

**Town of Milton  
Planning & Zoning Meeting  
Milton Library, 121 Union Street  
Tuesday, November 20, 2012  
6:30 pm**

**Minutes are not Verbatim  
Transcriptionist: Helene Rodgville**

1. Call Meeting to Order

2. Roll Call of Members

Lynn Ekelund	Present
Tim Nicholson	Present
Bob Heinrich	Present
Don Mazzeo	Present

3. Additions/Corrections to the Agenda

Don Mazzeo: Looking at our agenda this evening, we have a full house as I would like to put it and just for purposes of identification, before we start, just by raise of hands, how many folks are here for Dogfish Head? And how many folks are here for the rezoning application? And I would then take it that everyone else is here for Heritage Creek. Okay. Very good. Thank you. Are there any additions or corrections to the Agenda?

Lynn Ekelund: I would just like to note that under Rezoning Application that in two columns Sussex County tax map numbers 20.11-52.07-701 through 704 are duplicated, so one of them, either the first or second column should be stricken.

Don Mazzeo: Okay, I will strike the right hand column for the purposes of recordkeeping. Any other adjustments to the agenda?

4. Approval of agenda

Don Mazzeo: Seeing none, I'll take a motion to approve.

Tim Nicholson: So moved.

Lynn Ekelund: Second.

Don Mazzeo: All in favor say aye. Opposed. Agenda has been approved, as corrected.

5. Approval of minutes of October 16, 2012

Don Mazzeo: Are there any questions, comments, concerns or adjustments that would be required?

Lynn Ekelund: Move to approve the minutes of October 16, 2012.

Bob Heinrich: Second

Don Mazzeo: All in favor say aye. Opposed. Motion is carried.

7. Business – Discussion and possible vote on the following items:

a. **Entrance Plan for Warehouse**

Review/approval of the entrance plan for the warehouse building owned by Dogfish CVI, LLC. The property is located on Atlantic Street further identified by Sussex

County Tax Map and Parcel # 2-35-20.00-53.00. This plan has been submitted and approved by DelDOT

Don Mazzeo: Tonight we have several Public Hearings and we have several pieces of business. I would like to change our agenda slightly in it's format, in that I would like to take our Business portion, we'll call it 7.a, which is the Entrance Plan and 7.b Final Site Plan Review/Approval, both for Dogfish Head and put them up to the front of the list, so that we can dispose of them without much ado. So we will jump down to Business and I will call it 7.a Entrance Plan for Warehouse. Do we have representation here from Dogfish?

Bob MacLeish, Lighthouse Construction: We're the Construction Managers for the Dogfish Head project.

Don Mazzeo: Good evening, Bob. We meet again.

Bob MacLeish: Good evening.

Bob MacLeish: We are here on Item 7.a. We received our final approvals and permitting from DelDOT for the entrance plan that we had presented previously.

Don Mazzeo: And they are in the record, as we speak, the approvals?

Robin Davis: Yes as you got your packet, the approval letter from DelDOT and the comment letter from Town Engineer, who has reviewed the plans, as requested by Planning and Zoning during the final site plan phase of the project.

Don Mazzeo: Thank you, Bob. Are there any questions or comments from the Committee? And the engineer's letter recommends approval, based on the fact that we, Planning and Zoning, requested you to come back for this and final approval on that. I'll entertain a motion to approve, final.

Bob Heinrich: I make a motion to approve the final submittal.

Lynn Ekelund: Second.

Don Mazzeo: All in favor say aye. Opposed. Final approval on Dogfish Head and there's a file number which needs to be attached to the approval. Please have that entered into the record, please.

**b. Final Site Plan Review/Approval**

An application from Dogfish Properties, LLC requesting final site plant review/ approval for the construction of a 26,661 +/- sq. ft. addition to the existing facility and the construction of a 9,994 +/- sq. ft. wastewater building. The property is located at 6 The Center, further identified by Sussex County Tax Map and Parcel # 2-35-20.11-52.01.

Don Mazzeo: These plans were reviewed by the Town Engineer and all the outside agencies and you're on again, Bob.

Bob MacLeish: Yes, Sir. This is a follow-up to our preliminary approval the utilities expansion project, as we noted it. We have complied with and made the necessary modifications to the drawings, per that meeting, and we have received all of our approvals from our different agencies, final approvals.

Don Mazzeo: The color enhanced photo that you provided to Town and obviously to the Commission if you have any out there, we had requested this, I believe, at one of our meetings. On behalf of the Commission and the residents, thank you. This is precisely what we were looking for and for those of you who may not have it out there, you're certainly welcome to have my copy, it will be on the side or wherever. Basically what

we have now is an overview of the entire 40 +/- acres that are being developed by Dogfish Head and I'll put it up like this. Anything that's in orange, is going to be the new buildings; either approved already or in the process of being approved. This is the new, big 100,000 sq. ft. building. The entrance way, which we just finalized on the approval coming off of Cave Neck Road and coming around and showing all the little details. The Commission had some issues visualizing, so we requested this and Dogfish Head folks have come back and provided that. Again, we thank you for that.

Robin Davis: Mr. Chairman, there's a big 24"X36" set of the same drawing back there, if someone wants to look at it.

Don Mazzeo: There you go. The folks that are here this evening, feel free to go up there and take a look. Are there any questions of the Commission to Dogfish, to Bob and/or to our engineer?

Lynn Ekelund: Bob, this is Lynn Ekelund. I was wondering if you are satisfied with all of the notes that they made to the plans, based on the comments that we discussed the last time they were here and that was based on the comments that you had made in your memo of August 15, 2012?

Bob Kerr, CABA Associates: Says it's a yes. A general review of the drawings there. I believe they've met all the conditions that you placed on it. I know they got the ones on my memo. It's sometimes a little tough to make sure I get everything from the comments throughout the evening, but I believe everything's there that you wanted.

Lynn Ekelund: Okay, great. I just want to make particularly sure and I know there was an issue about a duplicate number 10 on your memo. I'm talking about the second number 10, which is on page 3 and it's any new lighting should be positioned and shielded in such a manner as to not impact the lots in Chestnut Crossing. Is that something that has been...

Bob MacLeish: Yes it has.

Lynn Ekelund: That has been addressed?

Bob MacLeish: Yes it has and we reflect that in a note on the drawing requiring that the light pollution be eliminated and everything be faced back towards the building.

Lynn Ekelund: Great. Thank you.

Don Mazzeo: Anything else, Lynn?

Lynn Ekelund: That was the one that really concerned me. I'm good now.

Don Mazzeo: Seeing no other questions or comments regarding this application, I'll entertain a motion to approve.

Tim Nicholson: I move to approve the application.

Lynn Ekelund: Second.

Don Mazzeo: Let's have a roll call vote, please:

Bob Heinrich	Yes
Lynn Ekelund	Yes
Tim Nicholson	Yes
Don Mazzeo	Yes

Don Mazzeo: Again, for the record, make sure we have the correct file number on the notes. Thank you, Bob.

Bob MacLeish: Thank you very much.

6. Public Hearing

**Rezoning Application**

An application to rezone properties with commercial type zoning occupied by residential dwelling to residential type zoning. The purpose is to align the zoning for the properties to the existing land use for the properties. The properties are located in the 2-35 tax district with the following map and parcel numbers:

14.00-89.07	14.00-89.09
20.07-118.00	20.00-52.02 through 52.05
20.11-52.07-1101 through 1104	20-11-52.07-501 through 504
20.11-52.07-301 through 304	20-11-52.07-901 through 904
20.11-52.07-701 through 704	20.11-88.00 through 93.00
20.11-55.00	
20.07-109.00	

Don Mazzeo: I will not read the parcel numbers, because they are on record and you can look at them at your leisure. It's kind of a strange application, but I think Town is actually the applicant here.

Seth Thompson: That's correct.

Don Mazzeo: Okay, do we have a representative from Town for this application?

Seth Thompson: You have several.

Bob Heinrich: Choose a person.

Seth Thompson: Robin, do you want to give the background, I suppose, and I'll go through the legal \_\_\_\_?

Robin Davis: What we had was several residents, it was mainly in the Cannery Village area, that were going to lending institutions to try to refinance their home mortgages, for various reasons. One in particular, the bank denied them a refinancing request because of the Light Industrial type zoning on the property. We had, if some of the committee members remember, two years ago I think we had an individual the same way out at Mainsail Drive. He had commercial type zoning, the bank would not let him refinance. We actually were lucky enough to do that as part of our Comprehensive Plan Amendment. This, we're not, so what the Town decided to do is we identified the properties, there's actually 35 total; and Council agreed to run them through the Plus Process through the State and the rezoning process through the town. Basically, in a nutshell, what this is is to align the uses with the zoning, in the future, to help these individuals obtain financing for their properties. As you see, the Town filled out an application for the rezoning, as part of your packet there was the Plus application. I talked to Brian Hall from the Office of State Planning. He got us on the Plus agenda. The meeting was October 24<sup>th</sup>. Unfortunately, they take 20 days to get written comments back to us, but at the meeting, all the outside agencies DNREC, Fire Marshall, DelDOT, basically had no comment on the rezoning, because they do not really mess with any rezoning of properties. The State Planning is in favor of it. Any time that you down zone a piece of property they like that, so it's all favorable, except we just don't have any written comment from them at this time. So what we have in the process, is now Planning and Zoning has to make a recommendation to Council, whether they're for or against or any questions that you have; then Council will have an actual required Public Hearing on December 3<sup>rd</sup> and then we'll just move forward as you see fit.

Don Mazzeo: All property owners were indeed notified, even though the notification

was coming from town that we, town, are looking to change, not the actual every single property owner.

Robin Davis: Yes, as you see in your packet, two letters have been sent out as of this date. One, the original letter basically stated the idea of what we were doing and telling the property owners that their property has been identified and will be under this process. The second was just a follow up after our Council Meeting to let them know that we do have a meeting this evening and the Public Hearing on the 3<sup>rd</sup>. The actual wording of letter are in the file.

Don Mazzeo: Are any of the properties currently being utilized in an industrial/non-residential fashion?

Robin Davis: There are a couple. One of them is on Walnut Street, that I know of; there's a home there, but there's a building, an accessory building, that has always been used as commercial. They have requested that they be removed from this application. We do have letters I have received nine, as of right now, six are for and three are against, I think; and the three properties are individual property owners that are off from the actual 20 or so that are in the Cannery Village area.

Tim Nicholson: So what does that mean? What happens to them if we approve this?

Robin Davis: At the last meeting, the Mayor stated that for those property owners that do not want to rezone, we are not forcing them to rezone.

Tim Nicholson: Okay.

Lynn Ekelund: I was wondering about that, too. You said that there are 35 total properties?

Robin Davis: Correct.

Lynn Ekelund: And the letter of November 8, 2012 said each property owner was asked to submit in writing his or her position on the proposed rezoning of his or her property. So out of 35 properties, you've received 9 letters, or 9 responses? Is that correct?

Robin Davis: I'm just trying... I can't remember who had said that they do not want it.

Lynn Ekelund: It says they're asked to submit their position.

Seth Thompson: It did identify that if they didn't respond, that that would be considered somewhat of a tacit acceptance of...

Lynn Ekelund: It sounds like you have to affirmatively opt out of the rezoning and I'm uncomfortable with that.

Seth Thompson: That's correct.

Lynn Ekelund: I think to rezone someone's property, you shouldn't be able to do that just based on their silence. I don't think that non-responsiveness should be considered agreement with having the property rezoned.

Seth Thompson: From a legal perspective you could do that. There's nothing against the law that... You don't have to have somebody's consent to rezone. Actually, our code sets it up where if a certain percentage of people protest, then you have to have a super-majority vote. I understand your point as being more a policy one. Again, there's not a legal issue there, but I understand...

Lynn Ekelund: No, no, I just said I personally am uncomfortable recommending that someone's property be rezoned, based on their silence. That's my personal position. So out of the 35 properties, how many folks responded either for or against?

Robin Davis: You have nine. Right now I have nine total.

Lynn Ekelund: Nine total. So we have then 26 who have not responded in any way, shape or form that you're saying we should, because of their silence, recommend that

they be rezoned?

Seth Thompson: Well, on the Council level, when a Public Hearing is held at that level, they're going to be receiving their certified mailings that they're part of that ordinance. Again, I believe it's 20%, it says in the code where if 20% of the area, or the number of property owners protests, the rezoning, then it requires a super-majority to pass. The reason I mention the certified mailing and also there's going to be a newspaper notification on the Public Hearing on the Council level; the reason I mention that is this isn't the end of the notification for the people that are going to be affected. I certainly understand your concern.

