to the final approval if and when that's sought next month.

Vice-Chairman Fischbach – And, one more question, is there any other grading of this type proposed on the rest of the site that is not in Lopatcong Township? So, in other words, are you looking to do similar work on the other, where the other we'll say buildings are going to go on the rest of the site?

Attorney Bryce – Why don't we call the engineer back up so that, only because the public may want to ask additional questions based upon your (inaudible).

Engineer Skapinetz – The answer to that is yes. Yes, we are working with Phillipsburg to allow for similar type grading on a couple of pad sites in that town.

Engineer Wisniewski – Have they granted approval already for the interim type grading situation?

Engineer Skapinetz – Yeah, it's the same thing, we've got interim basins and a plan put together.

Mr. Porcek – (Inaudible).

Member Clymer – Do you have a preliminary time line of when you expect to actually put a pad in and start construction once the approvals are in hand? Once you get all the approvals,

Mr. Porcek – We're looking to start the building as soon as we have approvals. This just goes back to a lot of stories, we were actually trying to get on the agenda for tonight and that's why we submitted the plans but Maser obviously had to review first for completeness and for the technical comments. Those technical comments I believe will be forthcoming in the next couple of weeks. We'll respond to whatever those comments are. We'll be wanting to address those as quick as possible and submitting them all back and to get the approval for the building and be able to go as soon as we have the approvals. That is the intent. The intent is not to (inaudible) how's that.

Member Clymer – And do you intend to do all four or five buildings simultaneously or are you going to start somewhere and work your way through?

Mr. Porcek – I think we have to see how the dirt because there's certain cuts in Phillipsburg really however the dirt is going from one spot to the other where it is intended to be concurrently working the site.

Chairman VanVliet – Any other questions?

Member Pryor – Again, one for Mr. Bryce can we close this tonight or do they have to come back for confirming resolution.

Attorney Bryce – Oh, they need to actually get a resolution whether or not, in the interim, Paul can (inaudible).

Member Pryor – Your objective is to move earth right?

Mr. Porcek – And again, Paul's not here so there probably something ringing wherever he's at. When we were talking, really had talked to Paul a while back. We're trying to understand what would be the best process here and it came out it would be this amended separate when really his

comments where after you guys approved it, that there wasn't going to be a resolution formalizing that. He was okay with; he just wanted it to be okay from the Planning Board so that he can allow us to get started because he still has to, you know, work through, we have to post the bond, a preconstruction meeting. So some things still has to happen with that but as long as he got the word then those things would take place that will need to be in place for us to get started.

Attorney Rubright – And if I could, you know, the normal rules up here say do not apply but I can hopefully, I've had numerous conversations with Mr. Sterbenz about process and he has indicated to me that he would schedule a pre-construction meeting for next week and I don't know Adam if can confirm it as well.

Engineer Wisniewski – Sure, it would be my understanding was yes. Once we, you know, received the Board's determination on this and there feeling that we would move with scheduling that preconstruction meeting and getting the letter to the Clerk regarding the bonding that would be required to be posted so.

Attorney Bryce – I will be providing a resolution.

Attorney Rubright – I absolutely need, of course.

Chairman VanVliet – We won't be acting on that until July, correct.

Attorney Bryce – Unless you have a special meeting just to adopt the resolution. That's up to you guys.

Attorney Rubright – But in terms of, I think the representation was that the memorializing resolution would not be necessary in order to have a preconstruction meeting and continue to pursue. That was my understanding after speaking to Mr. Sterbenz.

Engineer Wisniewski – My understanding as well.

Chairman VanVliet – Does that compete your testimony this evening?

Attorney Rubright – Yeah.

Chairman VanVliet – I'll open it up to the public. Are there any questions you'd like to ask the applicant on any specific point? Seeing none, I'll close the public portion. I'll ask the Board any further comments?

Attorney Bryce – Just open it up to the public for any comments.

