

Milton Planning & Zoning Committee Meeting
Milton Theatre, 110 Union Street
Tuesday, September 16, 2008
7:00 p.m.

1. Call meeting to order

Virginia Weeks called the meeting to order at 7:00 p.m.

2. Roll call of members:

Al Perkins present
Ed Kost present
Virginia Weeks present
Michael Filicko present
Louise Frey present

3. Changes or corrections to the Agenda

Virginia Weeks: Are there any changes or corrections to the agenda? There being none, we'll move on.

4. Approval of the Agenda

Virginia Weeks: May I have a motion to approve the agenda?

Louise Frey: I make a motion to approve the agenda, as written.

Al Perkins: Second.

Virginia Weeks: Motion being made and seconded. All in favor. Opposed. Motion carried.

5. Changes or Corrections to the Minutes of August 19, 2008

Virginia Weeks: Are there any changes or corrections to the Minutes?

Louise Frey: I make a motion to approve the minutes, as submitted?

Michael Filicko: Second

Virginia Weeks: Any discussion? All in favor. Opposed. Motion carried.

6. Business

- a. **A Review of Conditional Use Approval for an In-House Beauty Salon located at 517 Chestnut Street, further identified by Sussex County Tax Map and Parcel 2-35-20.11-52.04**

Virginia Weeks: Mr. Potocki is here. Are there any questions? Apparently, he is in conformance with everything that he was requested to do. As you all know, a conditional use is a form of a variance and since it was a variance for a business in a residential zone, it was requested that after a certain amount of time, the owner of the business appear before us, so we can just make sure that everything is being done as we asked it to be; and there have been no or minor complaints. Robin, you reviewed the parcel?

Robin Davis: Yes, I went out to Mr. Potocki's in-house beauty salon and talked to him the other day; just to make sure that he still had the four employees; he did have the three chairs;

and I think one of the issues was signage; signage was fine; there was no problem. As far as I know, the Town has not received any complaints from Mr. Potocki's business, so I didn't see any problems with it.

Virginia Weeks: It would seem to me at this point that we can tell Mr. Potocki thank you very much for bringing this fine business into Town and that he is fine and clear and has no need to return before us. Does anybody want to make a motion, so we can discuss it?

Michael Filicko: I make a motion that we grant Mr. Potocki his In-House Beauty Salon, without a need to return.

Louise Frey: Second.

Virginia Weeks: Is there any discussion?

Ed Kost: I just want to make sure that the motion is clear, so that Robin and I both know what is being approved, so I can put it into my notes and he can have clear minutes. Could we restate the motion?

Michael Filicko: The motion I attempted to make was that Mr. Potocki's business is in compliance; therefore he does not have to come back before this committee again.

Louise Frey: I'll second, again.

Virginia Weeks: We have a motion and a second. May I have a roll call vote?

Al Perkins	Yes
Ed Kost	Yes
Michael Filicko	Yes
Louise Frey	Yes
Virginia Weeks	Yes

Motion carried. Thank you Mr. Potocki.

b. A Review of the Special Permitted Use Approval and Final Site Plan for a Restaurant and an Exterior Dining Deck and Gazebo located at 122 Mulberry Street, further identified by Sussex County Tax Map and Parcel 2-35-14.19-106.00 and 138.00.

Virginia Weeks: Will the Town Solicitor correct me if I misstate this? A special permitted use is allowed; however, you have to come and get permission for it, so if boundaries need to be put on it, they are done. The Council and the Planning & Zoning approved this with conditions. I believe all those conditions have been met and you were asked at that time to return because of the music and to make sure that it was working within the neighborhood and, as far as I know, no complaints have been received at Town Hall. Is that correct Robin?

Robin Davis: Yes, that is correct. I have not received any complaints about the noise and again, I did do a review and it appears that all the conditions that were put on the Special Permitted Use and Final Site Plan have been taken care of.

Virginia Weeks: Does anybody have any questions? May I have a motion please?

Louise Frey: I make a motion to approve the Special Permitted Use with Conditions and Final Site Plan and the Applicant does not have to come back before this committee again.

Al Perkins: I'll second.

Virginia Weeks: Any further discussion? We have a motion and a second. Let's have a roll call vote:

Al Perkins	Yes
Ed Kost	Yes
Michael Filicko	Yes
Louise Frey	Yes
Virginia Weeks	Yes

Motion carried. The Special Use is approved. We find you in compliance and you need not come back again.

c. A Review of a Conditional Use Approval for the retail sales of gourmet treats and accessories for pets located at 309 Union Street, further identified by Sussex County Tax Map and Parcel 2-35-14.19-168.00.

Virginia Weeks: Does anybody have any questions? This is for Bark Avenue on Union Street. I believe Denise and Joanne are here. Robin, the only thing that I see that has not been done, is that the parking spaces are not clearly marked in the back.

Joanne Mattioni: That was not part of the conditional use.

Virginia Weeks: It's part of the zoning ordinance.

Joanne Mattioni: If you look at the Minutes from the Planning & Zoning that was not part of the conditional use.

Virginia Weeks: You were required to have no more than two parking spots for the business. When you go into the zoning ordinance, you need to delineate where the parking is. It can't be just anywhere in your backyard. It has to be a specific place. All I'm asking you to do is to take two pieces of landscaping wood, like railroad ties, and put it where the spaces are.

Joanne Mattioni: They're there. If you look in front of our fence, there are two railroad ties, right there.

Virginia Weeks: Okay, but it says here that the spaces are not clearly marked.

Joanne Mattioni: We don't have any white lines, but the two railroad ties are there.

Virginia Weeks: If the railroad ties are there, then that's fine.

Joanne Mattioni: C.C. came in and measured the space.

Virginia Weeks: Robin, you found everything else was in compliance?

Robin Davis: As the Applicant stated, I didn't do the inspection on this, Mr. Dennis, the Code Enforcement Officer did it. It was one of the things that was brought up, that the Code Enforcer would also go out. I just wanted to make sure. The other two, I did do. This was the report that you got. The State Agencies I did. Soil Conservation was not needed, because they were not doing over the requirement for soil conservation. The Fire Marshall was received and, of course, the DelDOT was waived.

Virginia Weeks: Are there any questions? May I have a motion, please?

Michael Filicko: I make a motion that we grant Bark Avenue approval to continue to run their gourmet dog treat business; and that they no longer have to return to us for further review.

