

**Town of Milton  
Planning & Zoning Commission  
November 20, 2007  
7:00 p.m.**

**Members Present:**

Linda Rogers	Dean Sherman	Ted Kanakos
Bill Brierly	Gene Steele	Bernice Edwards
Louise Frey	Michael Filicko	

**Absent:**

Virginia Weeks

**Others Present:**

Robin Davis	Bob Kerr
John Brady	

**Linda Rogers called the regular meeting to order at 7:09 p.m.**

**Items #2 & 3: Additions/Corrections and Approval of Agenda**

Linda Rogers: Are there any corrections or additions to the agenda? I'll take a motion to proceed with the agenda as submitted.

John Brady: Madam Chair?

Linda Rogers: What.

John Brady: I think you talked about having a discussion about the next meeting date because of the holiday.

Linda Rogers: Do you want to do that first?

John Brady: I think you need to add it to the agenda.

Linda Rogers: Oh. We need to add to the agenda changing the meeting date in the month of December. We can put that at the end. Are there any other additions or changes? If not, I'll entertain a motion to accept the agenda as changed.

Dean Sherman: So moved.

Linda Rogers: Motion made. Is there a second?

Louise Frey/Gene Steele: Second.

Linda Rogers: All in favor "Aye". Opposed – None. Motion carried.

**Item #4: Approval of Minutes**

Linda Rogers: Approval of the minutes?

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

Linda Rogers: We have a motion to approve the minutes as submitted, is there a second?

Bernice Edwards: I second.

Linda Rogers: We have a motion and a second. All in favor "Aye". Opposed – None. Motion carried to approve the minutes as submitted.

**Item #5: Business**

a. Final Site Plan Approval

The applicant, The Cape Henlopen School District, is requesting final site plan approval for a parking lot located at the Milton Elementary School - 512 Federal Street further identified by Sussex County Tax Map and Parcel # 2-35-20.11-03.00

Linda Rogers: Someone present on behalf of this application?

Edwin Tennafo: I'm with Davis, Bowen and Friedel. I'm the site engineer for the project. I guess we're bringing before you the plans for final submission. I believe we have addressed all your comments from the preliminary site plan approval and I guess at this point we're seeking final approval.

Linda Rogers: Bob, do you have any comments? Were all the corrections made?

Bob Kerr: Town engineer. Robin has reviewed the drawings rather than getting them up to me and has reported that all the changes that you requested had been made.

Linda Rogers: Okay. Does any member of the board have any questions about what was submitted at the final? Is someone ready to make a motion to approve this as a final? Okay.

Edwin Tennafo: I guess just as an additional note, we have submitted all our approvals from the different agencies along with the submission.

Linda Rogers: Do you have all approvals from State agencies?

Robin Davis: DelDOT and Soil Conservation.

Bernice Edwards: Madam Chair: I motion that we approve the final plans.

Linda Rogers: We have a motion to approve this application for site plan for Milton Elementary as a final. Is there a second to that motion?

Gene Steele: I second.

Linda Rogers: We have a motion and a second, Roll Call vote, all in favor:

Bernice Edwards:	Yes
Ted Kanakos:	Yes
Bill Brierly:	Yes
Dean Sherman:	Yes
Linda Rogers:	Yes
Michael Filicko:	Yes
Gene Steele:	Yes
Louise Frey:	Yes

Linda Rogers: Okay, motion carried. Approval as a final.

Edwin Tennafo: Thank you.

b. Preliminary Master Plan Approval

The applicants, James and Nancy White, are requesting preliminary approval of the LPD (Large Parcel District) master plan. The property is located on Atlantic Ave further identified by Sussex County Tax Map and Parcel # 2-35-14.00-132.00, 132.01, 132.02 and 132.03.

Linda Rogers: Is there anyone present on behalf of this application?

Pret Dyer: Yes. Good evening. I am a member of the applicant. With me this evening is Joe Reed, he is also a member. Dave Ager, from Townscape Designs, who is our designer. Mark Davidson of DC Group who is our engineer. And Doc White is also with us. My other partner is Blake Thompson, I'm not sure where he is...oh, right here. He's with us this evening as well. If I may, I would like to ask the Town Attorney for a clarification of the amount of detail and specificity that would be required and what would be appropriate for this evening's presentation. I also would recognize and point out that our plans that you are looking at are incorrectly labeled as preliminary subdivision plans and that is not correct. They should denote preliminary master plan and I believe that Mr. Kerr pointed that out in his comments and I would agree with him, so that is something that we would suggest that clearly would change but also I have a bit of confusion after reviewing some other approvals on other projects what degree of specificity we should deal with.

John Brady: Madam Chair, would you like me to respond?

Linda Rogers: Yes.

John Brady: Okay. If you look at the zoning code, page 40, 4.8.7, master plan submission. (Mr. Brady read aloud Zoning Ordinance 4.8.7). It need not be as detailed as a subdivision plan that you normally get so here are those 11 conditions that I went over it should be the basis of your discussion this evening and after it's approved by Town Council, it will be returned to P & Z for the final master plan that should incorporate all the requirements pursuant to 4.8.8. Requirements, amendments and conditions of the Council shall be reviewed and shall be placed on the record after such approval. Does that answer the question?

Pret Dyer: Yes. And I had one other question. The procedure would be if the master plan, preliminary master plan were approved, it would be sent to Council, then it would be sent back for a final, is that correct?

John Brady: That's correct, pursuant to 4.8.8.

Pret Dyer: And then the final is acted on just by P & Z or and then recorded, that's what my understanding of the wording is.

John Brady: That's correct. That's under 4.8.8. Once the preliminary is approved by Town Council, it comes back to P & Z for final and once P & Z makes the final approval, that's what's recorded.

Pret Dyer: And with regard to the conditions that are imposed, there are a number of comments and that is what I'm trying to determine with formality, should those comments be addressed or is that appropriate with regard to final, because some of those are outside the scope of those 11 issues? Many of the comments by URS and Mr. Kerr seem to be in my mind outside of those 11 items, so that's what I'm trying to determine.

John Brady: For the purposes of the consideration tonight by P & Z, P & Z's questions and comments should focus on the 11. I believe and I'm not going to try and speak for

Mr. Kerr because he can, I think because of the way it came in labeled is how his comments came back.

Pret Dyer: I completely understand that and I began with that. I totally understand that so I'm just trying to find out what would be appropriate for us to address and when.

John Brady: I would start with the 11 that are listed in 4.8.7.

Pret Dyer: Okay, and do you believe it's appropriate for me to address Mr. Kerr and the URS comments now or wait for final?

John Brady: I believe when I reviewed that some of those comments regarded those 11, so they could comment on tonight and when the final comes back is when the rest of those comments come in.

Pret Dyer: Okay, very well. Thank you. With regard to the overall plan that you have before you, I would like at this point to introduce Dave Ager, from Townscape Design. As you can see in your packet there is a bio sheet with regard to both Mr. Ager and all of the members of our development team. That was a request that was made at one of the previous hearings that you suggested. We have done that. As you are aware, this project has been through a number of changes and I would like for Mr. Ager to address those changes and then after that I will introduce Mr. Davidson and I would explain to you those items he will address. So at this point I would like Mr. Ager to present and overall view of the project.