Lynn Ekelund: Well then what is it that you're asking us, because I would not feel comfortable recommending a rezoning for anyone but the folks that have responded to this in a positive fashion.

Seth Thompson: Part of the concern with relying on only the people that responded, we were afraid that we would end up with kind of a patchwork rezoning, especially in Cannery Village. Some people just aren't that affirmative in their actions, so that was really the concern, that for instance, if you have a row of five homes and let's say you have the four ends all say yes, I don't want to have a problem when I go to sell my home; or I don't want to have a problem when I go to refinance; but then the home in the middle didn't respond. If you were to leave that commercial, it creates for some awkward zoning.

Lynn Ekelund: And for something like that, I might be convinced, but when you're talking about 35 properties and you've received 9 responses and how many out of that 9, six are in favor and three are opposed; so out of 35 properties, you have 6 properties that affirmatively have said yes. That's not the same as a row of five houses, where the two on each end have said yes and the one in the middle says no. There you're talking about your 20%. This, you're talking about 20%, if that, has responded. I just... My comfort level just isn't strong there.

Bob Heinrich: I'd like to comment. I actually don't feel the same way Lynn does. I think that it's primarily our job at this point to recommend going to a higher level of Council and that we are just... And if I'm wrong, just please correct me; but what we're here to do is basically approve the concept and recommend sending it on to Council. Is that correct?

Seth Thompson: Right. If I can explain it this way, if Planning and Zoning were to look at a zoning amendment, there's no requirement that they receive the consent of the owner's that are affected. The only legal requirement is that if 20% of the people file a protest, then they have to pass it by, I want to say it's four-fifths. But you're absolutely right that this again is going to go to the Council level. Now if the Commission decides not to recommend the rezoning, then Council has to pass by four-fifths, to override the Planning and Zoning's recommendation.

Lynn Ekelund: Is it an all or nothing?

Seth Thompson: Well the ordinance would have to be drafted. That's the difficulty. Given the expressed intention of the Mayor and Council to exclude people that affirmatively said we don't want to be included, the concept was that that would then whittle it down to the ordinance where we would have the number of parcels. Again, if people that either responded yes, or that didn't respond and therefore could have tacitly admitted that they were okay with it...

Lynn Ekelund: So it could then be everyone who is in favor of rezoning would be

included in that Ordinance and everyone who is not in favor, would be excluded.

Seth Thompson: Right, you would basically be revising the draft ordinance, because it's really just a draft ordinance, at this point.

Bob Kerr: That would give one problem in Cannery Village where they have the four-plexes, or four units within one structure, it would be very difficult to have one structure be zoned one way, or one-fourth of the structure zoned one way and three-fourths zoned another.

Don Mazzeo: Robin, of the three individuals, or property owners that responded, not to accept this rezoning, where are they located? I'll rephrase that, are they outside of Cannery Village?

Robin Davis: I have no negative responses from the 20, which would make up the five four-plex units; no negative responses from the six duplex units on Village Center Boulevard; I do have one negative response from the four homes on Chestnut Street that were originally part of the Cannery Village development. I think that's 519. The one's that basically have said no, are outside or individual lots by themselves.

Don Mazzeo: Okay. Did you hear anything from the Mainsail properties that were outside of the one lot that has already been rezoned?

Robin Davis: Yes, I do have a negative response from Mr. Watson at 102 Mainsail; that's the corner of Mulberry and Mainsail. At this time he said I have no commercial on my property, but I have financing now and we don't plan on doing anything with it, so he wants to keep it that way.

Don Mazzeo: Okay, how about the... I can't remember the number, but the opposing side of that property going down Mainsail?

Robin Davis: 106? I have no response.

Don Mazzeo: No response. Okay.

Bob Heinrich: Once again, if somebody opts not to participate in the rezoning, they won't be rezoned. Do I understand that correctly?

Seth Thompson: That's correct. If somebody says don't include me, then that's correct. The one difficulty if the Commission's considering saying well we recommend approval for people that affirmatively have said yes, I think maybe the implication is that if they didn't say yes, then you're not recommending that and therefore, that would trigger that super-majority on Council. That's the one concern. Truthfully, the standard by which we really look at zoning is just the general welfare of the public and it is helpful to have the individual affected property owner say yes, I'm fine with this, but there are occasions where zoning regulations affecting a property go into effect, even though the person hasn't consented; just for the overall benefit of the town.

Bob Heinrich: Yes, a general question I have though, I'm more curious than anything else, let's say you have a half a dozen homeowners who don't want to opt into the residential zoning, how would that effect the remaining properties that do want it in terms of the layout within town; having commercial and residential right next to each other? Could that be considered a negative?

Seth Thompson: That's what I mean you would end up with a very difficult situation if you relied solely on affirmative responses, because it just seems much more likely there are a number of relatively hands off people, that maybe they're comfortable with it, but they're not going to take the time to send in a letter to town. It creates a problem, because just like Mr. Kerr was referring to, you might have one unit commercial and one unit residential and they're attached to each other and obviously the list of commercial

uses or Light Industrial uses is much more expansive and that ends up potentially being a detriment to that unit that's attached to them.

Bob Heinrich: Yes, it seems to me it would devalue the residential properties.

Seth Thompson: There's certainly that possibility.

Bob Heinrich: It could. Yes.

Lynn Ekelund: What attempts were made by the town to contact these owners, other than the November 8, 2012 letter?

Robin Davis: There were two letters sent.

Seth Thompson: There's an October 11<sup>th</sup> letter, as well.

Lynn Ekelund: But as I look at the October 11<sup>th</sup> letter, it doesn't state non-responsiveness of property owners will be considered as a lack of any objection to the proposed zoning change.

Don Mazzeo: On the October 11<sup>th</sup> letter, it does.

Lynn Ekelund: On the October 11<sup>th</sup>?

Don Mazzeo: Yes it does.

Lynn Ekelund: I didn't see that. May result...

Don Mazzeo: Yes, may.

Lynn Ekelund: Well this says will.

Don Mazzeo: On the first letter.

Lynn Ekelund: On the second letter it says will. On the first letter it says may. I'm sorry, Don, but there is a difference.

Don Mazzeo: There is. I agree. I agree.

Seth Thompson: We could potentially, just as a suggestion, it could be part of the Advisory Report that the notice that goes out, I gather, puts in bold letters, and underlined and italicized and however we want to do it, 20 pt. Font, that, again, this is going to affect you and you need to let us know.

Lynn Ekelund: That would go along way towards alleviating my concern. Because, I'm concerned that the first time that they know that it will be considered, no objection, is twelve days ago and it's Thanksgiving, it's November.

Don Mazzeo: And you have and you have another twelve days to go.

Lynn Ekelund: And the Public Hearing is now December 3<sup>rd</sup>. I just don't think that's enough time. How was this November 8<sup>th</sup> letter sent, was it return receipt requested?

Robin Davis: No, just regular mail.

Lynn Ekelund: So we don't even know if these folks have the letter or have seen the letter.

Seth Thompson: Correct.

Lynn Ekelund: Which makes me even more uncomfortable.

Seth Thompson: But again, and I certainly understand your point, but the notice on the Council level, will go out certified mail, return receipt requested.

Lynn Ekelund: And if we could somehow get in there that it is in 24 pt. this is going to affect you. If you do not respond, your property will be rezoned.

Don Mazzeo: Could we also add to the fact that when we send out the letters by way of Council, that we actually put in a self-addressed, meaning Town's address, in an envelope, with a piece of paper that says I agree, don't agree, sign here. Mail it back.

Lynn Ekelund: Good point. Good point. I agree.

Don Mazzeo: That covers everybody from every direction, I think.

Robin Davis: And again, you end up with those individuals that are going to be non-

responsive either way; they're going to take that paper and throw it out, so we're going to have those anyway. I agree with what you're saying, but we're going to be at that point of you still might have five properties that you get no letter back at all.

Don Mazzeo: But five out of 35, are not sufficient to warrant a negative response, let's put it that way.

Seth Thompson: And it seems like they would have been given ample opportunity.

Don Mazzeo: That would have been the third, perhaps even the fourth opportunity.

Lynn Ekelund: And also it is return receipt requested and it's not hidden in here at the end of the... Because this may...

Don Mazzeo: Do we have any other questions, concerns from the committee. None.

Okay, I will open this up to public comment, we have someone from the outside public. Please come forward to the microphone that Robin is putting back, state your name and address for the record, please.

Frederick Manasian, 120 Village Center Boulevard: In response to the lack of non-response, it appears to me that I don't understand the lack of non-response. I received my letter. I know my neighbors adjacent to us have received... Upon my entrance, I gave Robin a copy of our letter and I asked him who actually has he received letters from?

\_\_\_\_\_ has already. I don't have any objections to this rezoning, naturally. I don't think that the proposal is out of line with the request of the Town, wanting to keep it's land use in line with the type of zoning in the actual usage of it. I think what the problem is, is that if you try to cross the i's and dot the t's, so to speak, you'll get non-responsiveness from a lot of individuals. This all stems from the problem of probably when most people bought their homes, if they had had mortgages at that time, the lender, the lending institution would have approached naturally the Town and asked them the usage. In all instances, the usage was shown in the Town as residential, but in actuality, it was commercial. So people who have bought these properties have the clear assumption that these were residential type zoning. I don't really see the problem on this. This is a bam bam thank you ma'am. I can understand Ms. Ekelund's question on this, on the non-responsiveness of the individuals that haven't responded, but this is a situation where I feel that the non-responsiveness is, how should I say it, an easy way of not... I know they've got the mail. They just... I think it's a normal reaction on a lot of individuals to not respond to this, but that again on a matter of importance, similar to this, it would appear to me that most people should have responded within this time frame before the December 3<sup>rd</sup> final hearing. They're lazy, as my wife would say, they're lazy and they're non-responsive and this is the type of situation that on most of the issues that revolve around the Cannery, is that from one issue to the next, in zoning, with the Dogfish acquisition of property and everything; it's always been one issue after another for the residents and this is, to me, a slam dunk, that this doesn't need to go any further. You have to have the Public Hearing, but I presume, I'm not able to attend. My wife and I both will be unable to attend that public meeting, but is there another individual here from Cannery Village, I'm assuming? John. See, John's on Chestnut Street, right, John. So here it is, we've got three residents on 30 something pieces of property. That has to tell you something. I understand what they're trying to say here, the Town Solicitor has presented the situation that it's the town's responsibility according to the Codes and the Charter to institute zoning changes. The State got involved into this because they went through the Plus Program. Those individuals at the State have already said, well this is not really our job to comment on something that's already being resolved by the Town

and I don't see any problem with this whole issue. I think it's just a situation that the Town should approve. Planning and Zoning should pass it, give it its approval, you could probably do that tonight and pass it on to the Town Council. What you said, that they're willing to pass this with no cost to the... That's the bottom line. There's no cost to the land owner. This is no cost. If we had to do this outside of the realm, somebody would have had to pay and the homeowner would have to pay and the result of our Cannery individuals is that it appears to me that the building of the property at that time, by the developer, is against another case in issue, against the developer. We have too many issues against the developer to remember it here at this moment. But I have no objections and I seriously hope that the Planning and Zoning Commission decides favorably on this sends it to the Town Council. Thank you.

Don Mazzeo: Thank you.

John Potockii, 517 Chestnut Street: I bought my property seven years ago and at my settlement was given paperwork that it was residential, with a Conditional Use to have my business there. One question I have and I don't know if it can be answered here tonight, for those of us who are in the situation, is there a different level of taxing between Light Industrial and residential? And, if so, like what have I been paying for the last seven years? What rate?

Seth Thompson: I don't know that off hand. I could probably find out.

John Potockii: Who would know it?

Robin Davis: I do not think so, John, but I'm not an assessor so I cannot say that 100% sure, but your property is assessed with a home on there, so I would say the assessor really doesn't know that the zoning is Light Industrial.

John Potockii: I'm just curious. I don't want to pay more than I have to.

Robin Davis: Understand.

Don Mazzeo: And what if you had been underpaying for the last seven years?

John Potockii: Well that was my discrepancy when I tried to refinance. I have paperwork that says I'm residential and my lawyer said to me, well then why did your Town make you get a Conditional Use, when they're saying you're Light Industrial, she said. They can't have it both ways.

Don Mazzeo: That's true.

John Potockii: Who knows? Maybe we can just arm wrestle and figure it out. I guess my other question is, I keep hearing some people using the term commercial and then there's Light Industrial and then there's residential; are there any commercial properties involved in these 30 something, because I don't... There are.

Robin Davis: Yes, there are, there's five or six, I think.

Don Mazzeo: 1, 2, 3, 4.

Robin Davis: The majority, I think, 30 of the properties are in Cannery Village and they're Light Industrial. The rest of them are commercial.