Al Perkins: Second.

Virginia Weeks: Any discussion? May I have a roll call vote?

Al Perkins	Yes
Ed Kost	Yes
Michael Filicko	Yes
Louise Frey	Yes
Virginia Weeks	Yes

Motion carried. Thank you very much. You do not need to come back for a review of what you have there now. For anything that you add to that, you need to come back.

d. Discussion on Procedures and Process

Virginia Weeks: We have a short discussion on procedures and process. At the last meeting, C Frey brought up the idea of a Resolution and I believe the Town Solicitor has some thing to add.

Mary Schreider-Fox, Town Solicitor: I did take a look at the issue of whether or not this commission can act by and through Resolutions. A question had come up before about whether or not it would be appropriate for this Commission to use that kind of a written vehicle for its decisions. It is perfectly acceptable. If this Commission wants to operate by

issuing a final resolution, as a means of a written decision, it certainly can. That would be something that is up to the Commission. I think probably a question about that came into play, because oftentimes in the municipal context, you think of a resolution as being legislative in nature; this is an advisory body, primarily; and not like the Town Council, where you are actually acting as the legislative body. Sometimes there is a misconception about what a resolution actually is or how it can be used. I did find that it is fine and appropriate for other types of non-legislative entities to use that form of written document to memorialize your decisions. I leave it in your hands, as to whether or not you wish to proceed forward and use a resolution format for your decisions in the future.

Virginia Weeks: If we should decide that we wish to use a resolution, procedurally, how would we do that?

Mary Schreider-Fox: Procedurally, you can just do it. You, as a Commission, can decide, just as you decided last time that you might want to send letters; you might want to do certain things; you can do that. It's just simply the format that is used to memorialize the decision in writing.

Virginia Weeks: So we would make a motion, second it and then also do a resolution?

Mary Schreider-Fox: The resolution would be the end result. It's the written format that you use.

Al Perkins: I thought that this came up, I think because Ed was asking questions if we could clarify our decisions, in writing. As we put them in minutes sometimes, it is not clear what we decided and what we didn't decide. We can be clearer with our decisions if we could spell them out; in some form of writing.

Ed Kost: We approved three items tonight. We would do three resolutions tonight?

Mary Schreider-Fox: Yes you could.

Ed Kost: Who would actually do the resolution?

Louise Frey: The attorney.

Mary Schreider-Fox: Sometimes it's the attorney, but that, of course, costs money. You have to take that into consideration; it depends on how many you have. My office is the preparer of resolutions for other entities that we represent, but certainly there are plenty of them that do their own. I know that the Town Manager surely has forms of resolutions, samples that you could use and look at. The general format would be: Planning & Zoning Commission Resolution Number 0108 (because it's the first one of this year)

You would give a little bit of a description to say, WHEREAS, an Application came before the Planning & Zoning Commission on such and such an evening for conditional use; WHEREAS, the presentation was made and then you could say, IT IS HEREBY resolved that (then you list what you decided). That's not written in stone that that's the exact format, there are lots of different styles.

Ed Kost: Let me ask a question in terms of flow. We approved three things tonight. I'm going to write a memo to the Council, saying this is what we did tonight. I take it in and I give it to the Town Clerk. Is there any time that it has to get there? In other words, can I wait until I get the minutes of this meeting to sit down, pick out the key pieces of "The Resolution" and send it forward? The Minutes often show up weeks later; depending on how soon we have meetings. Are there any time constraints? How is this supposed to flow?

Robin Davis: In the past, what the Mayor and Council has asked from the Board of Adjustment, the Historic Preservation Commission and the Planning & Zoning Commission, is that they do a brief synopsis of the meeting; because that's what has happened in the past. The minutes are not being typed and approved by each committee, until the following meeting. So the Council actually never gets the minutes until after they are approved. That would have put them a month behind. The Mayor requested that each of the Committees do some sort of a synopsis, so they have an idea of what was heard at the previous meeting.

That's why they are just submitting a brief summary and if they really need to discuss it, or really have an issue with it, then they can always ask for the minutes later.

Mary Schreider-Fox: It sounds to me because the Mayor has requested a synopsis from each Commission or Board, that that is still a requirement that you still have to meet. That is a separate document that needs to be prepared and submitted each month. That's for the benefit of the Town Council, so that they know what's going on. The Resolution would really be a good tool of documentation when you're talking about making a decision on some kind of an application that came before you. Because we're thinking about Conditional Uses tonight; let's say there is an initial conditional use application that came before you and so you pass this Resolution that recommends approval to the Town Council; because that's where it goes next. You can then very clearly identify in that Resolution all the various conditions that you recommend be placed. That document, the Resolution document, not only would go to the Town Council, as part of your synopsis or your package; but it would also be something that the Applicant can rely upon in the future; an easy place to look and to find what conditions were placed on their conditional use. Right now you have a version of that, in that a letter goes out from the Town; I've seen one that came from the Town Manager; some have come from Robin before; to the Applicant following the hearing that says you were approved; these are the conditions that were placed on your conditional use; that, of course, being after the Town Council phase, if they approve it. Ultimately, there seems to be some kind of documentation, but I'm fairly new to the Town so I can't guarantee you that that happens in every instance. I know in Conditional Use instances, it has, because I've seen it in our little packet here tonight. As far as any specific time constraints, I don't recommend waiting until the next meeting; simply because you might have some Applicants that are relying upon the decision, sooner than that; and they'll want some sort of documentation of it. In some instances, at least on a case by case basis, in trying to decide how quickly you need to move. For example, tonight, it was just a review to see how things are going. There doesn't seem to be any sense of urgency that a Resolution get cranked out and signed and distributed in a weeks' time; but certainly, we can all probably think of some sort of scenario where a tighter timeframe than a month away, might be necessary. You will have to use your discretion, in that regard.

Michael Filicko: Robin, the Solicitor said that you send out letters like to these folks tonight, like to the Beauty Salon, Mr. Pataki. You're going to send him a letter saying all is fine and well; thank you; you don't have to come back. Is that correct?