Dave Ager: Good evening everybody. Just to outline my presentation to you tonight, I am going to briefly discuss with you the modifications to the plan from the last plan that was before the town. I am going to talk to you about the existing composition of the community that will include open space, recreation; that will also include several of the items that were mentioned...the 11 items. I will focus on parking, setbacks and the balance of the items in 4.8. The plan that's before you is located on the easel to your left and I will attempt to...there's a handout that I would like to enter into the record which will outline all the changes and give you a sense of the changes and the comments that I'm going to provide to you. In the plans before you include an overall illustrative plan which is located furthest to the left on the wall here. The key features plan which will outline the major items in the community design. The community structure which is located on this exhibit to your left. There's an exhibit here that outlines the general arrangement of the land uses and as we go through the presentation, I'll have other exhibits to help clarify and provide greater detail than maybe forthcoming at this point. Again, these plans have been revised based upon the PLUS review of the original plan and comments previous site plan master plan, concept plan. In the original concept of composition of the plan includes 370 units and in your packet there is a handout that outlines all of the pertinent data for the property. I'll go through it very briefly. The general breakdown of the unit types: there's 177 single-family detached lots; there's 118 semi-detached single family lots; and there's 75 multifamily units. In addition to that, there's a provision for up to 5000 of commercial/clubhouse space which is currently shown in the plan, and I'll walk through that with you in a second. The open space that's proposed on the plan is 30%; it's roughly 23.3 acres. The forest retention on the plan is roughly 50% of the existing forest; we held at 50%. The breakdown of the development lot areas impervious areas and right-of-ways, is as follows: lot area is approximately 37.73 acres; total impervious on the is approximately 28.73 acres; and total right-of-way on the site is approximately 15 acres, which is 19.8% of the growth site area. Just to step

back just a second, the general concept for the community is to make it a part of Milton, so we've reflected in the concept design several characteristics of the town which includes the street and block network, predominance of single family lots. This is not a gated community just for clarification and it incorporates several pedestrian access points and connectivity to both the east and the west and I'll walk through that. The plan here to your left is what I refer to as the community structure plan. Again, this is the site, the Broadkill River to the south, Atlantic Avenue to the north and the way we've arranged the community, we have a central spine road which we'll refer to as the main street of the community. To the north it's anchored...we have two points of access along Atlantic as well...it's anchored with a naturalistic park and then down to the south there's a civic space anchoring the southern end of that main street. This is where the more formal portions of the site occur. We have homes proposed to be fronting on that street. We have in the landscape plans you'll see a significant amount of very formal plantings of street trees and then as one would go east or west from that main street, the formality changes. We have an introduction of a mix of uses of singles and duplexes and along the edge of the property, along our neighbors, to the west we have single family homes adjacent to the Preserve, single family homes and open space along the river, open space corridor and retention of the forest along the eastern side of the property adjacent to the agricultural preserve and then we have recreation, adjacent to recreation and a series of small buffers. The commercial component and clubhouse component is currently shown in this location which is at the terminus or the civic southern terminus of the community. One option that we're studying is the possibility of introducing that clubhouse option at the Brickkiln Park which is down in this area. What I'd like to also do is Mark, if you could put up the open space plan, I don't know if its there or not...what I'd like to do is walk around the community and introduce you to all the community parks and recreation sites and we'll do this in a counter-clockwise fashion again. To the north is a park that is again the terminus of the main street that will have an open space area and will be landscaped along the two main streets. It will have a bus stop at this intersection. It will have a sitting are and some naturalistic storm water management areas and gardens will be located there. We'll refer to that as the north end park. To the, just as we go around the site, the next park is just to the southwest of it and we'll call it the northwest park. That is a generally open park. It has a grassed area for multi-recreational opportunities. It does have the landscaped storm water management facility at the southern end and it has walking trails and sitting areas. As you go down south, we have the civic area again; that is the major civic and gathering space for the community; it is the terminus of the main street. We have the higher density units, the multi-family units, located in this location. We have a park that's adjacent to the river which will allow for picnicking and barbequing and activities of that nature. There's a central plaza between the buildings that's decorated and landscaped. And that whole composition with the single family, the semi-detached and the multi-family buildings and then the clubhouse/commercial acts as a mixed-use core area for the overall community. Now as we head east towards the Brickkiln we have a set-aside area for that. There will be an interpretus center there; this is generally a passive park with sitting areas and overlooks the river. Then the entire southern portion of the site and the eastern corridor is a retained preserved forest with walking trails. Walking as you know is the number one preferred activity so from an active recreation standpoint and that also provides linkages throughout the community.

We have the integrated street network plus the trail system in this location I just mentioned and the trail system that connects east and west across the general northern portion of the site; provides great pedestrian connectivity for the community. And then finally, there's a portion of the little league complex on the VFW property that's actually on this property. That will be dedicated thru this process to that adjacent property owner, so that's another active recreation component to the plan; it's unique in the sense that it actually exists today. In addition to that, there are small sitting areas and gathering areas throughout the community and as you can see in the landscape plan it's...this (unintelligible) very well landscaped and we have a very pleasant pedestrian experience with sidewalks on both sides of the street and street trees. I think the bottom line here is what we're trying to do is be, have this community knitted into the fabric of Milton. We're not trying to recreate the downtown. We're just trying to be a part of the community. I think one of the big components of that is the general nature of this street system, the interconnectivity and the mix of uses. A few of the key features, I just want to make sure I hit on and if I miss a few, I'm sure Mr. Dyer will add to this. We do have a bus stop located at this northern park; the civic area to the south; the waterfront park for barbequing and picnicking; the walking trail system; the overlook at the Brickkiln, so there's several varied pedestrian experiences for the community. One of the comments, and I want to make sure I hit all of the 11, is the parking and we have a tabulation sheet and a memo that's been submitted, but there's an exhibit in your original package which we're putting up on the easel at this point, the parking requirement is...we have 3 basic residential housing types in the community – single family, semi-detached and multi-family - single family requires 2 off-street parking spaces per unit. The semi-detached and multi-family requires 2.5. The commercial component...the parking requirement for the commercial is a function of the final use which has yet to be determined. It could be a restaurant; that would be 1 space for every 100 sf of the restaurant. If it was a retail space it would be 1 space for every 200 sf of the retail space; or if it were offices it would be 1 per every 300. This diagram which outlines this area illustrates what I would call the worst case scenario, the highest parking generator, which would be a potential restaurant or something like that, 1 per 100. I won't go through all the details but there's an exhibit, or a sheet in the drawings that, it's in the handout that was just handed to you, that shows how the lots are configured and it indicates how the parking for a single family detached and semi-detached lots are handled on the lot. So they are satisfying their own parking requirement on their lots. If any parking on the street, that would be an addition to the minimum requirement and in the case of the semi-detached, it actually exceeds the minimum. I could go through all those details if you'd like but I just wanted to clarify that. The multi-family, we have 75 multi-family units proposed, and they're in this general area, and of those, were proposing 2 spaces per unit to be located on the lot where the building is located. For example, this building that's located right here, it's a little hard to see because it's not color-coded, but this is Building B in the plan. It's a 16-unit building and it has 32 parking spaces on the lot, I believe. The balance, the ½ space, is actually indicated on the street. The same with Building A which is the L-shaped building, located here; that building has 43 units, so it has 2 spaces for each residential unit on it in the building. And what we're proposing is at each of these parking spaces, because they are located in a parking lot to the rear of the building, the building actually helps screen them, but because it's a parking area out of sight so to speak from the public