Chairman VanVliet – Is there any one from the public like to make a comment on this or any ideas you might have? Seeing none, we'll close that public portion. I really feel very uncomfortable with overturning a lot of the conditions that were granted by the previous Board

when they have the Preliminary and Final Site Plan for the construction of the road especially, the two points in that they wanted no construction until agreement, the pilot agreement was consummated with the Board, well I should say not the Board but the Council wrestling with that and not having DOT approval for the intersection, not having DEP approval for certain aspects of this. I understand that the scheduling might be a detriment to that, but the two major points is agreement for the redevelopment agreement to be fully consummated including the cost of it, having the construction start with eliminating all the conditions that were imposed on it at the previous preliminary especially with the amount of grading that's going to go on on this one. We haven't had really a chance to review it. It's only my expression and my feelings on it so at that point I'll call for a motion on granting the amendment, the relief on the conditions of the previous approval as stated by our attorney. Is there a motion?

Member Pryor – I don't hear a motion, but I'll make a comment and maybe you'll have benefit of the comment. As I understand this, if they had a clean preliminary approval, they could proceed at their own risk anyway. Is that correct?

Attorney Bryce – Yeah, that generally the conditions that were attached to that preliminary approval prevented them from moving forward.

Member Pryor – And those conditions aren't waived they're just, we're allowing them to proceed at their own risk and some of the conditions are actually being moved to final?

Attorney Bryce – That's correct, and we'd be putting on interim conditions such as

Member Pryor – Yes, to protect us and all of this is at their own risk and they will have whatever permits they need to do the interim improvements. So, I understand the Chairman's concerns, but I think they can be addressed.

Member Steinhardt – I think so too. From my understanding, they're working on getting the approvals that they need and at the end of the day they're still going to have to meet them for the final site plan approval so, I would like to make the motion.

Member Pryor – I'm going to second the motion for purposes of further discussion.

Member Johnson – So, they currently do have all their permits in place to do this grading work.

Member Correa – No, they do not.

Member Johnson – Oh, they do not.

Attorney Bryce – To do this particular work.

Member Johnson – This particular grading work.

Attorney Bryce – That's correct. That's the representation.

Member Johnson – Yes, okay.

Attorney Bryce – Not for the overall site though.

Member Johnson – No, no, just for this. This for only the temporary grading that's all.

Chairman VanVliet – Any further comment? We have a motion and seconded it. Beth roll call please.

AYES: Members Johnson, Pryor, Vice-Chairman Fischbach, Steinhardt

NAYS: Members Correa, Weeks, Mayor Mengucci, Chairman VanVliet, Clymer

Attorney Bryce – It didn't pass.

Secretary Dilts – So, it's five to four, no.

Attorney Bryce – Motion did not carry.

Chairman VanVliet – We'll see you back in July?

Attorney Rubright – I assume so.

Chairman VanVliet – Okay, cause of the motion, the notices will be carried to July. Thank you very much. All right we'll be continuing the meeting. The next order of business is the Planning Board Rules and Regulations. Anyone have further comment. You all received the package from our attorney. Eric's request for the points of law.

Member Johnson – To be honest with you, I wouldn't mind having a little bit more time to, I read through it quickly but been swamped the last month I wouldn't mind looking into it some more. I don't have any further comments at this point.

Attorney Bryce - I have your comments.

Member Johnson – Right, so.

Member Steinhardt – Has there been a revised copy?

Attorney Bryce – Nothing revised because there's been no consensus. I don't want to double my work. I'm just waiting for a consensus as to where the Board wants to go with it as a majority.

Chairman VanVliet – Any further discussion on it for this evening or do you want to continue it till the next meeting?

Member Pryor – Yeah, I saw two options; I think we should be operating under something and I think we have the option of adopting them as is and we can always amend them as we go along or I don't want to get into a ten-hour session where we word-smith editing an item. That would

be probably not preferred position, but if it is the feeling of the Board to delay it another month, I don't have a problem with that either. Someone would like to make a motion tonight, I would support that.

Member Steinhardt – Do you want to like adopt them as is for now with further discussion?

Member Pryor – We'll adopt them, you know, and then they can be amended each month as there's a consensus on a provision. I think it's going to take forever to get a consensus on the whole document.

Member Weeks – I agree with Joe. Right now you got to have something (inaudible) there's got to be something all right so we don't go you know in every direction.

Attorney Bryce – Well why don't I, just a not to delay anything. By envisioning of this process was that they'd actually appended to a resolution of the Board. So that I'd be preparing a resolution. It would be the exhibit to the resolution and I anticipated having that after I received all the comments of the Board. I know that there are some changes that have to be made to this, including your meeting time

Member Pryor – The 7:30, yeah I was going to get into that.