Robin Davis: You can use these three instances: with the two Conditional Uses, that had to go here and then to the Council. After the Council maybe revised your conditions or added some of their own, they will receive a letter stating that the Planning & Zoning Commission on this date recommended approval of your Conditional Use and the Council approved it on a certain date; with these conditions, as listed below. Same things happened to the Iguana Grill on his Special Use. Special Uses only have to go to Planning & Zoning Commission. They're not required to go to Council. After the Planning & Zoning Commission voted, they were sent a letter. Same thing happened when they received preliminary site plan approval. They received a letter saying these are the things that you must get done before you come back for final.

Ed Kost: In the case of the last point, where we've attached conditions, for instance, in the case of the Catholic Charities, we imposed conditions on it and in that case, a clear written resolution that's accurate, would be important.

Robin Davis: Yes, or as we've tried in the past, to clearly state in your motion a, b, c, d, e; not I make a motion to approve with all the things we talked about. If we can break those down, that way when I go back and listen to the minutes, I can clearly put on the paper that you, Mr. Kost, made a motion to approve the preliminary site plan with six conditions, and they are: a,

b, c, d, e, and f. That way it is all clear. I take it right from the minutes or from the tape and I put it right in a letter and send it out.

Virginia Weeks: Do we have to vote to make a resolution, each time?

Mary Schreider-Fox: No the resolution is just the end result of your vote. It's the written memorialization of what you approved or disapproved; so you can still make a motion to say: I make a motion that we approve x, y, and z with these conditions; somebody seconds it; and you vote; and then it's just the written vehicle by which you get your decision out. Think about this, if we were talking about how at times either the Town Manager or Robin may send a letter following a Hearing or a Meeting to inform the Applicant of the final decision and to put it in writing; authorizing that letter to go out wasn't necessarily part of every single motion that was made; it is just simply the follow-up. The decision is still the important part.

Louise Frey: Ginny, let me give you an example. When we first moved into Wagamon's, people were complaining about how fast the traffic was going on Lavinia and it was paved, but it needed repaving; and Robin knew, I don't know from where, maybe checking the minutes, that after X amount of houses were built, the developer had to pave the streets. If it wasn't for Robin and there was no formal Resolution, who was going to go back and check the minutes, for how many meetings they may have had to say all of this; having it on a Resolution is one or two pieces of paper that you look at, rather than go back and look in the minutes. That's an example.

Virginia Weeks: What I just want to know is how would we trigger that a Resolution is done; because I agree, not every case needs to have a Resolution? For example, tonight, for these three, I'm not sure that you would want a Resolution, because we didn't do anything; we just said approved; no need to come back. But, for Cannery Village last month, we may have wanted a Resolution to make it very specific that this is what we were agreeing to.

Ed Kost: Ginny, perhaps, when we impose conditions, we use a Resolution. In a case like tonight, where there are no conditions there is no need for a Resolution.

Louise Frey: Can you do that?

Virginia Weeks: Your office, Robin, will be doing this Resolution? This is extra work.

Mary Schreider-Fox: I can't really make that decision for you; I'm just not authorized to. How much extra work that it generates and if you're going to rely on outside help or Town employees to do it; I think it means a conversation with the Town Manager is probably necessary. Certainly, on your own, any member of the Commission who wants to volunteer to be the preparer of the Resolutions certainly can; but I can't volunteer your services or those of the Town, until it's authorized.

Louise Frey: Robin, who pays for the attorney's time tonight to be here; the Applicant's that are here or could that be part of the fee that is charged the Applicant when a Resolution is required?

Robin Davis: Right now there is a fee for Conditional Uses; there's a fee for Special Uses, I think; and Site Plan reviews for the consultants. On something that the Planning & Zoning Commission would say that you are requesting them to come back, there would be no extra charge to the Applicant. We can not charge the Applicant again to come back at the request that Planning & Zoning made. I would say that would be included in the fee for Conditional Use which is \$400. So you say, of course, that \$400 is nowhere near enough to cover everybody's costs; costs of the theater; but that could go towards some of the costs that occurred for anything. My time, the attorney's time, consultant's time, electric, but there is no extra fee for review. It's basically the Town is going to take that and absorb the cost.

Virginia Weeks: I think what I will do is perhaps I'll ask Mrs. Frey some time in October, we'll make an appointment with the Town Manager and discuss how to accomplish this with him. Would that suit you?

Louise Frey: Fine. Yes.

Virginia Weeks: I agree. I don't know what the mechanism would be to have this done.

Louise Frey: As long as two members don't constitute a quorum. Two members of the Planning & Zoning Commission.

Virginia Weeks: No. And anybody else that would like to come can attend that meeting.

Mary Schreider-Fox: I'm going to interrupt. Not anybody else who wants to come. Only, as long as there is not a quorum. If it's just the two of you, that's fine.

Virginia Weeks: One other person may attend. I would like to know from the Town Manager how we're going to accomplish this because I would not be comfortable with somebody from the Commission, writing the Resolution, which may become a legal document. I would much prefer that an official of the Town do that. That's where that is. Are there any other questions on the matter of a Resolution? I have two things I would like to bring up. One, I think it's a good idea that in the future most of our agendas have a last line, as this one does, Discussion, so if we have questions on why something happened the way it did, we can ask. Does anybody have an objection to that?

Louise Frey: I think that's a good idea Mrs. Weeks.

Al Perkins: I agree.

Virginia Weeks: We're all pretty much generally in favor. Second of all, my pet peeve for the night is, I really don't like what we were forced to do last meeting. I see it as a cumbersome step; the idea of a minor/major substantial/insubstantial; I would like to ask the Commission if they would like the Town Solicitor to review that and perhaps come back to us with an idea of how to either delete that step; advise if it should be deleted; this idea of meeting to decide if it's major/minor and then we have a public hearing; or should it be major; if it requires a new sub-division plan; should that in itself make it a major decision? The fact that means there has to be a public hearing anyway.

Louise Frey: Mrs. Weeks, I don't think it should be our decision; where we are a Commission. I think that should come from some higher authority than this Commission, to say whether something is minor or major.

Virginia Weeks: That's what I'm trying to do, Louise. It would necessitate a change in the zoning ordinance, so in effect; the Council would be approving that. I am uncomfortable with this minor/major substantial/insubstantial thing.

Louise Frey: Shouldn't the attorney decide whether it's a minor or a major?