way, we're proposing that this limited for use to the residential...the residents only, and that each of the spaces be marked. For example, if I lived in Apt. 3, I'd have my 2 spaces marked and they'd be reserved for me and that would be the case for all the other units. But that's how the plan has been arranged. The commercial space where we don't have a final use on that, it could be clubhouse space as well, or a combination, we're proposing that the on-street, that the parking requirement for that use be provided on the public street. This line that you see here is a line that is 400' from those multi-family and commercial/ clubhouse uses. And within that area, we're providing 88 parking spaces on the street. That would allow for that 1/2 space guest parking for the multi-family and if there was a restaurant there that took up the entire 5000 sf, we'd have enough parking there to provide for that as well. In addition to that, beyond that area, there's additional parking spaces on the street that we're not counting but they're there. So that's the parking. I think the next thing we'd like to hit is the building set-backs and height & bulk requirements. And there's a table on the plans as well as on the handout we've provided you and I'll briefly go through the requirements by unit type. For example, single family, the maximum building height is 30.5'; the minimum lot area is 5,000; lot width is 50' minimum; the front setback is proposed to be 10' and on a corner lot it would be 10' on both streets; on the side we're proposing a 5' setback and the rear we're proposing a 10' set-back. Porches would be allowed to extend 5' into the front set-back, so they would have a 5' set-back. Accessory buildings would have a 3' set-back and off the rear property line accessory buildings would have a 5' set-back. And then for single family semi-detached the numbers would change as follows: maximum building height would be 40'; the minimum lot area would be 3,000 sf; the minimum lot width would be 30'; and then the set-backs, as described earlier, would be the same as for single family detached. For the multi-family: the height would be 40'; minimum lot area of 2,500 sf.; minimum lot width of 20'; and then the set-backs, as described earlier, would be the same. Then the commercial height would be 40', a maximum of 40' and then would have the same set-backs as described earlier. There are few lots...Mark if you could put up the...there a few lots that are of a unique shape, they're not perfectly rectangular and there's a second page to the lot configurations and what it does is make adjustments to those minimum yard set-backs to compensate for essentially what's a wedge lot, whether it's wedged and narrow in the front or wedged and narrow in the rear. That plan outlines each of those lots. They're generally on a curve or corner of street, a sharp corner on the street, and I won't go through every number but I just wanted you to be aware that those lots had been modified so that the buildings would be restricted to those areas of the lot where it's 50' wide or greater, so we have a narrow section. The principal structure would not be allowed in that area, and that's what these set-backs are for, for these non-rectangular lots. Landscaping? The landscaping is maybe a little difficult to see from this distance, but you have a copy of the plan in your set. I'll use this exhibit just to illustrate the landscape plan. The landscape plan reinforces the general concept of the overall community. Again, with structured street tree plantings along the main street and enclosure plantings at the civic spaces and as one would move east and west from that spine street, the plantings become more informal and are all native genus and species and then there's forest retention as we discussed earlier along the east and south and some buffer planting along the west. The storm water management facilities are bio-retention sites for quality purposes. Those are also landscaped and they are...the plants that have

been selected and are shown on the plan, are specifically selected for the hydrologic conditions, for example plants that can handle the wet conditions are in the lowest portions of the storm water pond; plants that are upland plants are located along the edge of the pond and further away. So I just wanted to make that point to you on the landscaping. I think we've discussed the open space and recreation facilities. I'd be happy to answer any questions you may have when we went over the overall plan. On the lighting...Mark if you could put up the lighting plan...as Mr. Kerr indicated in his staff report, we'll be utilizing the Town's standard Granville light within the community and these are photographs and catalog cuts of that light. Signage, Mark. We're going to be using signage that's similar to the Cannery Village community and we have a concept plan, a board that illustrates what that looks like. Again, we're just trying to keep it toned down and keep it in character with other parts of the community. And then finally, I am going to stop at that point and have Mark talk to you a little bit about the trash containment and some of the technical and storm water facilities on the property. And I'll be happy to answer any questions you may have.

Mark Davidson: I'm with Design Consultants Group. As Mr. Ager stated, as far as with the trash containment within the multi-family area, it's a little hard to see the black and white up there, but we've provided in the packet that was handed out to you tonight, there's a trash containment plan for the multi-family units. The single family's of course will have the individual trash service that is provided by the Town of Milton but the actual area within the multi-family areas there are trash containment areas located within the multi-family here, to the sides of the off-street parking areas. We do have some trash containment areas located. Once a final design of these multi-family areas and the commercial area is designed, then we will provide enclosed trash containment areas for each one of the uses there. We would also provide the proper screening from the residential uses as it's spelled out in the code. As for storm water management for the site, we had a meeting with the Sussex Conservation District as it was recommended through the PLUS procedure. We met with Jessica Watson who's the program manager for the district and we sat down with her and discussed the type of storm water management for this site. Because of our discharge into the Broadkill River, we were able to, we'll be seeking a water quantity waiver for our storm water. If you remember back when we first presented the project we were talking about utilizing a, what they call a storm tech isolator row structure to handle our storm water. Based on meetings with the conservation district and DNREC, they talked about a green design, a green type of conservation design. In the booklet I provided under the storm water section, some of the typical green type designs are best management practices that are utilized that are approved by the State of Delaware that we're going to utilize for the site. Mr. Ager did talk about within the park areas here, coming down this side of the development here, inside some of these areas where the parks are, and some of the more landscaped areas, we're looking at doing bio-retention and bio-filtration. We've had a number of soil borings done in that area and the soils indicate we can do a bio-retention. They're going to be sort of a rain garden type park and again, in the booklets it explains a little bit about those types of designs. We are going to try to maintain as much of the storm water and basically what we're looking at doing is water quality and it's the first one-inch of runoff over the entire site, so through these areas we're basically looking at splitting this project in half down the main boulevard coming in, treating the storm water on this side down

inside those rain garden parks that were mentioned earlier. On the other half of the project site, we took a look at, and I'm going to hold this plan up here so I can better describe what I'm talking about, we took a walk down through the existing wooded area where we are going to have some walking paths, and Ms. Watson with the Conservation District had suggested that we take a look at providing rain gardens and these bio-filtration areas down through our walking trails, and based with the contours that we have with this site, it makes it worth where we can provide small areas along the walking trail, and we've done this design before on another project where we take and we do very minimal, if next to no disturbance to the existing woods, we take berms and we take very shallow berms and berm up around the existing vegetation and by doing that, we allow the vegetation to act as our water quality device and it's very, it's recommended by the State to do this and the Conservation District is on board with this and again, we've done this type of design before. It's been implemented and it actually functions. Again, all this, the water quality aspect and the bio-retention with the bio-filtration, again treating the first on-inch of runoff making sure the water quality event prior to discharging into the Broadkill River. Again, this was a favorable practice and the best management practice that we had prior to discharging into the Broadkill River, again that was a comment that was suggested through the PLUS process. We listened to that and we went ahead and we removed the storm-tech chamber that we had previously submitted to you. We submitted some documents a while back supporting that but we've gone back, we've taken a look at these green technologies and again we've implemented them on other projects and they do work and this is what the state is in favor of. As part of that, what we did is, and included in your, we did a nutrient budget and based on the nutrient budget, based on being able to do these types of storm water best management practices, and geared with the fact that we're going to be hooked up to central sewer and central water, that the nutrient protocol for the site, the TMBL's that are going to be mandated by the State of Delaware for this area, for the Broadkill water shed, we significantly reduced the nitrogen and phosphorous that was going to be leaving the site from the existing condition that it's in today to the proposed condition. If you look at the numbers, we've reduced those numbers if not in half, more than half than what the actual nutrient of nitrogen and phosphorous' are today.