Attorney Bryce – So I know that there are changes that have to be made. I've known that they have to be made. I just didn't want to make them until we had

Member Pryor – Well, I have some comments that are probably heavy lifting down the road and I mean, we can do that for a section when we have time; a section here and section, the more important stuff; the ex parte and conflict of interest and so on, but I think we need something to operate under now and I think it's going to take a long time to wordsmith the entire document so I would just as much move forward with these little cleanups that you know, you have to do.

Member Johnson- I wouldn't have my comments submitted, you know, have a chance for everybody to take a look at it. I know last month, we talked, there wasn't any rush; this is what we said last month. There isn't any rush; we can take our time with this thing. I know Donna reached out to me and she said she wanted to be here for the conversation, but she's away on vacation likely, but I wouldn't mind, you know, sharing comments and seeing what we think. We have outstanding comments on what we've reviewed to this point. I might be the only one, I don't know. Maybe we should take a look at the comments that we have. We have them in our possession; we'll have no problem sharing them.

Chairman VanVliet – Do you, you have forwarded your comments to the Attorney already haven't you?

Member Johnson – And you as well.

Chairman VanVliet – Yes.

Member Johnson – But that was all.

Member Weeks – I think he's asking to open it up to the Board right now.

Talking over each other

Member Johnson – You'd have to receive the comments so in order to

Vice-Chairman Fischbach – Yeah, so. Yeah, I don't know, I don't know what you're

Member Pryor – Well, my point is you're get together next month. You're going to have comments there all over the place. You're not going to reconcile all that next month and maybe the month after that.

Mayor Mengucci – Why don't we just do what Joe said?

Member Pryor – Yeah, I think you have to have something to operate under. I've read this against the model and it's different, but it's close enough. I'm pretty comfortable on where it comes from and how it works so that would be my proposal.

Vice-Chairman Fischbach – With the housekeeping items changed, am I correct, like

Attorney Bryce – Yeah they, they would definitely have to be changed; the 10 o'clock and the hours. I'll have to go through it, but there were some minor things that

Member Pryor – On the agenda, we had the approval of vouchers, we don't usually do that. That's on the Township's bill list.

Attorney Bryce – So, I'll take vouchers off.

Member Pryor – And then, if we want to have discussion on a particular provision, we can do that one at a time. Tackle the heavier lifting and, you know, at least we have something in place.

Chairman VanVliet – Any further comment?

Member Johnson – My only comment is it's a complete 180 from what we talked about last month. We have currently submitted comments to look at and now it seems like we're rushing it through which is (inaudible) what we said last time. I don't have a problem tackling it down the road, but there's current outstanding comments that you know, I'd like to discuss.

Chairman VanVliet – (Inaudible)

Member Steinhardt – You want everyone to

Talking over each other.

Member Steinhardt – The point is that we have this conversation (inaudible) but we're operating on each meeting under, we have rules and regulations that we need to abide by so the point is to adopt something to have something set and once everyone gets in here, in the room and every member is here we can

Member Johnson – Well, we are operating under rules and regulations; we're operating under the Municipal Land Use Law.

Member Steinhardt – We're operating under yes, yes, yes, but we

Talking over each other

Chairman VanVliet – Having a full Board at each meeting is tough.

Talking over each other

Chairman VanVliet – There is still an avenue available to change it as we go as we see it's necessary if comments come up. So go ahead

Member Pryor – I can't imagine you're going to resolve all the comments in the meeting.

Chairman VanVliet – Well, that is kind of my perception also that this go on forever when we will have nothing so if there is motion tonight, we entertain a motion to, with the revisions we discussed her tonight on the preliminary draft, then we authorize the attorney to proceed.

Member Pryor – I think there was one other Jim, you're talking a conflict of interest, you said, if somebody found a conflict the decisions will be overturned, they may be overturned it's one word. Other than that, you know, I think we can go forward under this, so I'll make the motion that we adopt this with those deminimis comments as he mentioned.

Chairman VanVliet – Any further comment?

Member Johnson – I have one question I guess of the entire Board; does anybody else have any comments on this except for me?

Member Pryor – Yes, I had substantial comments, but I'm willing to forego them to just get this started.