Mary Schreider-Fox: I'm going to weigh in now. With respect to making the decision of whether or not something is major or minor, substantial or insubstantial, to put it bluntly, that's just not my job. I don't think it would be appropriate for me to make that decision. I can guide you as to what the language in your ordinance means; or what kind of procedural things you may need to follow; but, as far as actually making the decision, weighing the information and deciding is this a big deal or is it not a big deal? Whatever term you want to use. That is what you are here for. Now, having said that, I do understand from last time, and as well from your comments this evening; that the ordinance in question leaves something to be desired. I think everybody has agreed on that. Really, the move that needs to be made at this point, is by the Town Council; in terms of if you want to change that; if you are uncomfortable with that language; if you don't like the way that it works; if it feels cumbersome; we're kind of tough out of luck right now; because we don't have the power to change it on our own. It's really something that's up to the Town Council to change; by passing a new ordinance or revising this one. Now, Robin can correct me if I'm wrong, but it is my understanding that there is some revision or project going on to take a look at these things; or at the entire zoning code. I remember hearing something about that. I might be wrong.

Robin Davis: There is a Process Review Committee that's looking at some of the areas of Conditional Use; Change of Use; things like that. An overall rewrite or modification to the zoning ordinance is something that is going to happen; but that's not right now.

Virginia Weeks: If I may, I'm a member of the Process Review Committee and we are looking at basically things that affect the Town Center. We're not going to be reviewing the large parcel development at all. So I guess that at this point, we need to get it on to the Council's agenda and suggest that they look at that and ask for new wording and that they begin the process.

Mary Schreider-Fox: You can certainly make that suggestion. That's always within your rights to do and I think that as a Commission, you are the ones that are dealing with these things regularly. You have to look at them and interpret them and deal with it; so you're not a bad entity to make these kinds of suggestions or recommendations to the Town Council. You could probably submit those things to the Town Council through the Town Manager. That might be part of the meeting when you and Ms. Frey meet with Mr. Dickerson; that you can bring some of these concerns to his attention so that he can bring it to the Town Council's attention; if in the future you want to do something that is more formal; put it on the agenda, next time. That you want to discuss the Commission's recommendations or suggestions as to how this Ordinance might be changed. It will merely be that, a suggestion or a recommendation; but that's how things get started.

Ed Kost: Can we as a planning commission, send a motion, for lack of a better word, to the Council saying we think this section, section such and such; should be changed in such and such a way? Can they change that without changing the entire ordinance; just amend a specific section?

Mary Schreider-Fox: Sure. Amending just particular sections of the larger zoning code happens all the time. Certainly, whenever a zoning code in its entirety; because a lot of times that will happen too; the entire thing gets passed in one fell swoop and then as you are putting it into practice, you say, Step No. 9 really doesn't make any sense; now that we're actually putting it into practice. They do a little bit of tweaking. From time to time you'll see on various agendas, throughout the County, that they're going to revise just one particular portion or section of an ordinance. Since this one particular thing that came up last time, is what is stuck in our craw right now, for lack of a better way to put it, certainly, let that be the subject of something that you send over to say this is why it doesn't work; this is what we suggest might be better; and, that will at least open the door for discussion and possible action in the future.

Virginia Weeks: I think your suggestion of bringing it up when we meet with the Town Manager is a good way to start. He can guide us on how we should best bring that to the Council's attention. Thank you. Does anybody else have anything else?

Louise Frey: I would just like to say thank you to Mr. Kost, I think his minutes are very good.

Virginia Weeks: You're doing a great job.

Al Perkins: It's unanimous.

Mary Schreider-Fox: I want to comment on what I passed out to all of you. At the last meeting, rules and regulations as to how you would run yourselves came up. I went ahead and I looked up some rules and regulations that other planning commissions have used. It's just that you're allowed to pass your own administrative procedures and so this is just a sample. This is what somebody else uses and I thought it might be helpful to you. You can take it home and look at it; not all of it's going to fit exactly, for the way you run things; or the way you do things, but if you wanted to have something more formal in terms of administrative processes, this is a way to start that or a way to do that. Just food for thought. We'll discuss it at the next meeting.

Robin Davis: Madam Chair, if I may for just a few minutes? I just had a couple of issues, real fast; I'm going to try not to take a lot of time. In the past, in the Site Plan process there are three possible steps that an Applicant can take. The most used avenue is preliminary and final. Most individual's feel they start at the preliminary and then move right on and come in here and some people know what they're doing and some don't. We've tried to guide people

to the conceptual plan first. Especially for your novice landowner's that come with drawings that really don't get the feel of things; but they don't have a lot of money to spend. In the area of concept plans, in the ordinance it was basically a way for the Applicant to come in and get a feel. In the past, we've asked for consultants, who are Bob Kerr and Debbie Pfiel, to look at some plans. That, in itself, kind of helps the Applicant and helps the members in some of the zoning aspects of things. But these reviews, if they get to be long and drawn out, could cost the Applicant a lot of money in itself. I don't know how the Commission feels about that. I'm trying to help the Applicant; plus I'm trying to help the members; so before you get any plans, it at least has been through somebody's eyes first. I don't know how much we really need to push our consultants into it. Yes, the Applicant is going to be paying for that; and all that cost gets transferred over and maybe in the long run it will help the Applicant when they do come to Preliminary; because a lot of the issues have been worked out in conceptual. I'm just trying to get a feel if somebody does come in with a conceptual plan, how much we want to get our consultant's involved at that point? Is that something that we still would like to do; and I think in the long run, it might help the Applicant; where they have a feel for our consultant's already? It's still going to have to come to you and get some more input; but if we still want to keep our consultant's involved in it; that's fine.

Louise Frey: Robin, when you say Applicant, are you talking about a regular person or a business coming in? I think a business should be represented by an attorney.

Robin Davis: Anyone, in general. Anybody that has to come in with a conceptual plan, say if I have a piece of property on Route 16 that I'm thinking about putting 6 retail stores in. Instead of getting my engineer to do a lot of research, and zoning ordinances, and doing the design of my building, and just starting right with preliminary; I'll say let me kind of get a little smaller version, with not a lot of the requirements; let me do my conceptual plan; bring it in here to the Commission; and say help me. What would you like to see in my plan? Would you like to see brick buildings? That way it would save me, but if we have our consultant's involved in a lot of that; there's 5-6 hours that our consultant's have put into it; which drives my costs up already from the beginning.

Ed Kost: Robin, what does the ordinance say about this subject?