Pret Dyer: At this time I would like to go over the PLUS comments. I believe that's a tab in your booklet. Basically, PLUS came back and as we Mr. Ager had indicated, we modified the plan to a very large extent to conform to those suggestions that the state had contained and included within the PLUS comments. If you look at the current plan, a major change was we moved the dwelling units back away from the river and in fact we are maintaining an average of 57' from the 404 line and the 111' from the state wetland line. Mr. Davidson can you point that out? Use the colored drawing that you have behind you. We have too many boards and not enough direction. So along the river we moved that back and that was at the suggestion if PLUS. Additionally we changed the forested area along the common property line with the Well's property, if you would show them where that is; it would be on the east side of the property and we increased that on a consistent basis as a result of the PLUS suggestions and another suggestion that I believe that Mr. Kerr asked for, the plan will show a 100' setback from the property line, which will be a building restriction setback that Mr. Davidson will point out to you. So, that was actually comment number 4 from Connie Holland's letter. The other things

that Mr. Davidson reviewed were the PLUS comments with regard to the storm water management and as you are aware, what we have done is we've modified the design so as to treat the water before it would ever enter into the Broadkill. It's kind of a radical departure from the way things had been done in the past. We would be incorporating through the voluntary nutrient loading assessment which again is voluntary and that those requirements have not been implemented at this point by the State of Delaware through the Department of Natural Resources, but we do have that information and in fact, I am involved on one of the committee's that is reviewing that. So we've incorporated those requirements which are futuristic requirements into this current approval. As Mr. Davidson also indicated there's bio-retention, buffers, rain gardens and bio-infiltration swales and if you have any questions on that, you'll need to ask him because I'm not an expert on that. With regard to the forest, again the quality of forest as we have had our experts persuade us, the quality of the forest is the most important aspect in the non-fragmentation. If you leave isolated pockets of forest, the value of the isolated, fragmented pieces of forest are not nearly as beneficial to the wildlife and to the utilization and corporation and preservation of those nature and natural areas. So what we have done if you look at the green portion along the river, and then the green portion along the easterly property line going up to the little league park, you will see that we have incorporated a continuous and non-fragmented series of forested area there. As indicated previously, the amount that we are saving 50% of the existing vegetation. The other aspect with regard to the Foxborough, we have had conversations, we have consultant Ed Lenay, who is dealing with Fish & Wildlife on that particular aspect and I believe that the rest of the comments from Connie Holland, her letter indicates that we had positively addressed those as well. Trying to be brief, if we go back through and I believe Mr. Brady gave me a very good insight, but for the sake of clarity we would like to review what your LPD requires. We believe that we do have an awareness of the appreciation of the man-made aspects of this plan and the incorporation into the natural areas. Again, we have gone to great lengths in changing this plan. I don't think I've ever changed a plan this many times. I believe that what we have now as Mr. Ager has pointed out, we have the lower density of single family along the borders of the property; that would be the border for the Preserve on the Broadkill; that would be the border along the river which would be to the southerly end; we have the single family again on the Well's property and up to the adjoining single family and little league park. The concentration of the higher density is located in the center of the project. Again, it affects the scale and minimizes any negative impact this project would have on the adjoining properties. It's been very interesting and I know that many of you have heard this before, we originally had the large 3-story product with even commercial underneath along the riverfront. The suggestion was made and we made...took that into consideration in making those changes; that may be a negative visual affect to the riverfront. So what we have done is we have done a study which you have seen before in the rezoning, the annexation, where we took different sections of the historic portions if Milton and we have mimicked those degrees and concentrations of product, so we have a very small amount of multi-family product as being representative of the existing portion of Town. We have increased the number of single family and in fact the single family portion would represent 48% of 177 units. Doesn't seem right...177 units out of 370. Again, the reason being that we are endeavoring to provide what it was that many of you told us that

you wanted for us to provide and that was a continuation of the Town of Milton. It's not a gated community; there was a lot of discussion about the amount of commercial here being it could draw negatively from downtown. We have connected this project with the trails and the walking paths; the degree of connectivity here is very high. In fact, the state PLUS commended us for that. And we also have the connectivity to the little league parks. We've provided for people to be able to cross through our community to go walk into the little league park as was mentioned before we are dedicating additional land for the little league and that was at the request of Doc. White as well. He's been very mindful of the importance of that recreational opportunity for the young people in Town and he has been very supportive of that as well. The scale of the project therefore is harmonious and consistent with the Town. For sake of clarity, I would just reference to you, and I'll do this at the end, Mr. Kerr or someone, perhaps your Town Attorney, had recommended conditions of approval at that end which I will go through. For sake of clarity, we had given you individual lot tables which allow you to look at that and then extrapolate what those setbacks would be for those particular lots. The parking I believe has been adequately addressed. Mr. Ager has indicated to you that we have a choice here. The choice is yours, you can determine that if you so decide. If you want more impervious area, we think the better option and what Mr. Ager has done in many of his communities and what the national trend is, we are building the street; we are dedicating the streets to the Town. We are building them at our cost. We believe that the consistent and appropriate utilization of that street is to have off street parking which allows you to have very approximate parking near the particular use, whether that be residential or the very minor use that we have which is 5000 sf. of commercial or clubhouse. So we think that is very appropriate. If you desire for us to build an additional parking lot, well then you need to tell us that, but what that does of course, it increases the amount of impervious; it mimics the large parking lots that you, I think, do not think are sightly, and it has the negative effect in our mind of under-utilizing those improvements which customarily are part of the traditional neighborhood design, which you see in your major urban centers and some of your smaller Towns such as Milton. The streets and sidewalks have been addressed. The landscaping has been addressed, I would say, in extreme detail. The lighting again has been mentioned and added by Mr. Davidson. The open space...we have 30% open space and again, it's a question of the quality of the open space. Mr. Ager has gone over this. We have several different parks placed throughout the site. The most important we have in north and the northwest, we have two parks there. We have the opportunity in one or both of those to provide active recreational such as a tot lot, something of that nature up in that section. As you traverse through the property, there are several different butterfly park areas, sitting areas, walking paths and we will integrate all of those into the overall design of the project. The focal point is at the southern end of the property and that's where the civic area is and show them we have a number of different things happening in that area. There's a large median area that's between the multi-family buildings and where the 5000 sf. will be. There is ample, and actually more than ample opportunity for the civic area which will be fronting down by the river for different aspects such as a park, a barbeque area, a congregating area, a seating area; at one point we were thinking about a different venue perhaps for different civic events as well that would be related to the community or ever a civic events for the town itself. Signage has been addressed. Mark did you go through the different signage