Member Johnson – Well, okay, I'm just curious.

Member Correa – I mean what do we put a resolution forward that he has to create and then maybe we have to modify two weeks later. (Inaudible) from the get go. (Inaudible)

Chairman VanVliet – Because No. 1, it is difficult to have an entire Board here at any one meeting. No. 2, it allows us to make changes to it as we go along if something that a Board

member comes up with, you know comments on it and I think we should be operating under some of these rules and regulations.

Vice-Chairman Fischbach – To Joe and Eric’s point where they have concerns or comments, and again, outside of just housekeeping issues, could we have the motion be that we adopt them as is and then set forth each month, we will address one comment? Maybe your comment, one of your comments next month, your comment, because you’ll be here, you’ll be, I mean, we have a, you know we have people coming in here that are going to eat up a lot of our time, and you know, so you’ll never get this, almost put a schedule together to say, listen we’ll adopt it as is, with the intent that we’ll address everybody’s comments chronologically, however you want to, and going forward

Member Pryor – I don’t have a problem with that and the other thing Jim, it’s adopted by resolution so it’s not like an ordinance; it’s merely easy to fix.

Attorney Bryce – Adopt a, when you approve a plan, I just be putting together a resolution just to memorialize the fact that you did it.

Vice-Chairman Fischbach – Just so we can tackle one thing and concentrate on that one thing.

Member Johnson – Your points well taken.

Vice-Chairman Fischbach – Your one issue, that you know, again, I don’t know what these issues are so I can’t really even comment on them in any context, but

Member Johnson – To you point exactly is that you don’t want to, if there’s outstanding comments, you don’t want to forget about them.

Vice-Chairman Fischbach – Right.

Member Johnson – So, you do want to handle it (inaudible).

Vice-Chairman Fischbach – Right, but we also want to have something to work by, right. Right, you want to have something so that, you know, we can, you know, we’re not just kicking this can down the road because we can go through this same drill if we wanted to next month and the same drill next month based on what is, what business we have to attend to so, if we set forth a provision where, hey listen, what we’re going to do, we’re going to address one comment, or one concern each month and tackle one at a time

Member Weeks – And, bring it to a vote.

Vice-Chairman Fischbach – Oh yeah, oh yeah, yeah, try to resolve any

Member Weeks – Every meeting bring it to a vote

Vice-Chairman Fischbach – The intent is to resolve it at that meeting so you're only dealing with one issue, going at a time and then we just, we knock them off our plate. We knock them off the menu one at a time. However they go

Member Steinhardt – Do you know what we're going to deal with next meeting then?

Chairman VanVliet – It will be again, will adopt the resolution to formally, next meeting, so

Member Steinhardt – If someone wants to, what concerns you want to talk about.

Chairman VanVliet – It would be like it would be listed tonight

Member Correa – We don't know what it's going to be because we haven't, we haven't seen the resolution. Once we see the resolution, then we know.

Attorney Bryce – The resolution would simply just say they were adopted.

Talking over each other.

Member Correa – So, when there is a conflict of interest and the attorney doesn't tell the member that he has a conflict of interest, then he is allowed to stay or he's going to be asked for voting to the other members.

Vice-Chairman Fischbach – Now we're getting into the issue and we really want to, my proposal and you guys, there's actually

Member Correa – (Inaudible) issue because I don't know where I stand

Vice- Chairman Fischbach – There is a motion and a second on the table. They haven't' voted on it yet.

Member Correa – I don't understand what we're voting on so I wanted an answer from the attorney please.

Attorney Bryce – It's the same draft that I provided.

Member Correa –Yes, can you explain that to me because I don't understand it 100% it does, what is going to be crazy? There is a conflict of interest.

Chairman VanVliet – Did you submit.

Member Correa – That you guys made the attorney aware and he tells you no you don't have a conflict of interest. Somebody else overrides it and says you have a conflict of interest, you have to, would want to ask for a vote of the Planning Board and then the person has to be excused.

Chairman VanVliet – This is something you can bring up when we have the topic to go through.

Member Correa – And, then it does happen (inaudible) seek the removal from the Planning Board.

Chairman VanVliet – They always did.

Member Correa – They always did but I'm just saying if we adopt these things

Chairman VanVliet- This won't supersede.