John Potockii: But those commercial are not in Cannery Village?

Robin Davis: No.

John Potockii: Okay.

Don Mazzeo: That's the Light Industrial with the overlay.

John Potockii: Right, except for the duplexes that are behind me, that were mistakenly something or another? Is that correct? Those were zoned residential and may go back to Light Industrial, is there something about that?

Robin Davis: No. I think they were coded in our software system as residential and they

should have been Light Industrial. That whole area is on the proposal to be residential.

John Potockii: I mean maybe I'm digging... trying to open up a whole can of worms here, but I don't understand how this whole thing happened in the first place. How could 35 residential properties end up zoned as Light Industrial?

Robin Davis: That whole area was part of the Draper Canning Complex, the four homes that one that you live in and that whole area, when they went through the development phase of Cannery Village, that area stayed as Light Industrial. So that's why and supposedly what I'm hearing; I wasn't around when all that came about; is the intention was when they sub-divided those lots, the four-plex units, the ones on Chestnut Street, they were also supposed to be... The developer was going to come back and change them to residential. That never happened.

John Potockii: You mean the four where I am?

Robin Davis: Correct. That's what I'm hearing. I don't know that as a 100% truth.

John Potockii: Okay.

Don Mazzeo: In effect, what's going to wind up happening is that anyone who is going to be changed, is going to change to residential, where you in fact are and should have been in the Cannery Village area. There are several other properties that are out in the Mainsail off Mulberry and a few others interspersed in Town. That's something that I think we're going to have address here in...

John Potockii: Well I'll just finish up by saying that I don't really think it's the town's responsibility to let the homeowners know, but what's going on in the financial world of refinancing right now, is if you are not a residential property and you are in a residence, they won't give you a loan. So all these people who are not responding and then six months from now, a year from now want to refi, they may find out that they can't. So maybe there's a way that you could pass that word onto them, too, or maybe it's not your responsibility. I don't know, but it sounds kind of messy to me. Okay.

Don Mazzeo: Thank you, John. Anyone else who would like to comment on this application? Seeing none, I will close the Public Hearing portion of this meeting, for that application. And I'll revert back to our committee members here. Do we have any other questions, comments, deliberation?

Seth Thompson: I'll just go over... Again, it's always helpful, I think, if the committee and the record reflect basically Title 22, Section 303 discusses the purposes for zoning regulations, including amendments and so the regulation shall be made in accordance with the Comprehensive Plan, which is, of course, why you've gone through the Plus Process and designed to lessen congestion in the streets, to secure safety from fire, panic and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements. The Regulations are to be made with reasonable consideration for, among other things, the character of the district; particular suitability for particular uses and with a view to conserving the value of buildings and encouraging the most appropriate use of land. So, hopefully that acts as somewhat of a guide, because it could be problematic if you have Light Industrial uses in the middle of homes.

Don Mazzeo: Well from my perspective, I think I would even make the motion, but I can't. But I would like my input to say that it would appear to me that this would make the most sense to bring the Comprehensive Plan back to correct, because it's incorrect as

it's now portrayed... Is that a valid statement? Our Comprehensive Plan is invalid? I shouldn't say invalid; it's not correctly drawn up.

Seth Thompson: Well this has been... The Plus Process was designed as an amendment to the Comprehensive Plan. Is that how Brian Hall explained it to you Robin?

Robin Davis: Brian Hall basically said this is a mapping correction; is how it was brought to the Plus Process. The maps are correct, as they are right now...

Don Mazzeo: Because they are listed as Light Industrial, or other than residential.

Robin Davis: Correct. Like they're supposed to be. This will align the land use map, which shows the land use for these properties as residential, with the zoning, to make them residential.

Seth Thompson: So really the way to look at it, I suppose, the Council and the Planning and Zoning Commission are really amending the town zoning map and the mapping correction done through the Plus Process is making sure that the town zoning map complies with the Comprehensive Plan.

Don Mazzeo: Okay.

Bob Heinrich: May I make a motion, Mr. Chairman, or are we not to that point yet?

Seth Thompson: If I could chime in just really briefly, so that I'm clear and not to pre-judge anything, but we've discussed the fact that we're going to put language in the notice to the properties in bold language, in large font, the fact that any non-responsiveness is likely to result in their property being rezoned. I suppose we can't say it will be, because that's going to be up to Council. But to make things easier on Robin, because I think he's got to get this done quickly given the timeframe, we have 35 properties. Three have already opted out. Six have already opted in. So would it just be the notice via certified mailing; well certified mailing is going to go to everybody.

Lynn Ekelund: It's got to go to everybody, it's a Public Hearing.

Don Mazzeo: Everybody.

Seth Thompson: The additional letter, is that going to go to the 29 properties; I'm sorry, we heard from nine total; 26 properties, or to everybody?

Don Mazzeo: Well it's a notification for a Public Hearing to Council. They would all have to get the letter, even though they've already responded in a positive or negative, that has to go out to them.

Seth Thompson: Right. Okay, I guess I'm wondering if it will be confusing to people who have already opted in or out.

Tim Nicholson: You could change the language. You could say something to the effect of you may have already responded to this.

Lynn Ekelund: Yes.

Seth Thompson: Okay.

Don Mazzeo: You were going to say something, Lynn, or you were thinking about saying something.

Lynn Ekelund: Well, before he mentioned that, it's only because I went back and I reread the sentence that you pointed out in the October 11<sup>th</sup> letter; which said non-responsiveness by property owners may result in exclusion from this rezoning process, so the first letter is saying, basically, you have to opt in to rezone and the second letter is saying if you have to opt out, not to be rezoned. So a month apart, these people have received conflicting instructions as to how to respond to a letter. So I think very clear has to be said, rather than lack of objection to... In other words, let us know if you want to be part of this process, yes or no.

Seth Thompson: So unless you opt out, unless you notify the town in writing, you will be included in the parcels subject to the rezoning.

Don Mazzeo: Right.

Bob Heinrich: Yes.

Lynn Ekelund: Yes. Yes. It's got to be right there and cover it, because here you're telling them to do one thing in October and another thing in November.

Robin Davis: And that letter will be only to the 35 affected properties. Because we will be sending out probably 80 certified letters, because we have to send them out to the 200' properties around these.

Don Mazzeo: The letter only needs to go to the individual property owners that are going to be impacted.

Robin Davis: They will actually, basically, get two letters. They will get the notice of a Public Hearing, because they're affected by their neighbor's property and then they will get this letter basically saying that they have to respond in writing.

Don Mazzeo: Right.

Lynn Ekelund: Do we also publish this?

Robin Davis: It's in the newspaper, yes. Yes.

Lynn Ekelund: And when you publish the notice of Public Hearing, that just is a notice of hearing. Is there anything in the paper that would let these folks know that stand up for your rights or they're gone.

Robin Davis: No, it's just a notice... Basically, the notice is for the 200' that says... Because this is a unique situation, normally we have an owner usually coming before the board.

Lynn Ekelund: No, no, no, I understand.

Robin Davis: This way the town's running the process.

Lynn Ekelund: The town's coming \_\_\_\_\_, with very conflicting things to say.

Bob Kerr: There is the problem, if I may, if somebody does opt out, they may still be included, because as I said with the four-plexes, if one of them opts out, they're still in if the others...

Bob Heinrich: If one of them opts out, they have a bigger problem than being lazy, let me tell you.

Bob Kerr: Yes.

Don Mazzeo: Ultimately, though, if Council were to say yes we will let the middle unit opt out, I can't see that happening, but would then that property owner in the future have an opportunity to opt back in, at their expense now to change the zoning?

Bob Kerr: Robin, they wouldn't have to go back through the Plus, right, because everything's been taken care of, so it would just be coming before this board.

Robin Davis: Correct. Plus the 35 properties have gone through the Plus Process and the State Planning Office will take those 35 properties, once we notify State Planning and say we are rezoning 30 of these properties.

Don Mazzeo: Okay.

Robin Davis: Those 5 will still be left out in limbo through the State, but they will not have to go back if one of those owners comes back and says I want to rezone; they would not have to go through the Plus Process; they would just have to come through us.

Bob Kerr: That was the problem with the first one on Mainsail Drive, was it was when we were going through some other Comprehensive Plan changes, and it took 2-1/2 to 3

years from the time he first requested it, until we got through the process.

Don Mazzeo: Okay. Alright, any other discussion points? Mr. Heinrich you were about to make a motion.

Bob Heinrich: Subject to the conversation just given forth by Seth and Bob, with the letters that will be going out in the future, being clearer to the residents involved, I make a motion to move this onto to the next level, so Council may take it upon themselves to decide what to do.

Tim Nicholson: Second.

Don Mazzeo: All in favor say aye. Opposed. Motion has passed, a recommendation to forward to Council with the blessings of Planning and Zoning.

Lynn Ekelund: With very definite language in that letter.

Don Mazzeo: I think Seth has that pretty much under control.

Lynn Ekelund: I just want to make sure.

b. **Revision to Heritage Creek Master Plan**

An application from Fernmoor Homes at Heritage Creek requesting review/approval for the revision of the Heritage Creek Master Plan. The property is located on Harbeson Road further identified by Sussex County Tax Map and Parcel # 2-35-20.00-56.00

Don Mazzeo: We have another Public Hearing on the agenda this evening, we'll call it Public Hearing Two. Do we have representation here from Heritage Creek?

Mike Kobin, George, Miles and Buhr: We're the engineer on the project and I have with me Ben Gordy, who's with Ocean Atlantic Management. He's here on behalf of Fernmoor Homes. Hopefully, you have a package in front of you. I'll try to walk through the comparison of the two plans. Stop me at any time you like to ask questions. I'll try not to muddle too much for you. The two plans are here and you should have them in front of you; the one down below is the original plan and on the easel is the proposed revision. Basically, Fernmoor Homes is trying to... We've made some changes to the layout in the sub-division, not drastic changes; we'll go through them as I go along and mostly just a change in where products are located in the development. The overall mix, as you'll see here shortly, has changed very little and there's no change in the density, at all here; we're still going with the original 425 units. If you look at the site data, the retail area is the same as it was. There is a slight reduction in open space area and I'll explain that when we get a little farther in. The area of streets has gone down just a little less than 4 acres.

Bob Heinrich: Can I just interrupt and ask a quick question?

Mike Kobin: Yes, Sir.

Bob Heinrich: Are these two drawings on the same scale? They don't appear to be, that's why I'm confused.

Don Mazzeo: No, they're not.

Bob Heinrich: One of them... They just don't look... This one looks to be much more jammed packed, the one on the top looks to be more dense then the one on the bottom, when in fact it looks like, if they're not in scale... They don't even look like they're scaled, with the same scale there.

Don Mazzeo: The cover one is indicated on the map as 1"=100 ft. The revision is 1"=150 ft.

Mike Kobin: Yes, the other is 150.

Bob Heinrich: Yeah, I didn't even see that.

Don Mazzeo: So it's a 50% reduction dimensional.

Bob Heinrich: Yeah, yeah, but... Oh I see, here it is, okay, I'm sorry. Sorry to interrupt.

Don Mazzeo: It's on the side, Bob.

Mike Kobin: That's alright. So just below that, b is the unit mix. There were originally 205 single family homes, we've got 210 in the plan now; 52 duplex homes in the original, that's 46 now; 159 townhouses, which included 93 four-plex units before, now we're at 160, including 45 of the triplex units and apartment units...

Tim Nicholson: I have a question, Mike. Is there a four-plex under construction in there now?

Mike Kobin: There is, yes the first one is on lots 42 through 44, triplex, yes.

Tim Nicholson: Okay, it's not a four-plex, okay.

Mike Kobin: No, it's a triplex. It actually looks like this guy.

Tim Nicholson: Yes, it's a nice looking home. Okay.

Don Mazzeo: Can I stop you again for just a quick, brief note here?

Mike Kobin: Yes, Sir.

Don Mazzeo: The color map is the one that's currently in place; this is your current plan, correct?

Mike Kobin: Yes.

Don Mazzeo: Okay. For what it's worth, you can get a microscope and you can look at the apartments down here, there's actually 11 enumerated on that map.

Mike Kobin: Okay.

Don Mazzeo: If that's so, then you don't have 9 = 9; you have 11 = 9. I just want to put that into the record, because this is your map that's on file, I gather, or your Master Plan that's on file. It was overlooked at some point when this was put into place, but there are in fact 11...

Mike Kobin: There's 11 down there. It says 9 in the tabulation and 9 was actually the intent there.

Don Mazzeo: Intent? Okay. Nine is where you were by your intent.

Mike Kobin: Nine is what we would have had to have to come out to 425.