packages? It is in your package. What we did was we took pictures of Cannery Village. The signage will be very similar to that. The signage within the community will be the same type of signage. Again, we have gone over the drainage, the water service, the sewer service. The provision that URS mentioned with regard to the bus drop-off, I believe we have added that and we agreed to add that to the plan. The final elements being those items that Mr. Kerr addressed. The parking plan is met with the consideration of the off-street parking. The Captain's Walk Boulevard being realigned. We have no problem; that was item number 5 of Mr. Kerr; we don't have any problem in doing that. Several lots do not appear to meet the minimum lot width. In your table, we have specifics as to where the setback will be located which will allow that lot to meet the minimum front, lot width requirement. So with the degree of specificity that is in that table, it does provide the measurement at that particular point does meet the minimum lot width requirement. The corner lots have also been addressed. Comment number 8 with regard to the Preserve on the Broadkill, we did increase the buffer for the Preserve on the Broadkill to 10' which is the same as the single family lots in the Preserve on the Broadkill and we have provided landscaping which was suggested in a previous hearing. Mr. Ager has addressed the setbacks for the garages and again, the front yard on several of those sheets have been addressed within the table. The issue of the exterior property lines, again Mr. Kerr requested we do 100' restriction from the AG preservation and we will do that. There will be a minimum of 100' there within for a building setback. I would ask that you not impose a condition with regard to item # 14, that we would have the opportunity prior to final master plan to discuss the items with the Town Attorney. I don't believe there is an issue with regard to the minimum lot for that multi-family, but in the event that there were, we would ask that we would have the opportunity to do so. Item #16, there would not be left hand turns provided either onto Chandler Avenue or for someone coming out of Riverwalk Blvd, so the answer to both of those in 16 is no. Mr. Kerr was correct in Item # 19, the right of way area was incorrect and we've changed that to make that the correct...the amount of open space was 23.32 in that drawing and the drawing that you have today it its 23.29. The percentage remains the same at 30%. Again, we've addressed the issues of the passive vs. active. We think a very important element of this project is the provision for the land for the little league park. I think that many of you have had experiences with that and we think that we have within our project more than enough active recreational opportunities, the primary one being of course the walking trails and the walking paths as Mr. Ager had agreed. The question with regard to alleys in Item # 21, the annexation agreement provides that the streets will be dedicated and public maintained by the Town. It provides that the alleys will private and maintained by the Homeowner's Association so I think that addresses that comment. The typical roadway sections, I would ask again that we would have the opportunity to meet with Mr. Kerr prior to final master plan because I'm sure that I completely understand that but I'm sure the engineers will. We reviewed the signage for you. We've agreed for the trash containment. Again, I think it's appropriate for storm water management to be handled at final. And then finally, the recommended conditions of approval, we agree with all of those with the addition of Items # 4 & 5. We would agree, based upon our understanding of the annexation fee, based upon the provisions of livable Delaware and the encouragement of development within town and levels 1 & 2 & 3 of livable Delaware. What we would ask would be either a credit against the annexation fee for the

amount of that roadway improvement which I understand that Atlantic Street is maintained by the Town and I understand that the State does the improvements to County Road as well, so we would ask that the credit be given for whatever those two improvements would be as an offset to the amount of the annexation fee being that those are items that should appropriately be included within that annexation fee justification. The other issue, the detail with regard to the parallel parking, Mr. Kerr had indicated that those parking spaces would be 10 x 22. In our profile and our experience with Cannery Village, those in fact end up parallel spaces being 7.33, or thereabouts, by 22, so we would ask that that condition be reviewed by our engineers with Mr. Kerr prior to any inclusion of that as a condition and it would be addressed at final. The Item # 10 would be up to 5,000 sf. of commercial or neighborhood business, and again we would reserve the right to utilize part of that for our clubhouse facility if we deem that to be appropriate. Item # 13 would be all streets, not alleys, would be dedicated to the Town for the reasons I provided under the annexation agreement. Item # 19, our calculation is that we're providing 630 trees throughout the community. Items 20, a, b, c, and d, would be in conjunction and substitution of our parking table which again has been provided to you and is submitted into the record. Based upon those reasons and justifications, and again I apologize for going through all those but I'm not sure which ones would be appropriate to not go over, we would respectfully request that you would grant the preliminary master plan approval of this project.

Linda Rogers: Thank you. Does anyone have any questions of the applicant? No one has any questions?

Michael Filicko: Mr. Dyer, this question is either for you or Mr. Ager. I was wondering how many acres of the proposed 30 acres of open space if any are designated as wetlands?

Pret Dyer: The only wetlands on the site are .72 acres, so that, am I correct in that Mr. Davidson? Is that correct? Oh, I'm talking about 404 wetlands. In the open space, there are state wetlands, 7 or 8. 7-1/2 wetlands total? Okay.

Michael Filicko: Thank you.

Linda Rogers: Does anyone else have any questions?

Louise Frey: I do. Is the school bus area, the bus stop area, is that going to be covered or is that going to be open?

Pret Dyer: I don't know what the request was. I know there was a request by the state but...I can find that. It is shown as open right now.

Gene Steele: How do you proposed mail delivery?

Pret Dyer: I believe given the...there would be individual delivery with regard to the lots and that what we've done in Cannery and with regard to the multi-family, there's usually a central delivery for the multi-family portion.

Linda Rogers: Anyone else have any questions? Bob?

Bob Kerr: I guess the question is what do you want to do? Do you want to go through the comments or just...? How would you like to proceed?

Linda Rogers: What? (Unintelligible talking amongst members)

Bob Kerr: I guess the main comment I would have is not having the opportunity to review what was provided as a handout tonight and how that might revise anything and then my recollection of how previous LPD's have been, or preliminary master plans have been approved, is it's more or less you present the conditions you think should be placed

on the property to Mayor and Council. They have the opportunity to add, subtract or change comments and approve or disapprove. If it's approved it comes back to you basically to make sure the final document contains those provisions and maybe you want to ask Mr. Brady whether a lot of things can be added after you give a preliminary approval.

Linda Rogers: Mr. Brady?

John Brady: Pursuant to the Ordinance 4.8.7, your focus should be on those 11. The initial comments that to conformity of the proposed development with the standards of the Milton Comprehensive Plan and recognize principal land use planning and landscape architecture. So those 11 plus those comments at the final review since it doesn't go any further after the final review then recorded, any final determination or issues that come up after it has been review by Council and it comes back to you, that's when you put the final conditions on.

Linda Rogers: Does everyone understand that? This is not initially a public hearing but is there any questions that anyone has, that they would like to ask and we'll give you the opportunity to have a couple minutes?

Jim Welu: Is this public comment time?

Linda Rogers: Just for 3 minutes, that's all you get.

Jim Welu: 30231 East Mill Run, Milton. As a member of the Broadkill River Watershed Study Group, I would just like to say that I think the presentation on the storm water management system that they propose with the swales, the bio...I don't know the technical words right now. I think that is a significant, positive thing in this plan and I think its something that maybe the Town staff ought to be recommending any developer coming in with any subdivision certainly be looking at a way to handle storm water management on-site like that, rather than just go in storm water management ponds and sending the water off into the river. I think it is a significant, positive part of this plan.

Linda Rogers: Thank you. Anyone else?

Bob Howard: 217 Chandler Street. I just have a question. Would all this material be available for review at the Town Hall? It's pretty hard to make comments on...

Linda Rogers: It's been there.

Bob Howard: It's been there? Will it continue to be there?

Linda Rogers: Yes.

Bob Howard: Thank you.

Linda Rogers: Anyone else? Does anyone on the board have any questions? No? So what is your pleasure?

Dean Sherman: Excuse me, Bob? Recommending conditions of approval...(unintelligible)

Bob Kerr: It was drafted...actually I think Eric drafted it for Heritage Creek, taking comments from the one that was also prepared for Cannery Village, and then I've just stuck in some of the numbers that are necessary or that you may want to consider for this one or basically it's all up to you and what numbers you want in. There's also some blanks. It would be my recommendation that makes it a lot easier on Debbie, Robin and myself when we have kind of a written record of what we're trying to accomplish when it comes back for the next steps and phases.

Dean Sherman: Mr. Dyer, as you went through this thing, you seemed to be pretty well in agreement with most all this stuff, right?

Pret Dyer: Yes.

Dean Sherman: Completely.

Pret Dyer: Yes.

Dean Sherman: And there were some blanks that Bob has left here about like the square footage on the commercial and you just...

Pret Dyer: And I said that was 5,000...we were okay with that, and I think there was 630 trees, and really the only substantive changes would be was we would substitute those tables that we for the setbacks that we talked about that we provided that's in the packet and the request with regard to the items 4 & 5 with regard to the improvements on the roadways being offset against a portion of the annexation fees. I think that would encompass the majority of the items that were in there that we felt were very appropriate.

Dean Sherman: So they're asking you to resurface everything from Union Street to Rt. 5? I mean to Rt. 16? That's what they are asking you to do.