Robin Davis: It doesn't say anything about our consultants.

Ed Kost: Does the ordinance say that an Applicant may submit a conceptual plan? Shall submit a conceptual plan?

Robin Davis: It's optional.

Ed Kost: It's a may.

Robin Davis: Yes, it's an optional item.

Mary Schreider-Fox: I have it in front of me here. Its Section 6.1.3, Concept Plan Conference. Concept Plan Submittal is optional. The purpose of Concept Plan Submittal is to encourage the person applying for a use to consult early and informally with the Planning & Zoning Commission in order to save time and money to make the most of opportunities for desirable development. The next sections go on to talk about the requirements of a concept plan.

Ed Kost: When an Applicant submits a concept plan, there's no real approval or disapproval?

Virginia Weeks: No vote is taken.

Ed Kost: That means this is just a discussion.

Mary Schreider-Fox: That's correct.

Ed Kost: In my mind then, there's no point in having the consultant's involved. There's no approval involved; they're taking their chances and to come in to get input from us and I'm assuming anyone that comes in here; sooner or later if they're doing a major development or some sort of development; they're going to hire engineers and planners that would review the ordinances and make sure they do meet all the requirements. I don't see why the Town would need to have our consultant's review something that is still a concept; when an

Applicant submits a plan preliminarily to get preliminary plan approval; they should come in with their attorneys; their planners; their engineers and have all their ducks in a row; and then our consultant should tell us they meet all the requirements of the ordinance, except at this one part. It should be cut and dry.

Virginia Weeks: That's pretty much what happens. I don't know that the consultant's are necessary; we don't give approval; all we do is say it looks like something that could or could not work; or this disturbs me that the parking to pull out will have to go on the sidewalk; that sort of thing. As long as it's made very clear that no matter what we do, if we say this looks like it would work; it doesn't mean that's a working plan. That's the one thing. Just a moment.

Mary Schreider-Fox: I was just going to suggest that rather than make a blanket rule, sometimes you just have to think in terms of a case by case basis. The one that readily comes to mind, simply because I worked with it a little bit, is Millville by the Sea. This is an enormous project. It's absolutely huge and the concept plan approval stage, for all the various phases and things; they had to go through concept plan to final with every piece; and they probably still are; the informal meeting was a workshop; instead of even a regular meeting; it had to be noticed and all that stuff for FOIA; and the public could attend. Everybody would sit at a round table, in those cases, because it was such a large, complicated project, the Town consultants were there, as well as engineers and architects, and builders and everybody else under the sun; but that was a very large scale development. I don't think we want to necessarily rule out altogether the idea of having consultants involved at an early stage like this; but for your run of the mill site plan approval; you're right, you may not need it. It may be too much, too soon.

Ed Kost: What I think you just said to me was when someone presents a conceptual plan, one, we don't have to approve it at the first meeting. We could literally say to them, this is quite a complicated thing; we'd like to have our consultants look at it.

Virginia Weeks: We don't approve it; no matter what. If it comes in as conceptual, we don't approve it.

Ed Kost: We could then say to them, we want our consultants to look at it and give us some more input before we even say to a conceptual plan that yes, we think this may be a good idea. We don't have to act at that specific meeting.

Mary Schreider-Fox: I think you're right. I think that's certainly possible and I know that some of the workshops in the other Town I'm referring to, I think that kind of thing did happen during those workshop meetings; they had some information and then they'd sit there and go, oh gosh, I really don't know if that side of the project is going to work like that; you guys need to rework it. The whole idea is that you workshop it out until they get to the more formal stages where they really spend a lot of money.

Virginia Weeks: Workshops have never been done in Milton; it's something that I would like to see start to happen on larger projects; but workshops have never, in my history here, have not been something that was done. I've used them in other places and I happen to like doing a workshop; it does get a lot of stuff out of the way before hand.

Mary Schreider-Fox: I think that the workshop kind of meeting is something that might work for conceptual plans. Certainly, if you have a few, you can lump them all together and workshop them all, in one afternoon or something like that.

Virginia Weeks: Actually, for example, the gentleman on the corner of Federal and Union, Mr. Ashby, he came in with a conceptual plan. There was no reason for consultants to really chime in on that. He wanted to put in this, that and the other thing; what he wanted to put in hasn't gone in; but we said that looks okay. Then he went off and he went to work and found out that it wasn't going to work and he changed it and he was not required to come back to us. I would not have wanted the

consultants there at that time; they weren't because it was part of a regular meeting and for a small thing like that, at a regular meeting, it works. But for anything that requires sub-division plans; I think we should have a workshop. I guess, Robin, it depends on the size of the project is what we're saying.

Robin Davis: I understand. I know each case is different and that's what I try to tell a lot of people. People look at the zoning ordinance and say where does this fit? Well, it fits one case here; next case it fits here; there's 6 things on this one; 10 things on this one; there's a difference in everything; every item; every zoning ordinance; every piece of property is different. Somebody wants something different then the next person. When I read the ordinance about the concept plan, I took it as an opportunity for me to say to the Applicant, come in; basically throw my ideas at you and you tell me your ideas; then I can go back and incorporate them in my preliminary plan. I don't know if sometime the Applicant feels like it's a way for me to get in here and get free engineering and planning advice. I don't know.

Mary Schreider-Fox: I am going to comment that at the concept plan stage, the Applicant can certainly bring his or her own architect or engineer to the workshop or the meeting, or what have you. If there is any inquiry about will the Planning & Zoning Commission have their consultant's looking at it; a very truthful and valid response is, I don't know. It depends. Submit what you have and we'll decide whether or not we think it's necessary.

Robin Davis: And that will be done at the meeting? I understand that Mr. Kost, you said, I'm here with my plan and the Commission looks at it and says, we're going to need our consultant's to look at this now; come back next month. Is that something that we're saying, if necessary?

Ed Kost: That's my opinion. I mean, when I look at my responsibility on this Planning Commission, my responsibility is to the Town of Milton's current residents; to the Town of Milton's future residents (the people who are going to buy the lots, not particularly a developer). As far as I'm concerned, if someone comes in with something and it's nice and simple; straightforward; fine. If it's a complicated thing we say hold it, time out, we want to bring in more people to advise us to make a good, proper decision. I think that's fair and reasonable.