Don Mazzeo: That was my point.

Bob Kerr: If I may, when this was... when we went through this last time, when this was approved, one of my comments was that there's 11 vs. 9 and I believe it was corrected before the final approval, but unfortunately I couldn't find that piece of paper in my file, so... Robin was off at the time that I was doing things, so I didn't have a chance to check if it was actually updated, but I believe that was caught before in the process.

Don Mazzeo: This is the only document I have in my possession.

Bob Kerr: I understand, because when I pulled it up, I had the same concern.

Don Mazzeo: You need a microscope to see it. Okay, I'm sorry. Go ahead, Mike.

Mike Kobin: No problem at all. As far as lot coverage setbacks, etc., we hadn't proposed any revisions to that at all. Those are shown for reference in the packet. There's one thing that did come out in Mr. Kerr's comments about the front loaded homes and he was suggesting a 25' setback for those. When we've actually looked at the buildings on these lots and we had planned for them all to be setback 20', which is an adequate distance to park a car between... The concern is that you need to have enough room to park a car between the sidewalk and the house. So we would ask that... We have no objection to making larger setback for the front loads, but we would just ask that that be 20', rather than 25'. I can show you why. The townhouse lots are by and large deep

enough that there's no issue, but some of these Kingfisher lots along here, when we put the buildings on them, those buildings are large enough that we're getting very close to the rear setback, so 20' works, 25' would be a little iffy for some of the options that they may want to put on those houses. I think, hopefully, Bob will agree that I think 20' will get you where you want to be with that.

Bob Kerr: I think he would prefer 25', but it's something that I think needs a little further discussion. My concern is that somebody stops relatively short, or away from the garage and their bumper ends up hanging over the sidewalk. That's kind of the concern. A car is less than 20', but it's the same argument that we all know that everybody doesn't park in their garage and everybody doesn't park up against their garage and those types of things, that you end up having a street with a lot of cars hanging over; would be the concern and maybe at someplace in between.

Mike Kobin: Alright. If we go to the bottom of page two in the street layout, it will give you some idea of what's changed there. The original layout was pretty much all rear loaded, even the townhouse units were rear loaded; a lot of alleys. This plan if you look at a typical block, the alley's have been removed, the townhouses are now front load, the space that that alley had occupied has now been put into the lots, so even though technically there's about 1% less open space in this plan, it's a much greener plan than the original was.

Don Mazzeo: You've indicated that the excess space that once was an alley is now taken up as green space?

Mike Kobin: It's been added into the lots, yes.

Don Mazzeo: But you're not increasing the size of those end units that would have been part and parcel of the alleyway?

Mike Kobin: The end units?

Don Mazzeo: Well the... Okay. Are you increasing the size of your dimensions on the buildings, as well, or are you just leaving more open space in between where the alleyway would have been?

Mike Kobin: It amounts to more open space.

Don Mazzeo: Okay, so you're not increasing the size of the dimensions of the structure?

Mike Kobin: I'm not sure we ever gave anybody a townhouse on the original so I'm not sure I can say that it's exactly the same; but it wasn't done in order to be able to enlarge those.

Bob Kerr: There are requirements over the maximum coverage.

Don Mazzeo: Yes, 70%.

Mike Kobin: Coverage, yes.

Bob Heinrich: Now, I'm confused. The areas that were alleys, my understanding is they're actually part of the lots now?

Mike Kobin: That's right. Yes, Sir.

Bob Heinrich: Alright, so it's not public space.

Bob Kerr: It's not your open space.

Bob Heinrich: Right. Okay.

Mike Kobin: They've been added; those lots are all now deeper. So in street layout, the other thing that we've done is this street used to be a boulevard. We're taking the boulevard out and now it's just a normal street section, a cul-de-sac on the end of it, and this area now used to be rear loaded with the street around the outside of the loop, now it's just a single street with front loaded single family homes on both sides of it. The

pond area was originally intended to be a hard scape. That area has been increased and now it will be a more natural.

Bob Heinrich: Is that a wet or a dry pond?

Mike Kobin: It's a wet pond.

Bob Heinrich: Wet pond.

Mike Kobin: Yes, Sir. We can talk about open space for a minute. If you look at the original plan, there were a lot of very small slivers of land that were deemed as open space. Fernmoor Homes looked at that and we looked at it again and decided that those weren't really very useful areas for open space. As a practical matter they're not very usable, so those areas have actually been added into the lots themselves; those little slivers have gone away, so if you look at a comparison on page four, it gives you an idea what that looks like now. Those couple of little slivers went away and the corner lots got bigger.

Bob Heinrich: Just the corner lots, or was it spread amongst the...

Mike Kobin: In the one case it was spread a little bit throughout; the other one is the one on the right hand side is pretty much added to that lot. So all those little odds and ends have gone away, but to compensate for that, where we've pulled the boulevard in along the back side and where we changed the roadway here, it gave us an opportunity to pull the development a little further from the branch, so we've picked up about an acre and a half of the natural area along the branch, which is illustrated by the shaded area on the outside here. Actually a lot more useful we thought for open space to preserve those woodlands there along the...

Bob Heinrich: Nice for the people that own the lots there.

Mike Kobin: Yes, Sir.

Lynn Ekelund: Excuse me, so all of the lavender going all around is a result of pulling the lots forward?

Mike Kobin: Yes Ma'am, those...

Bob Heinrich: And eliminating the boulevard.

Mike Kobin: This line back here was the back edge of those lots in the original plan.

Lynn Ekelund: Okay and going down?

Mike Kobin: Yes, all this.

Lynn Ekelund: Okay, thank you.

Mike Kobin: So the other thing related to open space is part of this was done during 2B; you may or may not remember; there used to be a path between the homes all the way through the center of the development. When we came in for 2B, part of that went away and we're not proposing for the rest of that to go away and that area, again, was absorbed into the townhouse lots, so those end units have more space now, then they had before. We thought that was sort of an attractive nuisance having that walkway right up against people's homes like that. Parking – there's less parking in this layout than there was in the original, because of the number of homes that are front loaded, so we needed to make room for the driveways on the streets now, instead of in the alley, but there's still ample opportunity for parking. We've got a requirement for 850, we've got 1,201 on site. Those spaces are actually shown on the... They're all planned out and they're shown on the rendered plan. Most of the units have garage parking and on lot parking. The townhouses are really the only ones that don't park themselves on the lot, but we've made sure there's enough parking in the vicinity to take care of them.

Bob Heinrich: I took a drive through your property yesterday and I guess what we're

talking about here is the area behind the existing developed area, is that correct? None of this has been built yet or has some of this been built?

Mike Kobin: Yes, the dash line here, is this portion in the center is...

Bob Heinrich: Uh-huh. Uh-huh. That's where I drove through, the main boulevard going in. Okay.

Mike Kobin: This is already constructed. This piece is about to be constructed.

Bob Heinrich: Okay, but none of that stuff all the way on the perimeter has been built yet?

Mike Kobin: No, Sir. No. Page five will show you the typical lot layouts. You can see that the townhouse units are front loaded now; they'll be set back far enough to get a car in front.

Bob Heinrich: Is that the 25' or the 20' situation?

Mike Kobin: That's to be determined.

Tim Nicholson: These townhouses are obviously attached, I mean 1, 2, 3, 4, 5, whatever?

Mike Kobin: Yes.

Tim Nicholson: Right. Okay. Sometimes there's a misunderstanding of what a duplex is vs. a townhouse, so that's why I asked the question.

Mike Kobin: There are duplex units in here also.

Tim Nicholson: Right, I saw that also.

Mike Kobin: I guess the technical definition is anything three units or more is a townhouse, so the things that we call triplexes, are actually townhouses.

Tim Nicholson: Right.

Mike Kobin: We can open it up for questions. We've looked at Mr. Kerr's comments and I'm prepared to respond to those; I'm not sure whether you want to let him go through that first.

Don Mazzeo: I would very much like Mr. Kerr to go through his list. It is a long list and there are 22 points that Mr. Kerr has brought up; some of which I have questions about too.

Bob Kerr: Should I do just the odd or just the even?

Don Mazzeo: You can do the odds first and the evens second. Start with number one and work your way through please.

Bob Kerr: Okay. Number one is just kind of repeating what Mike has already said, that the alleys have been eliminated, or some of the alleys have been eliminated and realigning in some of the roadways. Garages are now, for the most part, going to be in the front of the homes, and therefore, you enter the garage from the main road, not from an alley. Number two, the number of residential units is established at 425 and I tried to go through and look at the various types from the original plan that we're looking at tonight, at the bottom and then at the proposed the top of the thing; and so single family essentially remains unchanged. The breakdown between single family detached and single family semi-detached has varied a little bit throughout the years, but not a whole lot. Multi-family, again the number hasn't changed that much, but the makeup that the developer has chosen of townhouses vs. triplex vs. four-plex, has changed throughout the years. I think, typically, we try to look just at townhouses and single family and not worry that much about whether it's a triplex, four-plex or whatever. I did have a little trouble and the numbers that I used were revised, based on number three, because I believe in going through a couple of the triplexes were counted as four-plexes, or

something, so that the numbers change a little bit. Lots 42, 43, 44 and 91, 92, 93, I think were counted as four-plexes, or were counted as townhouses and not triplexes, so the numbers vary a little bit.

Mike Kobin: Yes and that's actually been changed on what we gave you tonight, so that's been corrected.

Lynn Ekelund: So three has been corrected.

Bob Kerr: On item number four on the far right side of the drawing has been recorded as Phase I and already has lot numbers that are existing as part of the Record Plan so they ought to match what was on the Record Plan, just so that it doesn't get confusing down the road, which lot numbers we're talking about.

Mike Kobin: That's actually already been corrected on what we handed you this evening.

Don Mazzeo: Okay.

Bob Heinrich: Four has been corrected then? Is that what I understand? Item number four?

Mike Kobin: Yes.

Bob Kerr: I haven't seen the revised one. I only have what I reviewed, so...

Don Mazzeo: That's fine. That's all you've been given, so that's all you can review.

Bob Kerr: Correct. I don't have anything new this evening.

Bob Heinrich: But once again, you've indicated it has been taken care of and we'll get back...

Mike Kobin: Yes, Sir. On what you have in front of you tonight, it has been corrected.

Bob Heinrich: Okay.

Don Mazzeo: Okay.

Bob Kerr: Number five, whether there should be a note added to the drawing that if there is an alley, that's where the garage has to be; so that we don't end up with a street that half the houses have front loading and half are rear loaded, because that, again, would also start messing with setbacks, so you don't want your neighbor to have a front driveway while you have to go to the back. It messes up, as I said, the setbacks.

Mike Kobin: I spoke with Ben about that earlier today and Fernmoor Homes wouldn't have any objections to adding that condition.

Bob Kerr: I would like to see the note, because we all know that someplace down the road there's always that possibility of multiple builders and multiple developers and those types of things.

Don Mazzeo: Okay.

Bob Kerr: We briefly touched on the setback. Again, keeping all of the homes the same distance off so that we don't end up with some at 5', because somebody decided they didn't want a garage or driveway in front and their neighbor does have a driveway and therefore, it has to be setback further. It ought to be a number that's on the streets that have front loading, that's the setback. Number seven is just a note on the cover sheet, one Carey Communities, is still sneaking through and it should be replaced to Heritage Creek.

Don Mazzeo: Also, note number nineteen still refers to it, as well, as Carey Communities.

Bob Kerr: I thought I caught that one. Oh well.

Bob Heinrich: Nineteen, I don't have that. Item nineteen Don?

Don Mazzeo: It has 19 over here, so...

Bob Kerr: Nope, it's there, Carey Communities.

Don Mazzeo: Microscope.

Mike Kobin: I think they reproduce or something.

Bob Kerr: You change it one place and it changes again someplace else.

Lynn Ekelund: No, no, he's talking about this sheet.

Bob Heinrich: Oh. I'm really confused.

Don Mazzeo: No the Master Plan. The submission. Okay.

Bob Kerr: The full set seven sheets. Note twenty on the cover sheet, required architectural standards and they discussed fences and other things, but in particular, fences with the townhouses and front loading, you'd end up with a little piece of 5'10" in the front yard or something, so some decisions need to be made on what you're going to be doing there and redevelop and resubmit the architectural standards for what's going to happen. That doesn't need to be done as part of this Master Plan Revision, but I think it should be noted that as you go through the preliminary site plan or preliminary subdivision plan and final plan that it would be part of that process.

Mike Kobin: And that's just for the new products, Bob?

Bob Kerr: Yes, for Phase 1, 2A and 2B I assume that what you have in place now, is what you're going to be using, but if it's easier just to make it all one document so that... Whatever works out easier for you. Again, it could be done by Phases, if you're going to Phase the Record Plans, but I would think you want a standard for the development, not for a Phase, but that's up to you.