Pret Dyer: That's what that says. We said we don't a problem with that but that seems to be appropriately contained within the purpose of an annexation fee is the road is being maintained by the town. We wouldn't have any problem doing that as long as we got an offset credit against the annexation fee for whatever that sum of money happened to be.

Bob Kerr: That was added due to or because of a comment that was provided by DelDOT in their review of the traffic study. Those two comments were things that DelDot would liked to have seen.

Pret Dyer: They only asked for county...the country road.

Dean Sherman: The country road is from the VFW out to Rt. 16.

Pret Dyer: That's correct. We have a revised letter from them that that's what they requested.

Bob Kerr: Again, we have a cut-off date for when things are submitted and trying to keep up with the changes, it's really hard on those of us doing the review. The letter I have dated November 16<sup>th</sup> from McCormick Taylor on behalf of the state, Item #1 the developer should improve Atlantic Avenue from County Road (Sussex Rd 22A) to Delaware Rt. 5 (Union Street) in order to meet Town standards. And that could be interpreted as not only an overlay of the road but curbs and sidewalks, storm drainage, etc., to meet the current Town standard. Item # 2 of the letter the developer should be required to provide a 2" overlay on County Rd after all site and utility construction is complete.

Pret Dyer: My request would be that could read in accordance with whatever those requirements are that DelDOT requires, because we have again, I understand what Mr. Kerr's saying, that's our oversight for not providing that, but we have that revised letter from McCormick Taylor on the review of that. So if that could read in accordance with DelDOT's provisions and also again, I think appropriately so with regard to the credit with respect to the annexation fee because that seems to be a provision of why a property would be paying in a development district for annexation expenses.

Dean Sherman: So whether it was a little or a lot, whatever that number is, we'd deduct it from the annexation?

Pret Dyer: We would think that would be appropriate; that's what we would ask for.

Dean Sherman: Okay.

Louise Frey: Madame Chair? Mr. Brady or Bob, do other developers ask for their annexation fees to be covered if they have to go into and do a street road or county road? Are we making an exception here?

Linda Rogers: I think this is the first development we've had the annexation fee isn't it?

Bob Kerr: I believe Holly Lake Development was the first one that had annexation fees. This is the first one that's moving forward in this manner.

Linda Rogers: And the annexation fees were waived out here for the one Sam Lucas Road, correct? Weren't they?

John Brady: They were credited. There was a precedent for a credit.

Linda Rogers: Exactly. Okay.

Dean Sherman: But for Holly Lake, they didn't ask them to resurface Lavinia Street.

Linda Rogers: It was done by Wagamon's West Shores.

Robin Davis: The state required Wagamon's West Shores to from Mulberry out to the state department.

Dean Sherman: On Wagamon's but not on the Robino's.

Linda Rogers: But we have set a precedent, or Town has, on allowing waiver from the annexation fees, correct?

John Brady: Not a waiver, but a credit.

Linda Rogers: Credit. Okay.

Louise Frey: Thank you.

Ted Kanakos: Is that credit for the total amount, the total cost of paving or just a percentage off? And will sidewalks also be included in there? Is the state requiring sidewalks?

Pret Dyer: No.

Ted Kanakos: So it's just repaving the road?

Pret Dyer: Yes sir.

Bob Kerr: The state is saying, in order to meet Town standards, so they're not being real specific on what their recommendation is. I went with what they also recommended for county road which was just an overlay. As far as what percentage and everything, that is probably more of a question and answer for Mayor and Council to make.

Pret Dyer: I guess I don't understand...percentage of what?

Ted Kanakos: You want an adjustment to the annexation fee, based on the work you have to do. You want a credit on the annexation fee based on the total cost of all the paving?

Pret Dyer: That's correct. It will be just that portion of...it will be a separate amount for that. Not for our total project, just that portion that's attributable to that roadway. Is that what you're asking?

Ted Kanakos: Yes. And that's because it was...will be deeded that way...well, it's always ours anyway, it's not going to be deeded...

Pret Dyer: Well, but I think the appropriate thing is that in this instance, the, it's off-site improvement as opposed to and on-site improvement.

Ted Kanakos: So you're asking the Town basically to pave the road in front of the development?

Pret Dyer: For the off-site improvement. Not the on-site improvement portion of it.

Ted Kanakos: No, but the off-site is, you're asking the Town actually to pave it's own road...

Pret Dyer: Well, the Town's not paying for it. We're paying the annexation fee. We think that the annexation...

Ted Kanakos: Well, if we give a credit, we will be paying for it.

Pret Dyer: No. We're paying the annexation fee. The Town's not paying a cent.

Ted Kanakos: But you want an adjustment to that fee, yes?

Pret Dyer: I want an adjustment to the fee that we're paying. That's correct.

Ted Kanakos: So we'll end up paving the road for you, with our money.

Bernice Edwards: You're talking a credit for the paving, correct?

Ted Kanakos: All I know is we'll be ending up with a little less than we expected.

(Unintelligible).

Pret Dyer: Well then the...we have no problem with the requirement not being in there.

We don't have a problem with the requirement not being in there.

Ted Kanakos: That's not the issue. This issue is....

Linda Rogers: You need to talk into the microphone.

Ted Kanakos: The issue is that it is in there. Now where do we go from there? You're saying you have no problem not caring about anything, that's one thing. What I'd like to know is why we're paying...

Pret Dyer: You're not paying; it's a credit.

Ted Kanakos: Yes we are. If you're saving money, we're paying.

Pret Dyer: It's a credit.

Ted Kanakos: The deal is, you'll end up saving money and the road is paid. And we end up paying for it by not charging you as much.

Joe Reed: If I could just add something. I don't...I think DelDOT's comment, our meeting with DelDOT, they...we have agreed and they were requiring, actually we left that meeting without them requiring it and we subsequently agreed to pave Country Road and DelDOT's not requiring Atlantic Avenue be repaved if the Town, I guess what we were saying, if the Town decides that Atlantic Avenue should be repaved, then we are asking the Town to essentially pay for it. You're right. And what I would like to add is when this property when we first applied for annexation for this property there wasn't no annexation fee during the process, and this is about the...I think we've been in front of this commission at least 4 times on this project. Some point during the process, this annexation fee came up. We voluntarily agreed to pay it even I think before it officially became effective, but so we're paying an annexation fee and in our annexation agreement we've agreed to pay \$8,000 an acre times 76 acres, so what's that...somewhere north of \$600,000. So yes, what we are saying is if the Town decides that Atlantic Avenue needs repaved because no one is requiring you to do that, DelDOT is not requiring you to do that, we're not asking for it, but if you do, we're saying that we think it's appropriate you use some of those funds that we just paid to repave/overlay that road.

Ted Kanakos: I've got one question for you, the Town Attorney. The annexation fee, is that basically for, does that go to Tidewater? Is that the majority of it for each?

Pret Dyer: No, there's an \$8,000 impact fee per sewer EDU that we also pay. We pay that to Tidewater. This is just an annexation...this goes straight to Towns coffers and it did not exist when we, when Doc White first applied for annexation of this property. I think at some point, several years ago, and then there was a moratorium placed, and his application was not processed then we applied and after our application and first hearing and the annexation fee was proposed and we agreed to pay that.

Ted Kanakos: Thank you.

Gene Steele: In reference to if the Town requires sidewalks, you would also want that to come out of your fees?

Pret Dyer: Are you talking about off-site? Yes. If it were off-site that would be correct. If it's along any of those roadways, that are off-site, not on-site. And again, I think it may be appropriate if it would be your agreement to have those off-site improvements as per DelDOT requirements, again, because we do have a letter that addresses the one road, not Atlantic.