Robin Davis: If somebody does come into me with a concept plan, I just need to take it and make sure they meet the minimum requirements; that they supplied all the stuff that's needed in the ordinance; area map; development map; meets and bounds; or whatever. This will be passed on to you as an agenda item. Then the Applicant will come in and discuss issues with you. At that time, if the Commission feels there is more information needed from our consultants, then basically it will be tabled and then passed to our consultants for review.

Michael Filicko: Robin, I think it's a good idea that the people that you work with review some of the plans, prior to coming here. For example, if they come before us and we table it, it's going to go to you anyway; and it's just adding another month; more time; more money; and I think it's a good idea to have the Town consultants review on a case by case basis.

Robin Davis: Sometimes we will have an individual that comes in and they've met all the requirements; they have their area map; they have their outside diameters of their lots; they've got where the building is going to be; they've got sidewalks and

curbings; but they have nothing else, as far as setbacks or whatever. Nothing in there says they have to have all that setback stuff in there. Without somebody basically telling them from Day 1, I think we need to do a little bit more here, there's going to be plans that come to you that are not going to be even close to anything in that zoning ordinance.

Virginia Weeks: As a hypothetical, let's take Phase IV of Cannery Village, which last month Mr. Dyer said he's planning on selling to another developer. The plans that are there now for Phase IV are not going to be applicable at all, because instead of 68, it's going to be 138. If those folks wanted to come in for a workshop or a conceptual review, they might come in and bring us a very elementary drawing, not amateur, but certainly something that we don't want all the drawings we require for site review, to be like. We might say, we really don't like the road or the entry here, because; you should look at moving that; or we think these houses are too close together. I believe that's the type of thing we would address in a workshop, getting down to the specifics of this might be 2' too close to the setback; that we need our engineer for.

Mary Schreider-Fox: All those setbacks and that kind of information come into play at the preliminary site plan approval stage; is that right Robin? That's when we get more details. The concept plan – I was just looking at the requirements in the Code and the concept plan is pretty general. There are quite a few things that they need to submit; but it's not terribly detailed and I don't think that's what it's for. If you get into some of those details, that's fine.

Robin Davis: That's the thing. Concept requirements – area maps showing property under consideration; adjacent property; parcels owned by the Applicant; adjoining properties; sub-division streets; adjacent buildings. The site development plan, including without limited to water courses; wetlands; wooded areas; existing buildings; public improvements; the only other requirement is basically owner's name; developer's name; surveyor's name; scale; date of preparation; north arrow; boundaries of project; dimensions of the property; tax, map and parcel number; location of proposed lots; and, open space. That's all they're required to do. If they have all that stuff on their plan, there's going to be a lot of discussion on setbacks; there's going to be a lot of discussion on curbing; sidewalks; you need this building to be here; the requirement of your parking is this; your building is this big and you have to have this number of parking spots; you can not share parking. There's going to be a lot of discussion that this individual might not know about.

Virginia Weeks: At that point, after conceptual and before preliminary, they will certainly meet with the Town's consultants and they will do that; the engineer will do that?

Robin Davis: Usually the consultant's won't get involved until the plans come in.

Ed Kost: Ginny, the Applicant's engineers and planners should do that for him. The Town should not be doing any of that for him. When a conceptual plan is submitted, I'm assuming as in the case of Cannery Village, the Applicant didn't prepare it; his consultant prepared it. Hopefully, they read the ordinance that says these are the requirements that you're going to have to meet and they did that. I don't think we need to worry about setbacks and all that; you really worry about things like you said; is the access that they're going to use to get in, is that a good place for it? Things like that. General conceptual ideas. Not the nitty-gritty 5' setbacks.

Virginia Weeks: Which is why at this point, if it's just a conceptual view that comes in for a quick look and say what do you think; I don't think we need our Applicant's? If we feel a more detailed look is needed, then at that point we say; we're not ready to give you an opinion. We would like you to come back and meet in a workshop with our consultants, so we can go over this and point out ways to help you. In a large project, I can see that happening.

Ed Kost: In the case of an access point. The guy says we want our access point here; we say we think you should have it here; and there's a discussion then, is this the proper site distance? Those sorts of technical things that consultants get into; they can answer that question.

Robin Davis: Something came up about the driveways, is the Planning Commission prepared to, when you ask about that driveway entrance? You must know that it has to be a certain amount of distance from the intersection. Are you prepared to make that when you say you need to move the access point up here a little further; are we knowledgeable enough in that to check the ordinance and say we made him move it too close to our intersection now.

Ed Kost: We're not making him do anything. This is still just a general discussion; we're not voting; we're not passing a Resolution.

Robin Davis: I understand that, but if you say you would like that moved, and they move it; I can see them coming back at the next meeting and saying the Commission wanted me to move the entrance there; and now, knowing it's too close, you made the recommendation for me to move that.

Michael Filicko: Robin, that's exactly why I think it needs to go before the consultant's prior to coming to us.

Virginia Weeks: No matter what we say we would like, if it's not in accordance with the zoning ordinance, we could stand all day and have a hissy fit and they can't do it; whether we like it or not. It has to be in the ordinance.

Mary Schreider-Fox: I just want to interject something here. I think that maybe one of your concerns, is that sometimes maybe suggestions come across as do it this way or move it; and, if we haven't looked at all the nitty-gritty and done measurements and have all that consultant knowledge; I certainly wouldn't be able to say move the driveway X number of feet and that's going to be compliant; because that's what the engineer is for. I think, maybe, what's coming out here is that we just need to be careful about the kinds of comments that are made at the concept phase; and that is, if you're in a concept meeting with somebody and you're looking at it and you say those driveways bother me. I can't say for certain that they're not compliant with the ordinance; but, I suggest and I urge you to bring that to your engineer's attention and see if those driveways really do jive out in terms of the ordinance or if there's a better way to do it; because I see X, Y and Z problems. I just think that comments are always going to have to be carefully made to say these are all suggestions. I don't know how it meshes out because I'm not the technical expert, that's what we hire experts for. We are the Planning Commission members; you're the ones who have been making some of these decisions recently; you know what you've approved and you know what you've not approved; you know what has gotten by; and, you can say I remember this from the such and such community; those kinds of driveways didn't

work. Your situation might be different; but take a look at that before you get into the preliminary site plan phase. Make sure that's one of the top items on your list.