Mike Kobin: Okay.

Bob Kerr: Number nine, as Mike mentioned, used to be a boulevard road, with an 80' right-of-way and it's now been reduced to 50', eliminating the curbing and median that was on that portion of the road. That allowed the lots to move a little bit into the development. I don't know if it shows up on the drawing you have, but near the stormwater management pond, lots 143, 144 and 145 on another drawing show to be very close, if not in the stormwater pond and it might be just the way it was depicted, but that pond is existing, so I don't know what impact that has.

Mike Kobin: Yes, that is on that landscaping plan, that is the survey outline of the pond that sits there today and that will have to be... there are portions of that that will have to be pulled back off the lots. You'll see that when Phase 3A comes to you.

Bob Kerr: Down along Route 5, lots 162, 163, 164, 165 are in an area that was presently more of an open space, so that there weren't really any houses that had a backyard on Route 5. There's also been some trees planted out in that area, I believe. Whether you want to discuss changing in that area, or what you want in that particular area. It does have the impact, probably especially 164 and 165, that are almost out touching the Route 5. I would prefer that the paving detail on sheet nine be removed as part of the Master Plan. The town code says what the thicknesses have to be and that will be shown on the sub-division drawings once we get traffic numbers for each street and that type of thing. They've been done once. There's been some discussion with the developer over changing some of the thicknesses. I think we had part of that worked out that there's a structural number that has to be met and how they get there. It really isn't as important, it's just whether it's extra stone and less hot mix, or more hot mix and less stone; there's multiple ways of doing it.

Mike Kobin: Okay.

Bob Kerr: Number thirteen, discuss parking. There are enough parking places, but in

several areas it may be necessary to walk down the street or around the block to get to the parking, in particular, as an example, on Hay Street, between Governor's and Garden Street, there are 24 townhouses that requires 48 parking spaces; there's basically 42 spaces, counting what the garage and the driveway and the street, so you'd have to, in theory, park a few around the corner. Now if everybody parks in their garage, it's not a problem. If nobody parks in their garage, it becomes a problem.

Mike Kobin: There are eight more directly adjacent to that block along Governor's Boulevard and then eight more across the boulevard.

Bob Kerr: It's just that some of us are lazy and don't want to park there and walk to the end of the block, but...

Don Mazzeo: And the only comment that I would add to that, should there be some type of guest parking, somewhere, they won't be. If you put the cars of the residents sitting out in the street, which we all know it will happen and you get two or three folks with two or three visitors, with cars each, I don't know how you're going to get around those streets, especially if they're going to be parking on both sides.

Bob Kerr: Very few of these streets allow parking on both sides.

Don Mazzeo: Right.

Bob Kerr: And as Mike said before, the reason for the reduction in parking on street, is because now we have driveways, so where you had a full street before that you could park the full length, now especially where you have a townhouse, you're taking out half the spaces on that street for driveways. The revised Master Plan has fewer acres of land dedicated to streets. It used to be 25... I'm sorry. It's now 25.73 vs. 29.6 acres in the previous plan. I got that there were more acres open now than before, but I don't know... Mike was saying...

Mike Kobin: Yes, I've discovered that those weren't exactly apples to apples. The open space that was noted on the old plan was less the wetlands area. So the figures that I gave tonight is with that area added back into it.

Bob Kerr: Okay.

Mike Kobin: So it's actually about a 1% reduction, about a third of an acre, I think.

Bob Kerr: West of lot number 281, there's a little box that I wasn't sure what that was, Mike.

Mike Kobin: That's actually going to be part of 3A, that will be a sewer easement.

Don Mazzeo: Where are we speaking? I couldn't find that lot. My microscope wasn't working.

Mike Kobin: Right near the pond there, there's a box that laps right around lot 128.

Don Mazzeo: 128, okay and that box is an easement?

Mike Kobin: That will be a sewer easement, yes. It really shouldn't have been on the rendering, but...

Don Mazzeo: Since it's there, we now know what it is.

Bob Kerr: Now we know what it is.

Mike Kobin: Yes, Sir.

Don Mazzeo: Okay. Thank you.

Bob Kerr: We've talked about removing the walkways through the center, sheets 3 thru 8 are really... probably should be considered for informational purposes, not really part of the Master Plan. I don't know what was recorded before, but I don't think we recorded all of those, or you recorded all those sheets.

Mike Kobin: I don't think so, no, those were checklist items, so we provided it, but I

don't believe any of that got recorded.

Bob Kerr: I think the Master Plan more or less makes up the first and second sheet and possibly the... I'm not even sure if we recorded the typical right-of-way sections before. It might have been all on one, the original time. Whether the Commission would like to hear a little bit about their schedule and phasing going forward, is number twenty. There are, on the cover sheet, there's a list of the original conditions that were placed on the LPD and they remain, unless you and Council revise anything, such as the setbacks. Number twenty-two, it's my recommendation that if you do anything at all, would be a preliminary approval tonight so that they update some of the little things we've discussed this evening and make a final submission and I guess that's all and I'll answer any other questions you may have, or try to.

Don Mazzeo: Again, a very lengthy list. There's a question that's also on your submitted Master Plan cover sheet. It's note number seventeen. It says a right-of-way provision is to be made for a possible future connection between Cannery Village and Heritage Creek site. Did you indicate on that plan where that might actually take place?

Mike Kobin: That's right here and that's still, same as it ever was. That didn't change, at all.

Don Mazzeo: Okay.

Mike Kobin: There is no mate for that on the other side.

Don Mazzeo: I understand, but I was just... I need it for clarity. I didn't spot that.

Mike Kobin: We did hang onto it.

Don Mazzeo: Good. Good. Well one of the big ones that hits me right now is the setback issue. Our engineer and I concur completely, 5' setback is not appropriate, where we now have less space for parking and cars are going to not be where they're supposed to be.

Mike Kobin: Absolutely and there's no intent to do that.

Don Mazzeo: Okay, but a 5' setback is not going to work in some places; 25' is the recommended. Is that a true statement there Mr. Kerr?

Bob Kerr: That was the number that I was proposing and allow you to negotiate what you would care to require.

Mike Kobin: The 5' would still have to stay for the ones that are actually rear load, so there would have to be another set for the front load.

Don Mazzeo: That's correct.

Bob Kerr: And I asked Seth about that; when you have multiple setbacks, but it is LPD where there's all kind of conditions. If it was just zoned R-1, then you only get one setback.

Seth Thompson: Right. Basically your Code section discusses the fact that you can use the LPD modification of development standards for setbacks, but there needs to be an approval of the alternative development standards using the LPD, based on landscaping, public safety, site access, all the factors that go into what you would review an LPD overall for.

Mike Kobin: I'm going to have to bring this up, because it's...

Don Mazzeo: Number six.

Mike Kobin: If you put the buildings on this guy, the townhouses these are all deep enough now that there's generally plenty of room behind them, except for these, are a little tight. The ones that I'm worried about for 25' would be these guys. All of the buildings that you see are setback 20' off the back of the sidewalk.

Don Mazzeo: They're 20' off the back of the sidewalk.

Mike Kobin: Yes.

Don Mazzeo: The standard length of a standard vehicle today would be, how much, 18', 22'?

Mike Kobin: No. Your parking space is...

Ben Gordy: 10X24'.

Mike Kobin: You're still 10X20' here.

Ben Gordy: 22' if it's on the street.

Mike Kobin: 9X18' in many places. My full size pick up is actually 20'.

Bob Heinrich: That's pretty tight, considering the size of a parking space. That's not much of a storage place for your car or SUV or truck or whatever you might have. A large pick up truck would...

Lynn Ekelund: 18 and 20'. That's two feet.

Mike Kobin: Uh-huh.

Don Mazzeo: You get a four-door pick up truck with a maxed out on it, it's going to hang into the sidewalk. I don't care if you're bumping against the door. My opinion.

Bob Heinrich: Yeah, I would agree with that.

Don Mazzeo: Are these the only ones that you're concerned with in this grouping here; both sides, I would assume?

Mike Kobin: Both sides, yes.

Don Mazzeo: Going up.

Mike Kobin: Some of these are a little deeper, but the ones that are only 100' deep will have some problems.

Bob Kerr: The townhouses down in this area are shown to have a 20' setback and the car scales 15', as what's shown there.

Don Mazzeo: 20'.

Bob Kerr: That is a setback of 20'.

Don Mazzeo: Okay.

Bob Heinrich: What is your expert opinion?

Bob Kerr: I didn't have one, other than I used 25' in my memo. The typical setback for R-1 is 30'; which is more than enough. I probably put 25' in so that there would be some discussion. I'm kind of assuming that the 20' would work for the developer and what the Commission wanted is between that and 25'.

Mike Kobin: At Cannery Village we have situations like this, where the setback was not probably enough. People are actually parking like this in their driveways, as opposed to square.

Bob Kerr: No parking is permitted in the alleys.

Robin Davis: In Cannery Village that's one of the requirements, that nobody's supposed to be parking in the alley, in the driveways.

Bob Heinrich: Did I hear that right? Nobody's supposed to be parking in the driveways?

Mike Kobin: No, the alleys.

Bob Heinrich: Oh. I didn't think I heard right.

Tim Nicholson: That would be an interesting concept though.

Don Mazzeo: They can't park anywhere.

Tim Nicholson: You have to park on your roof.

Don Mazzeo: You have a lift? I'm a little uncomfortable with just the 20', to be quite honest with you, because I do know many folks now have very large SUV's, regardless

of whether the gas is \$5 or \$2; you're going to have people with super-sized vehicles out there and they're not going to get them in the garage. I just know that's not going to happen.

Bob Heinrich: Not only that, but most... Not most, many people use their garages as workshops and not for putting their cars in.

Mike Kobin: Yes.

Bob Heinrich: That's a very common thing I've seen all over the place, so...

Don Mazzeo: There are no basements in these units? Is that correct?

Mike Kobin: Yes.

Bob Heinrich: Yes there is or yes there are not?

Mike Kobin: No, there are none. No basements.

Don Mazzeo: It is correct to state.

Mike Kobin: Yes, Sir.

Don Mazzeo: I have to do a Seth type.

Bob Kerr: I thought, in some of the earlier ones the single families, along what's now Lantern Lane, I believe, had basements.

Ben Gordy: Yes, we actually do have basements in most of the single family homes.

Don Mazzeo: The townhouses are unlikely to have a basement?

Ben Gordy: Correct.

Don Mazzeo: Okay, again to Bob's point they're going to be utilizing that garage for something perhaps other than a vehicle.

Lynn Ekelund: I agree.

Bob Heinrich: Yep.

Don Mazzeo: I don't feel uncomfortable at 25', but I have a feeling if we do that if we do that, particularly in the vicinity that you indicated; I don't know the name of the road, there, I'm sorry; that may present another issue to potential buyers. Would the applicant work with the Commission and say 22', give us another 2 feet; that might be enough to put in something a little bit larger than a small Prius? We're only talking a difference of about 2' in the vicinity of your concerns. The rest of them do not have any impact.

Bob Heinrich: I presume these are single car garages, too?

Don Mazzeo: They would... Well... In the vicinity he's looking at, they could be a two-car garage, not a single...

Ben Gordy: Most likely the single family would be a two-car garages. The townhouses would be one car.

Tim Nicholson: So even the attached single family would be a two-car garage?

Don Mazzeo: Duplex?

Tim Nicholson: No, I'm talking about what's called a...

Bob Kerr: The semi-detached duplexes.

Ben Gordy: The duplexes are all actually alley fed, so...

Tim Nicholson: They're what?

Ben Gordy: They're alley fed.

Tim Nicholson: Oh.

Don Mazzeo: So that doesn't pertain.

Ben Gordy: The only front loaded are these single family around the perimeter area and then the townhouses, the section of townhouses.

Bob Kerr: I didn't see where Mike was pointing that there is concern, is it Mariner's Circle around the pond.

Don Mazzeo: Around the pond, or as it is commonly called park and stormwater management pond. Well where are we right now? I've asked our applicant if he would be amenable to changing in the vicinity that we are concerned... he has the concern, to make that a 22' setback.

Ben Gordy: I think we can make that work.

Don Mazzeo: Okay. From an engineering standpoint, that 2' does give us a little more from...

Bob Kerr: I think that's a well thought out compromise.

Don Mazzeo: Okay, thank you.

Ben Gordy: It is?

Bob Kerr: Seth told me to say that.