Michael Filicko: It seems like what you are asking seems to be very fair in my eyes.

Pret Dyer: Thank you.

Dean Sherman: I agree because all this is based on like 100% of the traffic either coming in from 16 or Union Street, what if they come across Pine Street or Spruce Street? They should...if there are any sidewalks or improvements needed on those streets, they shouldn't put that on any developer; that's ridiculous. I would imagine that's what those annexation fees were targeted for anyway.

Pret Dyer: That's our impression.

Bernice Edwards: We've already set a precedent I think with the credits. Am I correct?

Linda Rogers: The Town has.

Bernice Edwards: So you can't ask one developer to do something when you have not asked...we haven't required of another developer.

Bob Kerr: If I may, the document that I attached to the back of my memo, the recommending condition of approval, were for your review, comments, changes, modifications, you can add, delete, throw completely away, the choice is yours of what you wish to do with it and what recommendation you desire to make to council.

Linda Rogers: One of the blanks that have so-called hasn't been filled in is our, and I recall there was a problem with this I believe at Wagamon's West Shores, was the number of lights that they want working on the streets before any certificate of occupancy will be issued. I believe there was a problem out there with lighting, so we want to make sure we get a number there of some sort.

Pret Dyer: The only caveat that I would add to that is we've done everything short of an assault of the DPML building in Millsboro and we've even considered that but we were advised not to do that. But it is, I mean we, it's not the developer. We've had that at Cannery Village and I know I've heard testimony with regard to the same issue at Wagamons. It just extremely, extremely difficult to put us at peril for DPML, and I know that Councilwoman Betts has been involved very hands-on with regard to Wagamon's, so that would be my only...I agree with you totally but it's extremely difficult to control their performance.

Linda Rogers: Now, do you actually install the lights or is DP&L coming in...

Pret Dyer: No. We actually...what we have to do which is completely absurd but we have to install the conduit, we have to install the pole lines, you know the strings that go in there so the only thing they have to do is they have to come in and they have to grab the line, put the wire through it and then if you're lucky within a certain period time they come back and put in the transformers and make the connections. So I mean its....

Linda Rogers: You actually put the pole, the light, everything is there so you're just waiting on DP&L to hook it...

Pret Dyer: I think they do the...they install the light itself but we have to do all the conduit and the pole lines and everything for them at a pretty big cost and then to get them to come in there is again, it's really, really difficult.

Linda Rogers: Stipulations? Changes to anything?

Dean Sherman: I think we should go ahead and modify that item # 4 and # 5, to reflect more accurately what Mr. Dyer's talking about to do whatever the Town and DeIDOT request, whatever that total amount would come to would be deducted, or credited I guess from the annexation fee. Again, it's really kind of hard to determine exactly what the Town's preference, whether they want sidewalks and pavers and streets or monorail systems, whatever they want they get it, you know it seems to be unfair to place any of those off-site burdens on the applicant, for the record.

Bill Brierly: This question is actually for Bob Kerr. Bob, how would the credit be determined. How do we, if we go with a credit route for # 4 & 5, how do we determine a fair credit? How do we put that language in there?

John Brady: I think the language would be something to the affect of Planning & Zoning recommends that a credit for the construction cost for this section of the road be applied against the annexation fee due for the project.

Bill Brierly: Meaning the cost of what, meaning their cost to actually do that work would be credited against the annexation fees?

John Brady: Their cost to do that work as specified in # 4 & # 5. Those specific sections and then if say for example they only turned in a bill that said paving the whole development, \$600,000, that would be unacceptable because I'm sure they wouldn't do that, based on this discussion tonight but they would need to show something where improvements to as # 4 is specific in the breakout for that and # 5 if that was your recommendation.

Michael Filicko: Mr. Dyer, do you have any idea how much it would cost to pave that street?

Pret Dyer: No, I honestly do not. I don't have an estimate on that. Sorry.

Michael Filicko: Just curious.

Linda Rogers: Does anyone have a street question, the paving of the street?

Ted Kanakas: Basically, it comes down to if we approve this credit, the concept of the credit, it goes into this approval this evening, it just seems we have given a blank check to do a certain amount of paving. Is there any type of oversight we can apply to this? In other words, will they get 3 bids on this, will we get the lowest bid? In other words, is it out of our hands and whatever they show up, we'd have to pay? Another words, I'm looking for someone a little either...

Pret Dyer: I think the Town could contract for the work...obtain the bids and contract for the work and present us with the bill.

Ted Kanakas: Make sure we get the lowest quality bid.

Pret Dyer: Correct.

Ted Kanakas: Another words, you may not have a reason to take the lowest bid, and just do it because you know you're getting the credit. I certainly don't mind the credit but I'd like to get the low...I think to give you back as little back as possible. Thank you.

Gene Steele: Why don't we just put it down as the work has to be done to those areas has to be approved by the Town and the Town Engineer?

Pret Dyer: Okay.

Linda Rogers: Is that good with everyone?

Dean Sherman: The Town may have other projects they could roll this up in other projects and some...

Ted Kanakos: (Unintelligible)

Pret Dyer: I don't know how the street money works, isn't there some funding for streets?

Dean Sherman: I'm sure there is.

Pret Dyer: Through, I mean I don't know whether the state, yeah....

Dean Sherman: ...The concept of the credit's probably...

Pret Dyer: Right. I did misspeak on one item if I could just clarify, because back in one of the previous public hearings on this project, we had presented in the record a kind of economic analysis for the project for the Town of Milton, and actually the annexation fee that will be paid is \$496,320 and the reason that's less than the number that I was calculating briefly in my head before it was a portion of this property was already in the town limits so the whole 70, I think it's about 14 acres, it's not 76 acres, it's 62 acres which the annexation fee is being paid on. But in addition to that, and these numbers have not changed, there's \$2,960,000 in sewer impact fees to be paid to the Town of Milton or I guess now, Tidewater Environmental Services, \$536,500 in water impact fees. There's estimated that about \$4.4 million in transfer taxes will be split between the Town of Milton and the State, so there's somewhere in the neighborhood of \$2 million dollars in transfer taxes for the Town, \$740,000 approximately in building permit fees, so there will be some significant revenue and economic benefit to the Town that will offset the, if the town elects to repave Atlantic Avenue.

Linda Rogers: Also, what was the total number of trees that's going to be in the community, this item # 19.

Pret Dyer: Approximately 630 new trees, yes.

Michael Filicko: And the width of the streets Mr. Dyer.

Pret Dyer: I think it's...I think that was spelled out in the landscaping requirements in the code. Mr. Ager corrected me, it's specified in the landscaping plan that Mr. Ager did.

Linda Rogers: Anyone else have anything.

Michael Filicko: And again Mr. Dyer, if we did grant this, and it seems like it would be a fair thing to do, it would be up to the best of my knowledge Mayor and Council to grant that.

Pret Dyer: Sure.

Michael Filicko: Am I correct on that?

Linda Rogers: We'll recommend it to the Council.

Pret Dyer: Right, we understand that.

Linda Rogers: Anyone else have any questions? Someone ready to make a motion?

Pret Dyer: With regard to...is that item 20...a, b, c, & d, what we would ask is that you would substitute in there the tables that we have provided for you in the handout that specifically delineate what setbacks there are and it earmarks even specific lots.

Linda Rogers: This table?

Pret Dyer: Yes, that's correct.

Linda Rogers: Height, area and bulk requirements?

Pret Dyer: Yes, exactly. Exactly correct?

Linda Rogers: So you want to substitute this table, prior number 20, correct?

Pret Dyer: Yes. What it would be is, that table would be the departure from the table that was submitted in there.