Virginia Weeks: I would never assume to say to the Applicant, move it 5'. I would say this looks awfully close and that's a blind corner coming around; you might want to look at whether the driveway is going to be really safe there; you might want to look at moving it. That's the type of thing I would be looking at. I would assume that whatever they bring to us in preliminary should be absolutely in conformance with the ordinance.

Mary Schreider-Fox: Even if we have to script it out, that at the beginning of every concept review, that we say the rest of this is going to be an informal discussion; I'm going to say right from the top; anything that we talk about today are suggestions or ideas only; and, it's going to be you, the Applicant's responsibility, to go back to your architect or your engineer and review all of these ideas and suggestions, in accordance with the ordinance; then you bring it back to us and we do the same thing, with our consultants. That might resolve some of the problem. I still think that there will have to be a case by case basis that some projects are going to be larger, especially if they're a phase of a larger project. There are always pieces that have to fit together and some knowledge about those previous phases or projects may require more technical expertise, even at the concept phase. I'm just saying what I said before, case by case basis and use some common sense about it.

Robin Davis: If I see something coming in; that there's maybe a concern or it looks like it might be over the threshold of being simple or complex; and maybe present it to the Chairperson. It's hard for one person to make the call for the whole Commission; if the Chairperson says I think maybe our consultant's need to look at that right away. You will actually have an Applicant that is going to be before you next month. It is the medical building at 524 Union Street. He would like to add another building to that property; between Tobin Drive and Union, down across from the cemetery. He has an engineer doing it for him. He's looked through the zoning ordinance; I've talked to him several times; he's tried to make a lot of items fit on that one lot. My first instinct was to give it to our consultant's to kind of get a crack at it, too. That's another issue. Is he going to be paying for that? There are some complex items in there; drive thru; shared parking. There's a section in the ordinance that talks about if you don't meet the minimum number of required parking spots, that they can calculate off of hours of business of one building, compared to hours of business at the other – and they use the parking of the other building.

Virginia Weeks: Is all this parking going to be on the same lot?

Robin Davis: Yes. So there are a lot of complex issues, but he wants to come in as conceptual.

Virginia Weeks: I think that's a good idea.

Robin Davis: That's what he was told. I want to make sure that the Applicant or his engineer that comes in, doesn't get the perception from me that he is going to get a consultant's view; he's going to get a Planning & Zoning Commission's view; and, that's basically what he's going to get. At that time, I'm just trying to look at both ends of this site. The Applicant is going to say; now it's going to cost me another meeting because now I have to have a consultant look at it. I could have taken care of that first off; and be willing to pay the \$400 or \$500.

Virginia Weeks: Sometimes that is the cost of doing business. Especially when you want to fit a size 9 into a size 8.

Louise Frey: Did you say drive thru doctor's office, is that what you said?

Robin Davis: The doctor's office is going to stay there. He wants to put a in a drive thru.

Virginia Weeks: It's not going to be used as a doctor's office.

Robin Davis: He wants to actually open that building back up as a doctor's office. Then add a new building to it.

Virginia Weeks: Do we have any idea of what the drive thru is going to be? What kind of a new building?

Louise Frey: What's the drive thru going to be? I hope it's a Burger King.

Robin Davis: That's what you get to ask, when he comes in.

Virginia Weeks: The people down there are going to be so delighted.

Robin Davis: I'm the front line for the Commission; so when the Applicant comes in, I want to get a feel of what you want me to tell this gentleman.

Virginia Weeks: This brings up a question here that perhaps you can be ready for next month. It has a drive thru; if it's a drive thru for coffee, like Starbucks or Dairy Queen or a Burger King or whatever; does it then fall under fast food? Because then the parking is different.

Robin Davis: We only have two; we have standard or fast food. I think if it ends up as anything, it would be fast food.

Virginia Weeks: If it has a drive thru, to me that's fast food. I just want to make sure that he, as well as we, are all on the same page. If that comes to us, we know to look at the fast food part of the ordinance, rather than the other.

Mary Schreider-Fox: A drive thru could be used as a pharmacy, at this point. I don't know that a drive thru necessarily means that we're talking fast food.

Robin Davis: He's actually put on his plans that it's a fast food restaurant.

Mary Schreider-Fox: Okay, then we have our answer. We need to be prepared to know and understand, the fast food section of the ordinances, next time, is what we're saying.

Robin Davis: I have no problem with either way, how we're doing this. I like pushing people to conceptual. That way, let's get this out without doing a lot of drawings and financial impacts to get an idea if this is even going to work.

Ed Kost: Robin, in a case like this one, this sounds like it wanders in and out of different parts of the ordinance and I would agree with Mr. Filicko, then I would want a consultant to look at it, because this is not plain vanilla anymore. This is something that I would say, regardless of what he tells us, that I would like to have a consultant look at it.

Robin Davis: Anyone that comes in, I'll talk to Mrs. Weeks, and we'll get a feel. It still might not be all the way cut and dry, either way when he comes in, but there's some that you can look at and we can just do this, that way. Others get into more complex issues; he's putting a lot of issues on the Commission by doing what he would like to do.

Virginia Weeks: Does he have a right to shared parking; or we may give him shared parking?

Robin Davis: It's an option in the ordinance that can be discussed.

Virginia Weeks: But he doesn't have an absolute right to it?

Robin Davis: No. It's your decision to say whether the uses can work with a 6 am to 12 noon business and/or a 3 pm until 10 pm business.

Virginia Weeks: What I would like if possible, Robin, for next month, if somebody could give us a list of ordinance numbers that we should be particularly attuned to. I have no idea how to find shared parking in this ordinance.

Robin Davis: It's right underneath the parking requirements, actually, but I have already forwarded those plans to our engineer and our consultant and have put them on hold until I discussed this with you tonight.

Virginia Weeks: I don't need a report from them; but I would like from them just pieces of the ordinance that we should read in preparing for this meeting, so we know what to look at.

Ed Kost: I personally am not going to read anything. I expect when we get to that point, I expect the consultant to tell me it meets all these points; this one point is a gray area.

Virginia Weeks: That's not at conceptual.

Ed Kost: I don't understand why I should be reading anything anyhow.

Virginia Weeks: That's the preliminary. At conceptual if they want to put in a fast food restaurant, I want to know what's required by a fast food restaurant when I look at it. We're not going to approve and we're not going to vote; we could say we don't like this; you need to talk with some consultants and get back to us.