Member Correa – and the attorney gets asked a question whether they have a conflict of interest and he tells you (inaudible) would the Council still have (inaudible) seek your removal because then what are we adopting rules and regulations if they're not going to protect us members of the Planning Board.

Chairman VanVliet – That would be one of the topics you want to explore, but right now, you're putting this on the attorney to tell you what to do and all he can do is offer advice to you.

Member Weeks – It could be our first thing that we tackle.

Member Correa – I'm just saying this because that's what happened to me. I asked for advice from the attorney. He didn't tell me to leave the room. It didn't tell me not to leave the room and now the Council is seeking my removal.

Member Pryor – I'm going to argue you never asked for advice. I asked for advice and then Peter said what are you going to do. I think Eric said something and the attorney was silent. You never asked for advice so, I'll correct that.

Chairman VanVliet – I don't want to get into an argument. We're not the governing board on this. You had your own hearing on this.

Member Pryor – It says members may voluntarily recuse themselves by claiming conflict of interest. Members who are uncertain whether they may have a conflict of interest should contact the chair and the board attorney as far in advance of the preceding as is practical upon discovery of a potential conflict of interest. So, I think that's a good thing to have in there and I'd like to work with that.

Chairman VanVliet – Well, we have a motion, seconded. Roll call Beth, please.

AYES: Members Pryor, Weeks, Mayor Mengucci, Vice-Chairman Fischbach, Chairman VanVliet, Steinhardt, Clymer

NAYS: Members Correa, Johnson

Chairman VanVliet – Motion carried. So, you get us that resolution?

Member Steinhardt – So, I think the reason for that is because you got into something (inaudible). Eric had said he wanted to wait, you know, to discuss individual matters like the conflict of interest until the next meeting cause there was not a lot of people for that discussion. So, the point wasn't that. If that's what you want to talk about, that's everyone's big issue, I remember when this initially came up that was a large issue that everyone's talking about, then what (inaudible) we'll each meeting, we'll plan to pick a resolution from the rules and regulations and we'll discuss it and vote on what changes need to be made to it. We can say next meeting, that's what we're going talk about. So, if you want to be part of that discussion, come to the meeting cause that's what we're talking about and voting on right?

Member Correa – I just spoke out today because I'd like to say to everybody thank you for the opportunity because this might be my last meeting. I don't know what's going to happen. I got an idea of what the Council will do. A decision hasn't been presented by the hearing officer yet and even if his decision is not to remove me, the Council doesn't have to follow his decision.

Member Steinhardt – I get what you're saying.

Member Correa – I just decided to say this now because this might be my last meeting and I thank everybody for their support and that I wanted to bring it up because I think it is important. What is also important is that to every member of this Planning Board to really sign a document that they read the ethics rules and they understand it. So, that you have (inaudible) or actually you know that you presented that to the members because unless you tell the members what the ethics rules are, what (inaudible) and keeping that document, they don't know anything about anything.

Chairman VanVliet – That's why we need the document.

Member Correa – But the document doesn't mention asking the Planning Board member to actually have a signature. Other towns do make the Planning Board members sign the document about receiving the document of the ethics rules so that they are aware of the ethics rules.

Member Weeks – That's something we can put in there.

Talking over each other.

Chairman VanVliet – We actually have discussed that Carlos and we were going to include that with distribution of the finalized version of this.

Attorney Bryce – I did distribute the local ethics law.

Member Correa – At that meeting, not everybody was here. Nobody’s signing that they received it. You actually need the signature from the Planning Board member. I read it and you know, every year at the company I work for, I have to sign a document that’s about ethics rules, every year even though nothing changed on the ethics rules, I have to read it and I have to sign it, you know, but maybe here it should be something that you sign ethics rules.

Chairman VanVliet – That’s a good idea.

Vice-Chairman Fischbach – That could be incorporated into this whole thing, that’s why I say, take each thing that is your concern and let’s drill down on it, let’s add, delete whatever we need to, to make it work and make it right for us.

Member Correa – (Inaudible) the changes money you pay the attorney (inaudible) everything into one because everything you do is going to cost you money.

Attorney Bryce – No, this is all on the retainer.