Linda Rogers: Okay.

Pret Dyer: It would be the ones listed to the left, not the ones where the question marks are to the right. Those would be...that's why Mr. Kerr had those question marks over there because of those items. Is that correct? Right.

Linda Rogers: Anything else? Someone ready to make a motion?

Dean Sherman: I make a motion that we approve the preliminary master plan for Riverwalk on the Broadkill with all of the modifications to the recommended conditions of approvals submitted by Mr. Kerr on behalf of the Planning & Zoning Commission.

Linda Rogers: We have a motion, is there a second?

Michael Filicko: I second it.

Linda Rogers: We have a motion and a second to forward this to the Town Council, all in favor, Roll Call vote:

Bernice Edwards:	Yes	
Ted Kanakos:	Yes	
Bill Brierly:	Yes	
Dean Sherman:		Yes
Linda Rogers:	Yes	
Michael Filicko:	Yes	
Gene Steele:	Yes	
Louise Frey:	Yes	

Linda Rogers: Motion carried unanimously to forward to Town Council.

Pret Dyer: Thank you very much.

- c. Final Site Plan Discussion and Review  
Discussion and review of final site plan approval for mini storage buildings located at 204 Broadkill Road further identified by Sussex County Tax Map and Parcel # 2-35-14.11-57.00, 58.00 & 60.00.

Bob Kerr: I think Robin passed out two 11x17 exhibits. This came before the commission some time ago; went through the preliminary and got a final approval subject to getting all the outside agency approvals and this is why we kind of had the discussion a couple times that we need the approvals first because the fire marshal didn't approve it. The first drawing that you see that has 3 storage buildings is what you approved as part of the site plan. The fire marshal has required what is shown on the second drawing which is basically breaking it into multiple buildings. There's really no change to the site plan other than instead of three buildings there are now six buildings. They will have to submit new drawings and go through the process but what Robin and I and Debbie discussed was whether you would give us the authority to handle it as an administrative matter since it's simply changing the number of buildings and the square footage, actually decreases a little bit from what was shown on the original plan. Otherwise, they would have to come back, go through and I guess I have to ask Mr. Brady whether they would have to go through a preliminary or whether they could just come in directly for a new final, but it's the process that we kind of need to refer to and this is why giving

approval just to repeat it one more time, giving approval before we have all the outside agency approvals is tough. But if you would authorize the Town staff with their consultants to review the revised final drawing and deem it to be in accordance more or less with your original comments and then Linda can be authorized to sign that drawing once we had the review would be the request of the Town staff and your consultants.

Michael Filicko: Mr. Brady, are we permitted to do that?

John Brady: There was a final contingent on approval from storm water management. What happened was the final and I'm reading from the last page of the minutes from the May 16, 2006 meeting, it appears that the fire marshal had a contingency that had to be issued with two. Since it's going to be less space and you've already approved for the final, you could go ahead and approve it subject to the final revisions being approved by Town Engineer and the Town planner. Seems like an appropriate manner since this has been out there 18 months already and it's just trying to get it completed.

Michael Filicko: Thank you.

Linda Rogers: Does everyone agree with this? Someone like to entertain a motion? Someone like to make a motion?

Bernice Edwards: I would. Bob, repeat that for me again.

Bob Kerr: I request that you authorize the Town staff and the consultants to review the revised final site plan for the mini storage buildings located at 204 Broadkill Road and authorize the Chairperson to sign the approved site plan once submitted and reviewed by staff.

John Brady: And you further amend that motion by specifying Sussex County Tax Map and Parcel # 2-35-14.11-57.00, 58.00 & 60.00. Technically along County Rt. 2 be Morris Street extended.

Bernice Edwards: I make that motion.

Dean Sherman: Second.

Linda Rogers: We have a motion and a second, all in favor Roll Call vote:

Bernice Edwards:	Yes
Ted Kanakos:	Yes
Bill Brierly:	Yes
Dean Sherman:	Yes
Linda Rogers:	Yes
Michael Filicko:	Yes
Gene Steele:	Yes

Linda Rogers: And that's it. Mrs. Frey had to leave. Motion carried unanimously.

- d. Request for Extension of Preliminary Site Plan Approval  
Request by Eagle Eye Development, LLC for the extension of preliminary site plan approval a mixed use marina located at 309 Front Street further identified by Sussex County Tax Map and Parcel # 2-35-20.08-10.00.

Bob Kerr: Again, the developer has submitted a letter to the Town requesting an extension of the time. Preliminary site plans are given one year from the time you give approval to the time they have to come back for a final. The letter was submitted in September. They are very close to being completed. We're going back and forth with

some of the final construction drawings now and one of the problems necessitated going back to DelDOT what the Town requires and what DelDOT had approved differed substantially. So the Town staff and I recommend that you approve and extension of time to the developer to complete the construction drawings and come back with a final site plan.

Linda Rogers: Didn't we just extend it for one year.

Bob Kerr: Up to one year you may extend it. The drawings have to go back to DelDOT and the fire marshal because of entrance changes and water main changes. DelDOT, I have no idea what their schedule is right now but three or four months might be quick for them. You're allowed to go up to one year. If you don't have an objection to doing that, I don't think it hurts anybody; it slows the development down but it's the developer's problem, not your problem.

Michael Filicko: It seems like a reasonable request.

Bernice Edwards: Madame Chair. I was going to ask, if we extend for a year, they can come back within that year?

Robin Davis: They can come back sooner. They don't have to wait a year to come back. If they're done, if they get everything done within three month, then they can come before planning and zoning for final.

Linda Rogers: It just avoids them coming back for an extension at the end of three months if they haven't gotten the approval.

Robin Davis: They are only allowed to get one.

Linda Rogers: They can only get one extension?

Robin Davis: Yes.

Bernice Edwards: I make a motion that we give the year extension.

Linda Rogers: Ok. We have a motion to give a one year extension, is there a second.

Ted Kanakos: I'll second.

Linda Rogers: We have a motion and a second for a one year extension, all in favor Roll Call vote:

Bernice Edwards:	Yes	
Ted Kanakos:	Yes	
Bill Brierly:	Yes	
Dean Sherman:		Yes
Linda Rogers:	Yes	
Michael Filicko:	Yes	
Gene Steele:	Yes	

Linda Rogers: Motion carried unanimously.

#### **Item #6: Change of Meeting**

Linda Rogers: Next item is the change in the Meeting for December.

Dean Sherman: Change the date?

Gene Steele: Do you have any proposed dates?

Linda Rogers: What date do you want it to be?

John Brady: December 11<sup>th</sup>, second Tuesday.

Linda Rogers: Ok. They want to have the meeting on December 11<sup>th</sup> because our Attorney is not available on our regular meeting night.

John Brady: I believe there is one major agenda item for next month involving Chestnut Properties and it is the clubhouse and because it is also the subject pending litigation, I've been requested that I need to be present for this hearing. Unfortunately a business trip has me in Miami on the 18<sup>th</sup>. And the cheaper thing to do is move it instead of...I couldn't figure how to afford on the Town budget to fly you all to Miami.

Gene Steele: I'd like to make a motion to change the date of the December meeting to December 11, 2007.

Linda Rogers: Is there a second?

Dean Sherman: Second.

Linda Rogers: All in favor, say "Aye". Motion carried.

**Item #7: Adjournment**

Linda Rogers: Is there a motion to adjourn?

Dean Sherman: So moved.

Gene Steele: Second

Linda Rogers: All in favor, say "Aye".

Meeting adjourned at 9:09 p.m.

Respectfully Submitted by,

Michele M. Lepter