Ed Kost: I don't know; I'd have to look at it.

Virginia Weeks: Just let it come in. I would like something about which ordinances in particular, because some of us, including myself, are fairly new here and we need to know what specific sections of the ordinance we should look at, if we choose to read it before we get here; just so, in our mind, we know what's required.

Michael Filicko: Robin, I think something as complicated as this particular plan, needs to be reviewed by the Town consultants prior to coming before the Commission.

Robin Davis: Yes, because there is a lot on this plan. He basically went almost into preliminary, but he does not have all the requirements of a preliminary; he exceeded what was required in the concept plan; but, has not met all of the requirements of preliminary. The owner of the property wants to get a feel from the Commission on how they will take this new building and these issues.

Al Perkins: Robin, what do you feel like you're hearing from us, or whether or not we have a consensus; because I'm listening to our conversation and I'm feeling personally conflicted; but I guess the conclusion I'm drawing from this important conversation, is that it was a good question that you asked us and the answer is not real simple. It depends. The answer is it depends and there is no easy answer to this question because of the nature of the issues that are going to come before this committee. And so, there will have to be some judgment put in there by you, maybe Virginia, and maybe by somebody else; working and collaborating with you to try to decide whether or not we should involve our consultants in the conceptual plan, or not; or whether it should just come to us. I don't think there is a cut and dry answer. It's not a vanilla answer.

Robin Davis: Yes, that's true. That's my concern. I hear a lot of, our ordinances are cumbersome; or the process is cumbersome; it takes too long. Then we bring an Applicant in here and maybe tell that Applicant, you have to come back next month until we get another review. Now he's already upset; now he's upset again; because we could have stopped this at the beginning; if we had maybe talked and said, that looks a little more complex than just seven numbers. Let's get some input first.

Virginia Weeks: At the same time, you're asking us for an opinion here and none of us have seen the actual plans or know what the story is.

Mary Schreider-Fox: Robin, I certainly understand what you're saying; you're the front line. You get the Applicant on the phone; they stop by your office; all that kind of stuff. That does make a difference from your perspective. But, one thing I think that we need to remember is, if an Applicant chooses to take advantage of the conceptual plan step; and then later complains; you're process is so cumbersome; I had to come before you half a dozen times; you didn't have to come before us half a dozen times; you could have minused one off there, by not coming at concept plan; it's purely optional and I think, in a nice way, we can emphasize that with Applicant's to say; concept plan; that's exactly what it is; it is concept only; we are not here to go over setbacks; heights; all the very technical things with you, at this stage. If, by chance, everybody is here and is ready to talk about those things and we get into it; wonderful; then we've taken advantage of this even more. Sometimes the Applicant's don't have a clear understanding or a reasonable expectation as to what's going to happen at the concept plan stage. In this particular instance, the person in question has already spent quite a bit of money, I would guess, on this engineer that prepared these plans and got it beyond the concept plan requirements. That was that person's choice. If that engineer comes with him to the meeting, at the concept plan stage, that person might have some insights; it's not our consultant; but it's still a professional. I'm not saying that you don't need to have a consultant look at this particular plan; but the consensus seems to be, and I think everyone seems to be in agreement; that it's appropriate to look at this on a case by case basis to see how complicated something is, even at the concept plan stage and then make a decision. That puts some pressure on you, Robin, but I'm not sure there's any way around it. You don't want to needlessly spend money; but you don't want to needlessly not spend it; just because you're trying to be economical. You still want to be efficient.

Al Perkins: I think we have some responsibility as a Commission, to give you some slack. If you err on the side of you think that something is not really complex; and it comes into this room and it is more complex then you thought it would be; we have a responsibility to not beat you up for that. Because what we're telling you right now is that you have our approval to do that, so it would be wrong for us to smack you around if you bring something in that is more complex then we thought it was going to be.

Robin Davis: Usually, if I look at and I'll say okay you're only moving a sidewalk over here, a foot. You're not messing things around, because it's the same thing about somebody that wants to change some things around on the site plan. Now you've gone from one thing; and while I have you here, I want to raise my building up; now I want to change my trees around. Stop. You've gone from one issue to ten issues, now. Whether you think those ten issues are simple, by themselves; their

complex as ten issues as a group, as a site plan. That's a lot of the issues. What I'll do, I still like the idea of talking to Mrs. Weeks and maybe with the two of us; maybe we could get more of an idea; then one person just making that judgment. The thing is, once we get here, we want to be able to discuss it and make a decision, if necessary; if we can. So if this could be done beforehand, that would be better.

Al Perkins: I want to ask Virginia, are you okay with that?

Virginia Weeks: I'm okay with that. I might not be as okay with that as Mr. Kost would be, because I would tend to ask the consultant's less frequently than Ed would; but not having the plan before you, how do you know?

Ed Kost: Should we make a motion?

Virginia Weeks: No, we can't make a motion. We can't do that because this wasn't on the agenda.

Mary Schreider-Fox: This is just a session.

Virginia Weeks: I will say if Robin calls me and says come down and look at these plans at such and such a time, if one other person would like to come along, you're welcome to come; because I believe in full disclosure and transparency, as much as possible. If somebody else would like to come, they're welcome to come. Is that a good answer for you?

Robin Davis: Yes, that's fine. Being the front line, I want to get a feel for how the Commission would like to proceed so I can pass things on. I hate the Applicant coming in here, scratching his head; saying I've been told that at Town Hall that you guys were thinking about tabling.

Virginia Weeks: How large is our agenda next month?

Robin Davis: Right now, that's the only thing on it.

Virginia Weeks: Because, if something else comes in, I would like to see a conceptual plan to be almost less; I would hate to have a hem and haw and on and on discussion; then to have somebody who is simply asking for something that is cut and dry to have to sit and wait.

Robin Davis: It's too late for anything to be put on the agenda, as far as an application, because they have to be in by the 1st of September to be on October, so we have until the 1st of October for the November meeting.

Virginia Weeks: Thank you very much. I know these little discussions after the meeting, might lengthen the meeting, but I find them helpful. Does anybody have anything else?

7. Adjournment

Virginia Weeks: Could I have a motion to adjourn, please?

Louise Frey: So moved.

Al Perkins: I second the motion to adjourn.

Virginia Weeks: All in favor. Meeting is adjourned at 8:20 p.m.