Don Mazzeo: As we move along. Actually I have a concern, several, two concerns. One was addressed by the engineer and I don't remember which... It's number eleven, whereas the lots 162, 163, 164, 165 – for those of you who are not looking at the map, or the sheet that shows the pond along Route 5 – if you would be so kind as to show 162 through 164. Okay. I agree with our engineer completely. In fact, I'm at the position of stating I would not want to see lots that close, nor anywhere along what once was open space. That's one person's opinion. I believe there are already plantings in that vicinity, or very close to it. I don't like seeing what I believe is going to be a wonderful looking community, having people with their backyards facing Route 5. It's just not the way I would want to see a high level home being put out there.

Mike Kobin: And what we would propose to screen that a little bit to be either a privacy fence or some kind of landscape screening along the back of those lots, so you really would see either a tall tree, or a fence, instead of the person's backyard.

Bob Heinrich: A sound barrier would be better.

Don Mazzeo: Well you already have a berm over there, where you've got trees and other plantings along the way. Admittedly that's going to prevent a lot of the visual hindrances, but they're going to be two-story houses. You can look right over the top of that and you're going to see Route 5 and you need my scale? It happens to be handy.

Bob Heinrich: Can I jump in?

Don Mazzeo: Sure, jump in.

Bob Heinrich: Mike, I'm having a bit of a problem understanding... you've got your reasoning, I'm sure, but you've got a nice boulevard in there right now and what you've done is you've taken the planned boulevard out and I'm not sure why you've done that, except that you're adding more houses down here. Can you explain what the reasoning is behind that? Why you've taken the rest of that boulevard out, ended it in a cul-de-sac, because I think you had a perfectly good plan with the boulevard. You had wider streets and it made for a nice traffic flow.

Ben Gordy: Part of that was these lots kind of benefited a little more, because this is all the mature wetlands, so this is going to be here forever; so these kind of homes kind of back up to it, instead of looking across the street at some open space there.

Don Mazzeo: And that's to my contention that you're going to have those other four or five homes on the bottom, not looking at something very pretty; yet you're building something that you want those lots to look very pretty and I agree, that they should look very pretty, but you mention one other thing. You have a cul-de-sac there and for what it's worth, again, it's a personal opinion, I don't like cul-de-sac's going into a development. It's an opinion. That's all I can tell you.

Ben Gordy: And then one other thing on the original plan, one of the concerns was guests coming, so if you're on one of these interior lots here, you're basically going to have to park on the street and then walk through either this spot here, along this lane, to get to these homes here; so there's no really street access to those homes. It's kind of... especially for visitors, it's tough to get to.

Bob Heinrich: Okay, that I understand. I can make some sense out of that.

Mike Kobin: We really only took a second look at this plan. We really didn't see much utility in having a boulevard along the back of the development. It makes a lot more sense for the entry and even for Governor's Boulevard. It's central to the development.

Bob Heinrich: But it's just a nice traffic flow. I mean, it makes for a nice traffic... It's beautiful boulevard.

Mike Kobin: It's just so much bigger than it needs to be and it's more complicated. If you want to pull into your driveway, you have to find an opening and you have to... if you live over here, you have to come around and pull into your driveway. It's just... The thing about these, at least this one didn't have any direct access off of it, but this has all these homes trying to access from that divided boulevard. It doesn't function very well.

Bob Heinrich: And what happened to the extra space that was eliminated? I think you said 5 or 10' from each lane, or I'm not sure what it was? What happened to that extra space that was taken?

Mike Kobin: That was the area that we gained here, so these lots were all pulled forward.

Bob Heinrich: Pulled forward...

Mike Kobin: Right. So when this street got narrower, it allowed us to pull the lots forward. So the area behind that, that was...

Bob Heinrich: And what is the overall width of the streets, again? That... what you've altered from the boulevard to the street. What's the present width come down to?

Bob Kerr: It was 80', right-of-way width; and it's now 50'.

Bob Heinrich: 50'? So that's two-lane traffic, 25' each lane?

Bob Kerr: Well the paving will be approximately 30' on the new road and before it was... I don't remember exactly; something like 20' in each direction.

Bob Heinrich: Was parking permitted on the boulevard before?

Bob Kerr: I believe so.

Bob Heinrich: But it won't be permitted on the street now.

Mike Kobin: You've got it on one side of the street.

Bob Kerr: On one side.

Bob Heinrich: One side. It's just hard for me to envision the traffic flow and the parking situation and I think Bob, you even had mentioned someplace in one of your notes, that the parking seemed a little bit lacking? I'm not sure what...

Bob Kerr: It meets the requirements that were set in the LPD, but for some of the townhouse units, if you don't use your garage and you park one in the driveway, one on the street, last guy home may have to park around the corner, or something like that. There aren't sufficient... Everybody's not going to be able to park in front of their own front door.

Mike Kobin: It's in the vicinity, but you're not guaranteed that there's going to be one right in front of your house.

Bob Heinrich: And that's for the townhouses?

Mike Kobin: Townhouses, yes.

Bob Heinrich: And the townhouse could be anything from a duplex up to a four-plex or a five-plex?

Mike Kobin: Actually for those we're just talking about the actual townhouse units, the triplexes are all rear load units, so they wouldn't be involved in this.

Don Mazzeo: That's another pet peeve I have is the alleys, but I don't see it being eliminated, otherwise you're going to wind up with nothing here.

Bob Heinrich: The what, Don? I didn't hear you.

Don Mazzeo: Alleys.

Bob Heinrich: Oh, the alleys, yes.

Don Mazzeo: There's two things I generally don't like seeing on a plan is an alley and I don't like seeing cul-de-sac's. Golly, I have them both in front of me tonight.

Mike Kobin: Most of the alleys are gone, or many of the alleys are gone.

Don Mazzeo: I find that to be an improvement, significant improvement, to eliminate the alleys.

Bob Heinrich: Yeah, I agree.

Don Mazzeo: Are alleys dedicated to town, when and if this becomes a reality?

Bob Kerr: At Heritage Creek it was a recommendation that they would be dedicated alleys to the town. In Cannery Village it was recommended that they not be, and that's how it was accepted, because of the sharp 90° turns that so many of the alleys in Cannery Village have. The town staff had concern getting trash trucks up and down the alleys and being able to remove snow, so therefore because of the sharp turns, the trash trucks tear up the alley and the town did not want to have to be responsible for repaving it yearly.

Don Mazzeo: I mean, we're far fetching on this particular topic, but are we indicating here, basically the same thing; that we have right hand turned alleys in tight...

Bob Kerr: These are more or less straight through. Yes, there's a couple that have a slight bend, but it's something that a truck can negotiate, as opposed to a 15' paving that turns 90°.

Don Mazzeo: Okay, thank you.

Bob Kerr: If I may, because it's kind of on the same thing, talking about alleys. I apparently skipped over number seventeen, which is down next to the stormwater pond on the right hand side, lots 128 and 129. Is that an alley behind the lots, or what's that little box, Mike?

Mike Kobin: That's the sewerage that we talked about.

Bob Kerr: Oh, I'm sorry, because there was also a box next to 281, is that also a sewer easement? Up by the school, where it goes over to Cannery Village. Put your finger on the drawing and I'll get you there. There.

Mike Kobin: Here?

Bob Kerr: Yeah.

Mike Kobin: That's the required right-of-way to Cannery Village.

Bob Kerr: No, off of that, there's a little box.

Mike Kobin: I have no idea.

Don Mazzeo: Where are you looking?

Bob Heinrich: I don't see it either.

Mike Kobin: That's actually outside the...

Bob Heinrich: Oh, I see it over here.

Don Mazzeo: Oh, okay, it looks like it's an overlap of... you've got this little teeny guy

there?

Mike Kobin: I don't actually know what that is.

Ben Gordy: Well why don't you make something up.

Don Mazzeo: Miscellaneous Documentation, let's put it that way. Where are we right now, then... I guess I'm not going to get any commentary from the applicant regarding the cul-de-sac or the removal of, or the enhancement of it.

Mike Kobin: No, Sir, it's a very short cul-de-sac and I don't really... I'm not quite sure your version of that... I don't like to see a lot of them, but I think one in a sub-division is not excessive.

Don Mazzeo: But one is better than two, in this particular case. I don't have my scale in front of me; yeah I do, but I don't feel like taking it out. Can a firetruck negotiate in there?

Mike Kobin: Yes, it's designed to Fire Marshall regs.

Robin Davis: Does it match the cul-de-sac's that are in Phase 1? You have cul-de-sacs at the end of those branches in Phase 1.

Bob Kerr: It's a different type of cul-de-sac.

Don Mazzeo: That's almost a turn around.

Bob Kerr: That's a T. It's been awhile since I've looked at, but I believe the town also has a requirement for cul-de-sac dimensions. It might be slightly larger than the Fire Marshall.

Mike Kobin: Okay.

Don Mazzeo: Alright, well, you might want to make a notation to that effect that cul-de-sac dimensions to meet town code and Robin you might be able to look that up for us? Or someone while we're discussing it. My biggest objection to cul-de-sac's is purely for safety of fire equipment and the control of it, if and when or should there be a necessity for them to be there. I have been in another town, not in this state, whereby we had an issue and a fire truck could not make the turn to fight the fire and I don't want to ever see that, particularly here in Milton.

Mike Kobin: The Fire Marshall will review this and actually the length is even shorter than what they would require for a back out access.

Don Mazzeo: And that's the issue. Okay. Can we go back to those four or five lots that are now in what once was open space that parallels Route 5?

Lynn Ekelund: I share your concern, there more so than with the cul-de-sac.

Bob Heinrich: As do I. Yeah. I share the cul-de-sac concern, but I share that concern too.

Lynn Ekelund: But this one I really have an issue with.

Bob Heinrich: That's too close to 5. That gets an awful lot of traffic. We can hear 5 in the middle of Wagamon's West Shores.

Don Mazzeo: Yes. Sometimes.

Bob Heinrich: On the hot summer nights.

Mike Kobin: The lots that are shown along there in retrospect are probably a poor choice, but those are oversized, so they can be pulled back to the same size as these guys.

Bob Heinrich: But they're still going to be backing up to Route 5.

Mike Kobin: They still will back, but it will give us an opportunity to get some landscaping behind them and get a screen in place. It won't be to the extent of the berming that's on the rest of it now, but I think it could be made adequate.

Don Mazzeo: Tim, I haven't heard your input on that.

Tim Nicholson: I'm not crazy about lots that back up to... If you drive down 5 and you're heading down towards Millsboro, with Stonewater Creek is a development where the lots back up to 5 and you can actually see in the windows, but how critical is it to you folks that you have these lots? I'm not being... I'm serious about this.

Ben Gordy: Our main concern is if we remove these lots, we're losing four lots, so we're down to 421 and we would have to try to make up for those somewhere, so it would either be adding more townhouses and getting rid of some of the single family...

Tim Nicholson: Four homes.

Bob Heinrich: Well I'm... I'm sorry, go ahead.

Ben Gordy: No, go ahead.

Bob Heinrich: I was just going to say those are single family homes right, and your original Master Plan has 205 and you've upped it to 210, which is those five lots right there. Couldn't that be reconsidered? You've upped on your original single family Master Plan you've got 205 single family homes and now you've got 210, which could be considered those five lots right down there on Route 5.

Ben Gordy: Yes, that is true. I guess we'd have a tough spot finding a place to get rid of single family homes and one point with these homes, is these people, when they buy the home, they're going to know Route 5 is right there, so it's not something that we're...

Bob Heinrich: Yeah, but the people that moved into Cannery Village not knowing that there was going to be a brewery there, too and a lot of them now don't particularly care for that. Once again, you've added five houses to your Master Plan...

Don Mazzeo: No, no, no.

Bob Heinrich: Five single family. The bottom line is the same.

Don Mazzeo: Total units has remained fixed.

Bob Heinrich: Yeah, I guess what I'm saying is why couldn't maybe you consider instead of those five single families, make some adjustments in some of the other duplexes, or townhouses, and keep with the original 205 single families. It's just something I'm asking, that's all.

Ben Gordy: We played around with this plan for probably four or five months, so this is the final version. To go back it could take another four or five months to tweak it enough to where it's somewhere that everyone's comfortable with it.

Bob Heinrich: If that's what it takes, that's what it takes.

Don Mazzeo: Well recognize that the Planning and Zoning Commission is here to review a plan. You have been approved and continue to maintain 425. It's economical for you to have 425; but from a planning perspective, if we were to suggest removing those four and you wind up with 421, it would behoove you then to figure out how to get back to 425. It's not our purview to look at this plan and approve it, just because you want 425.

Tim Nicholson: You feel that you have already done that, correct? That you have really looked at this in every conceivable way?