Chairman VanVliet – The only thing I would say is that you indicated you would like to have it done every meeting that we review one portion of it and I’d like to have a little more flexibility because I envision the July meeting to be rather long. We might run out of the 10:30 you know timing but I will list it on the agendas and we may be reviewing it time permitting as we do here and you know, we get a meeting were somebody doesn’t show up, we’ll we’re not really have a busy, heavy schedule would be a perfect time to

Member Johnson – I think an email to you, say I’d like to talk about this subject, time permitting, we can get it in.

Mayor Mengucci – Is there a way we can get a list of concerns to Chairman VanVliet and let him pick two each meeting for us to discuss?

Chairman VanVliet – As you see here, you go into this type of thing and it just keeps expanding and expanding. Now we’ve got about a half an hour left of the meeting here if you want to get into it, we can get into it but I don’t

Mayor Mengucci – No, I don’t want to get into it tonight. I think we already decided

Chairman VanVliet – Decided what we’re going to do and how we’re going to proceed and we’re going to have this document adopted and we will be able to revise that document at the pleasure of the Board. So, we’ll take it that way but I just didn’t want to be locked into an absolute take one

Talking over each other

Member Steinhardt – Everyone sends you, like how do you want to go about deciding what we talk about then? If everyone sends you a list of their topics

Chairman VanVliet – I would appreciate that if you have comments on it and you, you know, you are concerned about it, forward it to me, I'll forward it to the attorney. Probably after we discuss it, I don't want to overload the attorney with individual stuff that may concern the same subject. We'll have it here. It will be in an open meeting, an open forum that we discuss it and whatever comes out of that discussion, that's what we will forward to the attorney to incorporate into the rules and regulations.

Member Weeks – I do agree with we have to hold a vote at the end of this thing.

Chairman VanVliet – Yes.

Talking over each other

Member Johnson – That's how you get a resolution. You can't get a resolution without a vote.

Member Weeks – That's what I'm saying but we've been there, all right.

Chairman VanVliet – That's the way I'd like to handle it. So, if the attorney is in agreement with that. We meet the burden of us not knowing what's going on and the attorney coming in and this way we'll have it here, we'll have a Board discussion on it, a vote on whether we're going to adopt it or not adopt them by resolution and then will forward, you will have the input and discussion on it. Okay. Anything further? Audience participation.

Member Johnson – I have one last comment. I always forget to do it and back six months ago, four months, it was 2017 Joe and I had talked a lot about, during the meetings about requirements for the applicants; we were talking about dealing with a reduced set of plans and the last thing that happened with that, is the Board agreed that a reduced set of plans could be required and bring it up to the Council for the adoption but I think we were waiting on Maser to finalize the wording for it. So that's kind of where we were.

Chairman VanVliet – That would be included on the Checklist then.

Member Johnson – Yes, a reduced set of plans as part of the Checklist and it's been kind of stagnate for the first few months. I keep on forgetting so I remembered to do it tonight. So it's

just a matter of the next step was Katrina and Maser needed to get together and figure out the wording on it.

Engineer Wisniewski – That needs to be adopted by ordinance, a review to the Checklist under the submission requirements.

Mummer Johnson – That’s what we understood.

Engineer Wisniewski – So, I’ll talk to Paul and see where he stands with Katrina on that.

Member Johnson – Okay, sounds good.

Chairman VanVliet – It wasn’t anything that we had, that the Board took care of last year that we would have to do.

Member Jonson – I don’t think so.

Chairman VanVliet – That was at Council, the ordinance, on the checklist

Engineer Wisniewski – With the Mayor and Council President here, it’s something they could bring to the Council as an ordinance that would be adopted at the recommendation or request of the Planning Board.

Member Johnson – Since it’s on the Checklist, I think it needed an ordinance.

Chairman VanVliet – Is there any restrictions on reproduction or electronic transfer of these things.

Engineer Wisniewski – I don’t think there’s anything in the Municipal Land Use Law and correct me if I’m wrong regarding submission requirements electronic or not, size of plans, number of plans. I think it’s all driven by the pleasure of the Board. If all of you want storm water reports that are four inches thick, you can get them.

Chairman VanVliet – All right. Anybody from the public have any comment? Seeing none, we’ll move for a motion for adjournment.

Motion by Member Pryor, seconded by Member Fischbach. All in favor.

Respectfully submitted,
Margaret B. Dilts, Board Secretary