Ben Gordy: As I said, we looked at it probably for four or five months. We realize these aren't the most desirable lots in the community, but like I said, before someone buys this lot, they're going to be well aware that it backs up to Route 5 and they'll know how much space behind there lot and how much open space is behind their lot and Route 5.

Tim Nicholson: Do you have any... I know you don't have it now, but would you be in a position to show us what kind of privacy, either landscaping or fence or combination or whatever, so we could see what it looks like? I mean, you don't want to put a white

fence with nothing around it that... Some of the sub-divisions have those. I mean they have...

Ben Gordy: Yes, we could put some type of an artist's rendering or sketch or artist's depiction of something that would kind of show what we're thinking there. We can definitely do that.

Bob Kerr: Those type of details would be probably more appropriate when you get into the preliminary sub-division approval.

Tim Nicholson: Okay.

Seth Thompson: They could note the landscaping requirement, but you just wouldn't see detail. The way your LPD works, you could put a condition in terms of landscaping, basically kind of a living fence or I don't know how you would want to construe it.

Don Mazzeo: That could be a condition of approval for this? Tonight?

Seth Thompson: That's the way your LPD...

Mike Kobin: I would suggest that at least we make these the standard size lots, instead of the deeper lots.

Lynn Ekelund: You had said that they were oversized lots and they could be pulled back. How much space would be buying if we make those standard size lots, rather than the oversized?

Bob Heinrich: And I'll add to that, are all of those lots oversized, or just the five new ones?

Mike Kobin: You could see where it jaws out right there.

Bob Heinrich: So they're all oversized.

Mike Kobin: I can't recall how much deeper we made those. Was it 10' deeper? Unfortunately, your scale let me down. It's an architect's scale.

Don Mazzeo: You can't find it on there, can you?

Seth Thompson: Just to... It looks like I found it. Part of your Master Plan submission is actually a list proposed landscaping is one item.

Don Mazzeo: And there is a landscaping sheet, amongst the group that we got.

Bob Kerr: It scales approximately 15' deeper.

Don Mazzeo: 15'. Alright, so...

Bob Kerr: If I may, what would the impact be, or your concerns, up near the cul-de-sac lots 235, 234 and 146; they're along Mill Pond Avenue, near the cul-de-sac?

Bob Heinrich: Could you point those properties out to us?

Bob Kerr: Yes, it's those three right there. If those were changed to a different product, townhouses, duplexes, something... Part of me likes keeping all of that single family, but it does change the mix a little bit and I don't know what it does to your marketing and that type of thing.

Ben Gordy: And that's one of the reasons why you see the new plan groups a lot of the townhouses together. We had lots 1 through 10 here... At first we had a difficult time selling those, because they backed up to townhouses and a lot of the single family home buyers weren't really comfortable sharing an alley with a townhouse. I don't exactly know why, but that was a lot of the feedback we got, so that's one of the reasons we changed the plan to group the townhouse together and keep them away from the a lot of the single family homes as much as possible.

Don Mazzeo: It does sound, however, that you are willing, at this stage, to reduce those oversized lots by at least the 15', that you believe they were extended?

Ben Gordy: Yes. Yes. We can verify exactly how much that was and we will reduce

them to the same size as lots 152 through 157.

Bob Heinrich: And in addition to that, then put it... You say that it's already bermed, is that already bermed?

Don Mazzeo: Yes, that's all bermed, all the way along on 5, but this is going to bring it closer.

Bob Heinrich: But that curvature where the houses are, is that bermed? No. No.

Don Mazzeo: No.

Lynn Ekelund: But in addition to shrinking it, if it is 15'...

Don Mazzeo: To add some type of a buffer.

Lynn Ekelund: To add some sort of a buffer, whether it's a privacy screen, or a landscape fence, you would be willing to do that and you would be willing, at some point and we can add it into our conditions this evening?

Ben Gordy: Yes. Yes.

Seth Thompson: That's right. It looks like there's a modification, I think, is how Bob phrased it in terms of preliminary approval looking for certain modifications for them to make on their final submission.

Mike Kobin: I think there's a pretty good opportunity to introduce a berm in this corner here, so then you're really only talking about the two lots that we would have to do something different with.

Bob Heinrich: That would be helpful too. Yes.

Tim Nicholson: Yes.

Lynn Ekelund: Because that really does stick out like a sore thumb.

Bob Heinrich: Literally, a thumb.

Don Mazzeo: What if we went to the three lots for some kind of buffering? 63, 64 and 65, 162, 63... The last three lots on that curve?

Mike Kobin: Okay.

Don Mazzeo: 162, 163 and...

Mike Kobin: 163, 164 and 165.

Bob Heinrich: Well they're going to be shortened by 15'.

Don Mazzeo: That's true.

Bob Heinrich: Yep.

Mike Kobin: I actually think you could even get a fairly decent berm even behind 163.

Don Mazzeo: Yes.

Bob Heinrich: Uh-huh.

Mike Kobin: 164 and 165 would be a...

Don Mazzeo: It's going to be a little narrower, but you're going to add 15' of open space that you can now fill with something to prevent them from seeing, hearing, which is never going to happen, but life goes on.

Tim Nicholson: But it's better then...

Don Mazzeo: There is another note that...

Lynn Ekelund: Can we just go back to number ten for just a second, on the stormwater pond extending into lots 143...

Don Mazzeo: That's where I was heading.

Lynn Ekelund: Oh, that's where you were going.

Don Mazzeo: Go, go for it.

Lynn Ekelund: Well go.

Don Mazzeo: Lots 143, 144 and 145 appear to be going into the pond. Well, Mr. Kerr

made reference to it and I need some kind of consent from you that you're going to make some kind of a change to prevent those lots from being so close to the pond.

Mike Kobin: Yes, the pond is going to be taken completely out of the lot. In fact, that's already been designed, so that no part of the ponds will encroach on any of those lots at all.

Don Mazzeo: Okay, so item number ten on Mr. Kerr's list, you're going to address by changing the lots and/or the pond, so there's not going to be...

Mike Kobin: The pond will actually be changed.

Don Mazzeo: The pond's going to be changed.

Mike Kobin: So it doesn't conflict with the lots.

Don Mazzeo: Okay.

Mike Kobin: He'll see that as part of the next design.

Don Mazzeo: Okay.

Lynn Ekelund: Okay, thank you.

Seth Thompson: On the cul-de-sac, it looks like your sub-division ordinance requires a paving radius of 40'. That was a question from before.

Don Mazzeo: 40'. I'll assume then that there's 40' there.

Mike Kobin: If there isn't, there will be.

Don Mazzeo: Okay.

Bob Heinrich: I missed it. The radius, was that?

Lynn Ekelund: Paving radius is 40'.

Mike Kobin: The Fire Marshall is 38', so it may have been drawn in at 38', but if it is 40', I'll make sure it will be before you see it.

Bob Kerr: I was pretty sure that the town was bigger, then the Fire Marshall.

Don Mazzeo: Thank you.

Mike Kobin: I will double-check that.

Don Mazzeo: I'm looking at your overall plan and I know it doesn't have to show on here, or maybe it does. I'll ask the question. Where's your construction entrance?

Tim Nicholson: They don't have one, I don't think. Do you?

Ben Gordy: We don't have a separate construction entrance. We discussed this awhile ago with DelDOT.

Don Mazzeo: That's why I'm asking.

Ben Gordy: We discussed this with DelDOT. Originally it was planned for over here. DelDOT said no, that's too close to the other entrance. We talked about it over here and what we've settled on now, is doing a construction route, so we would use the same entrance here and then it would go across here and then up this street. So that way we don't have to go to DelDOT and try to get their approval for a construction entrance anywhere. We use our existing entrance, route all construction this way; then most homeowners aren't going to see that. That traffic is not going to be driving on the streets every day, the completed streets, anyway.

Don Mazzeo: So you're going to come in the main entrance...

Ben Gordy: Take a left, an immediate left on the Mariner's Circle and then take a right...

Don Mazzeo: Pass by the alley way and then go into what hasn't been yet built?

Ben Gordy: Yes, across that street. And we actually did discuss that with the homeowners a few months ago and they were all on board with that.

Don Mazzeo: Okay and I would then assume that the section that the trucks are going to be driving through will be the last built out?

Ben Gordy: Yes. Yes, this will be the last section, so we'll figure out a way where we can get to... We would phase it so construction traffic wouldn't be driving on completed roads.

Don Mazzeo: And while we're on phases, there was a comment by Mr. Kerr that perhaps, number twenty; do you have a projected phase numbering in process?

Ben Gordy: We have a Phase 3, as far as we've gotten so far, so 2A is the section that's already completed, 2B is the one that was just approved. Phase 3 is where we go to next and it would probably be... We might break it up into sub-phases; we'd probably come in for approval at once, but it could be like a 3A, 3B, 3C, just so we can construct as little or as much as we wanted to, but it will probably include this Mariner's Circle up to here and then tie into this section.

Don Mazzeo: So therefore, to me at least, it looks like it's going to be a lot of single family homes, as a priority at this stage?

Ben Gordy: Yes, the next phase will be mostly single family and it will include a few more duplexes and triplexes, and after that, we're trying to figure out a way to get some townhouses in here. A lot of it is going to depend on once it's... Like I said, most of this has not been engineered yet, so it will depend on how the sewer, water, stormwater works.

Tim Nicholson: Do you have final pavement on... I don't recall. I've been in there a number of times. Do you have any of your area final paved yet?

Ben Gordy: No we do not.

Tim Nicholson: No. Okay. I didn't think so.

Don Mazzeo: They have like what you have.

Tim Nicholson: Well, they have better then what we have, I'll tell you.

Don Mazzeo: Off the record. Alright. I think I've hit all of my questions and concerns at this stage. Are there any other questions from the Commission of the applicant and/or engineering and/or legal?

Seth Thompson: I don't know if we asked for public comment.

Don Mazzeo: I haven't yet, that's why I wanted to get this portion out.

Lynn Ekelund: I have just one broad question and this might not be the time to bring it up, but is the community center affected? I don't notice anything in anybody's comments about the community center.

Ben Gordy: I believe the bulk of it is...

Lynn Ekelund: Has anything changed?

Ben Gordy: The only thing that's changed is we got rid of this little section of open space back here. We wouldn't build anything in it, but it would just be open space.

Don Mazzeo: And for what it's worth, I did the calculations and it's almost square footage, foot for foot, equal.

Mike Kobin: The lot itself is actually included in 2B.

Lynn Ekelund: 2B?

Mike Kobin: But we still need to come back before you with a site plan for that.

Lynn Ekelund: Okay, but nothing we're doing this evening touches on the community center whatsoever?

Mike Kobin: No effect at all.

Lynn Ekelund: No effect? Okay, thank you.

Don Mazzeo: While we're there, just very briefly, how much parking are you anticipating to put in that vicinity? I mean, just ballpark. I mean two spaces, thirty

spaces?

Bob Heinrich: For the community center?

Don Mazzeo: For the community center, recognizing that now you've eliminated your walkways and you're going to have some folks that are probably going to have to drive up there at some point. Let's go to lot number, where that little box that Mr. Kerr was questioning. Let's go to that lot and try to get over it. Are you going to have enough space to put all your cars that you would anticipate, or I would anticipate or perhaps the residents may anticipate?

Mike Kobin: I'm trying to recall. We did just a very preliminary layout when we did 2B that ended up being taken out of the plan and I think there were somewhere around 50 spaces in that.

Bob Heinrich: 50?

Don Mazzeo: Okay. I was hoping to hear a large number and that was large enough.

Seth Thompson: That's a good number.

Don Mazzeo: That may even be too much and I'm not going to say that. When you bring your plans to us, we'll review that.

Bob Kerr: It sounds a little high.

Mike Kobin: Do you think it was less than that?

Bob Kerr: I think that might be a little high. It might be in the... I was going to guess 30, but...

Don Mazzeo: Yes, that sounded real... That's why I threw a 30 out at there at one point. Okay, but at least it's 30, not 10. That was really what I'm getting at. Okay. Any other questions from the commission? At this point, I will open the meeting to public comment and again, if you wish to make a statement, please address it to the commission and come to the microphone with your name and address.

Bob Barackowitz, Lot 37: It's right on the boulevard, as soon as you get in the entrance. It's the fourth or fifth house in. We were the second house built and we've been there now over three years and it was a slow start and it's now progressing. I hope that it continues to progress. I am pro-Schell, so I want to see this thing keep on moving forward. It's in my best interest, also, to see it moving forward. One of the things you mentioned about the alley ways, I bought because of the alley ways. I bought because of the garage in the back. That's what I wanted. That's the traditional neighborhood that I like. It just gives me a... I like driving down a boulevard and seeing all the front porches and the window boxes and the landscaping that's in front of the house, without having it marred by a driveway going up to the front of the house. One of the concerns that I have was the traffic for the trucks coming in, construction, at the... What would we do if the trucks, or if the construction vehicles, come up the boulevard, instead of making that left turn to go to Prospect? That's one concern that I have. It's not a big concern. I've lived with this now for three years, so it's not a very large concern of mine, but it's something that people have been thinking about. The other thing was, there's been a discussion about lights. I don't know if anybody's discussed lights. We were told that some of the lights should be removed from our project, that we currently have. I don't know where this comes from? Robin, do you have any idea?

Robin Davis: I know there was some talk about the extra amount of lights that they said that were on Governor's Boulevard, I think that's what it is. I don't know if it's possible to remove lights.

Bob Barackowitz: Well, we don't want them removed, that's just it.

Robin Davis: I understand. Yes. This has nothing really to do with what they're doing now, but it would have to during the sub-division portion, the minimum light requirement for street lights would have to be met.

Bob Barackowitz: So it has nothing to do with the project currently being approved?

Robin Davis: No, the lighting has nothing to do with what they're looking at this evening.

Bob Barackowitz: So there's reason to discuss the lighting right now, then?

Don Mazzeo: Let me ask then, of our professionals then, in our packet we have a lighting plan, sheet number six. Should that not be reviewed by us? If it's part of the packet that's been brought to our attention?

Bob Kerr: Part of the requirements for LPD Master Plan, is that they show the lighting types and a preliminary plan. It's not... This is not cast in stone. When we get into, again, the individual sub-division review, is when we look at the lighting in more detail.

Bob Barackowitz: I just want everybody to be aware that in the original plan, they had less lights and they were told they needed more lights and now here we are, I don't know how many years later, six years later, seven years later, and we're being told, as residents, that some of these lights should be removed and we went into the project, because of the lighting. We like it being lit. We feel safer. We're told now that some of the lights in the alley should be removed. It's dark enough back in those alleys with the few lights that we do have back there now and that's our main entrance. Most of us come in through the alley way; we're driving in and we're coming in through the alley way, so I would not want to see less lights in the alley ways.

Bob Kerr: The town doesn't have a lot to say about the lights in the alley, because they are connected to your individual electric systems. They're not part of the town electrical system.

Bob Heinrich: They're not part of the Milton electric grid.

Bob Barackowitz: Are you saying that the...

Don Mazzeo: Please identify yourself.

Ben Gordy, with Ocean Atlantic: I can clarify this a little bit. There are actually streetlights in the alleys of Heritage Creek. Those will not be dedicated to the town though. Their maintenance is the responsibility of the Homeowner's Association.

Bob Kerr: Okay.

Bob Heinrich: Is any of the lighting in the development provided by Milton, or is it all by the Homeowner's Association?

Bob Kerr: Once this phase of construction for Phase 2A is accepted by the town, the lights within the dedicated streets will be... the maintenance will be by the town through Delmarva and one of the notes on the drawings is, that private street lighting within the community park areas shall be... with maintenance becoming the responsibility of the Homeowner's Association. It's Cannery Village, where it's mounted on garages or something like that. I'm sorry. It is individual lighting, but it's not a town maintenance item, within the alleys even though the alleys will be dedicated to the town, as far as maintenance of the streets, maintenance of the lights and paying for the monthly service, will be part of the Homeowner's Association.

Don Mazzeo: But the main lights going through the main boulevards...

Bob Kerr: On the main streets and boulevards, are town...

Don Mazzeo: They'll be dedicated street and street lighting to Milton?

Bob Kerr: Yes.

Bob Barackowitz: So the lights in the alley ways are our responsibility and we can have as many as we want, or as few as we want.

Don Mazzeo: Apparently, that's the condition based on Mr. Kerr having told us, unless there's a maximum luminaria that cannot be exceeded, which I don't think there is anything in our codes.

Bob Kerr: Yes. I don't believe so, unless...

Don Mazzeo: Minimums, yes. Maximums, not so much.

Seth Thompson: Would the sub-division plans that have already been approved for 2A...

Bob Kerr: 2A and 2B have the same note twelve that...

Seth Thompson: So there wasn't a minimum that was approved.

Bob Kerr: It probably shows on the drawings, the number of lights, where they were going to be located.

Seth Thompson: So I don't know if they could remove ones that were part of the recorded plan.

Bob Kerr: Probably not, but I'll leave that one to you.

Bob Barackowitz: So what you're saying, Seth, then is that the lights that are there now, probably cannot be removed because of the approval of them already?

Seth Thompson: That's my off the cuff response and again, I don't know if there are extra ones that they've put out there, but if they were on the record plan, I suspect that as part of that approval, those lights would need to remain.

Bob Barackowitz: Okay. That would be one of the community's concerns; it's not just my concern. There are a lot of people in the community that bought because of the lighting, not just because of the lighting, but it was an important consideration.

Don Mazzeo: It was an important part of your decision.

Bob Barackowitz: Right. Thank you.

Don Mazzeo: Thank you.

Fred Manasian, 120 Village Center Boulevard: Although I'm not a resident of Heritage Creek, there was an indication on the maps presented at this time, that seems to impact upon the Cannery Village and that was the placement of a road that would... I have a problem trying to understand where the access would be and who's road would it be? Is this a town road, which town doesn't own roads, it just maintains them; everything's owned, I presume in the County by DelDOT. Is that correct or incorrect?

Bob Kerr: No. Within town, the town owns and maintains the streets.

Fred Manasian: Okay, would that be a town road? I'm not too sure where it really goes into Cannery.

Bob Kerr: Well right now it goes up to the property line of Cannery Village on Summer Walk there's an island about half-way along the school property; there's a little island in the road?

Fred Manasian: Yeah, okay.

Bob Kerr: This right-of-way that's shown on this drawing, comes in right at that point, with the idea being that you could connect with Summer Walk and go into Cannery Village.

Unidentified Speaker: That's not school property, then?

Bob Kerr: No. It's part of Heritage Creek property. There was some land swapping that went on. Some of the land out along Route 5 was part of Heritage Creek. It was transferred to the school; in return, some of the school property was transferred to Heritage Creek; and there's a joint use agreement for the stormwater pond that's on the

school property, that will be expanded. I think it's now actually on Heritage Creek property, but it will be expanded to serve both Heritage Creek and the school, as part of their stormwater system.

Don Mazzeo: Excuse me, Ma'am. Step up to the microphone and identify yourself. Thank you.

Pat Manasian, 120 Village Center Boulevard: The property you're talking about is going to come into Cannery, now is that going to make our boulevard Cannery Village Boulevard, there, an access road out from Heritage Creek too?

Bob Kerr: It may someday. The requirement placed on Heritage Creek was to provide right-of-way up to the Cannery Village property, the common line between Cannery Village and Heritage Creek.

Pat Manasian: Alright, well you're going to have a problem.

Bob Kerr: The developers of Cannery Village objected to that it had not provided a right-of-way from within Cannery Village. At some date in the future, it's my hope that they can connect it, for no other reason but emergency access.

Pat Manasian: Well the only reason why I'm saying it is you've got Dogfish on that boulevard and that's a lot of traffic; sit over there just on during the week or a weekend, and see how much comes in, buses and everything else. You're talking a lot of traffic then.

Bob Kerr: If there was a major accident in that part, you're limited to getting emergency traffic into the rest of Cannery Village and so I would like to see any additional ways of getting into Cannery Village and if nothing else, Milton is a very pedestrian friendly town. There's an awful lot of walking. Right now you can't legally walk from Cannery Village to Heritage Creek. If nothing else, it would be nice to have a walking trail through there someday, a bike trail, but right now, legally, you can't...

Pat Manasian: Well they'll have to widen the roads, then, is what you're talking on that end.

Bob Kerr: No, the road would be the same width.

Pat Manasian: Because we have trouble now getting two vehicles where the Cannery Village when you go after Dogfish, going in there, putting two cars side by side, because they park on that road.

Bob Kerr: This is on the opposite side from the brewery. This is up against the school property.

Pat Manasian: Right, but the school property comes right around to Cannery Village Boulevard on one end where they're putting in new homes now.

Bob Kerr: Uh-huh.

Pat Manasian: So you're talking narrow road there.

Don Mazzeo: Recognize that this is a plan in front of us for Heritage Creek, that is going to be voted upon tonight.

Pat Manasian: Right.

Don Mazzeo: And on that plan, all they have done, which was by request of town, I gather...

Mike Kobin: Yes.

Don Mazzeo: That there would be a right-of-way provided. It may take years. It will not happen in the same time that they're going to be building right now.

Pat Manasian: Oh, I've got twenty years then.

Don Mazzeo: Wait a minute, let me see. If I use this one, it's 20 years. If I use this side,

it's 15 minutes. This is down the road, literally, down the road.

Pat Manasian: Okay.

Don Mazzeo: Concern yourself at the time when in fact, Cannery and it's ownership has the time to put on paper that they are going to have that right-of-way from their end. That's when we need to address that as a community. Got it? Anyone else from... There's no one else here this evening. Seeing no other public wishing to speak, I will now close the public portion of the meeting for this particular application and I will now ask our committee, if there is a motion that someone would like to make.

Bob Heinrich: I'll make the motion. I'm just going to need some help with the wording of it.

Don Mazzeo: Okay, we will all help on that Robert. You'll make a motion to what?

Bob Heinrich: I think we should approve... I make a motion to approve the applicant's...

Tim Nicholson: Preliminary. With conditions.

Bob Heinrich: Preliminary site plan, Master Plan...

Seth Thompson: With the obligations pursuant to Mr. Kerr's memo.

Bob Heinrich: Exactly. I was going to get there.

Lynn Ekelund: You said you wanted help.

Bob Heinrich: With the conditions noted in Mr. Kerr's memo and other comments, as noted by the commissioners here. I just think it's a wise thing for us to approve and let them get moving on the project.

Tim Nicholson: I second the motion.

Don Mazzeo: Okay, I just want to make sure that we have in there, if you would let me amend that slightly, that the cul-de-sac dimensions will meet town code of 40', that lots number 162, 163, 164 (or is it 163, 164, 165?)... I've got to look at it. Oh boy. 162, 163, 164 and 165 be reduced by what the applicant believes is to be the extension of 15' and that they will provide additional buffering, landscape behind those lots.

Bob Heinrich: Consisting of a berm, possibly, and a fence.

Don Mazzeo: Whatever the applicant would like to have and that the pond will change to non, and this is specific to number...

Lynn Ekelund: 143, 144 and 145...

Don Mazzeo: Yes, there we go. That they will not be encumbered by the pond and the pond is going to change, not the lots. Anything else that...

Lynn Ekelund: Yes.

Don Mazzeo: A 22' setback has been agreed to and will be shown on the plans appropriately.

Seth Thompson: And Bob's comment number seven, it would be note 10 and note 19? I think in terms of changing Carey Communities to Heritage Creek.

Lynn Ekelund: And Bob's comment number five, there should be a note on the plan regarding the location of garages in driveways, when an alley is available.

Don Mazzeo: Adding a note.

Lynn Ekelund: A note should be added. Bob wanted the pavement detail on sheet nine to be removed; that's item number twelve. Item number seventeen, west of lot 281 is a rectangular box adjacent to the right-of-way from Governor's Boulevard and that should be identified as a sewer easement.

Bob Kerr: Actually, that's the one that we didn't know what it was.

Don Mazzeo: No, that's not the one.

Lynn Ekelund: Oh, that should be removed.

Don Mazzeo: It's this one, around lot...

Lynn Ekelund: Oh, I'm sorry.

Don Mazzeo: But that could stay on there, it won't now have to be identified.

Lynn Ekelund: What number was it?

Don Mazzeo: It's around lot number 128 and 129.

Bob Heinrich: 128.

Lynn Ekelund: 128 and 129.

Don Mazzeo: Identify it as a sewer easement, or eliminate, one of the two. Identify it or eliminate it. That's a construction detail which we don't need to be concerned with here. And I guess anything else that was listed on Mr. Kerr's letter, must be met. Now we have a motion with some adjustments. Any others?

Lynn Ekelund: I think we got them.

Bob Heinrich: I think we got them.

Don Mazzeo: Okay, we have a motion, as amended.

Lynn Ekelund: Second the motion.

Don Mazzeo: All in favor say aye. Opposed. Motion is passed. Preliminary approval for Heritage Creek Master Plan.

7. Adjournment

Don Mazzeo: I need a motion for adjournment.

Lynn Ekelund: So moved

Bob Heinrich: Second.

Don Mazzeo: We have a motion and a second to adjourn. All in favor say aye. Opposed. Motion carried. (Meeting adjourned at 9:00 p.m.)