

**Planning & Zoning Commission
Milton Library – 121 Union St
December 17, 2013 – 6:30 pm**

**Transcriptionist: Helene Rodgvile
[Minutes are not Verbatim]**

1. Call to order

2. Roll call of members

Virginia Weeks	Present
Lynn Ekelund	Present
Linda Edelen	Present
Don Mazzeo	Present
Barry Goodinson	Absent
Mark Quigley	Absent
Tim Nicholson	Absent

3. Additions/Corrections to agenda

Don Mazzeo: Do we have any additions or corrections to the current agenda as it is published?
Hearing none, I'll ask a motion to accept the agenda.

4. Approval of agenda

Lynn Ekelund: Move to approve the agenda.
Virginia Weeks: Second.
Don Mazzeo: All in favor say aye. Opposed. Motion carried.

5. Approval of minutes – November 19, 2013

Don Mazzeo: I will tell you this, there's a lot of pages here. I hope everybody has read them all.
Virginia Weeks: I have not read them all.
Don Mazzeo: Okay. I will accept a motion to table these.
Lynn Ekelund: Move to table approval of the November 19, 2013 minutes.
Linda Edelen: Second.
Don Mazzeo: All in favor to table until next meeting say aye. Opposed. We will table the minute approval for November 19th's meeting until next month.
Virginia Weeks: Thank you.

6. Public Hearing
 - a. The applicant, Ocean Atlantic Management, LLC, is requesting a preliminary site plan review/approval for the construction of Phase 1 of the Community Center located at 301 Garden Street. The property is located in the Heritage Creek subdivision and further identified by Sussex County Tax Map and Parcel # 2-35-20.00-842.00. The application was submitted on behalf of Fernmoor Homes at Heritage Creek.
 - b. The applicant, Ocean Atlantic Management, LLC, is requesting a preliminary site plan review/approval for the construction of Phase 2 of the Community Center located at 301

Garden Street. The property is located in the Heritage Creek subdivision and further identified by Sussex County Tax Map and Parcel # 2-35-20.00-842.00. The application was submitted on behalf of Fernmoor Homes at Heritage Creek.

Don Mazzeo: Actually this evening there are two public hearings, they're in combination with one another. What I would like to do this evening is to actually ask our applicant to have a presentation both to us and the public; then I will open the discussion to the public for any additional questions or comments, that may be posed after his presentation. So at this time I will ask if there is representation from Ocean Atlantic Management. (See below under New Business. Upon completion, I will present the public hearing.)

Don Mazzeo: (Time is 7:35 p.m.) At this time I will open this application for public comment. If there's someone here that from the public who would like to comment, please come to the microphone and please identify your name and address for the record.

- Neil Sands, 111 Mill Pond Avenue in Heritage Creek: I'm the first resident. I've been living there since 2009 and he's the second resident. Just a couple of comments. I have to say, I also serve on a Resident's Advisory Committee. We work very closely, as do several other members here, resident's here; we have worked very closely with the Homeowner's Association board and I think they've been very open; much more so than any other developer I've had experience with, in terms of gaining our input. They don't have to ask us for anything yet, they did. We conducted a survey over a year ago. It was opened to all of the resident's. Everybody gave us input in terms of desired amenities. This was all input into the planning process. This is also something that we're all very excited about and I think I speak for all the resident's in this room, I think we're looking forward to it. Hopefully, we have a pool by next summer. I'm a little discouraged though about what we're hearing tonight, but hopefully things can move along quickly. The other thing there was some discussion about, the clubhouse and large parties and so forth. I think one of the things we already talked about in the Residents Advisory Committee is that we would have rules and guidelines that we would make available. If anyone wants to use this clubhouse, what I would envision is that I'm also on the Board of Trustees for the Rehoboth Sailing Association; we have a clubhouse; we have very strict rules about how that clubhouse is used, if someone uses it; they're responsible for actually contracting with cleaning services to come in and clean it up and just to put your mind at ease, worrying about big parties here and trash going all over the place; if people bring in trash, they are responsible for removing it. We're not saying that would be the rule, but that's the kind of things that we would have to put in place and we could also, I'm sure there are other communities that have clubhouses and we could adopt many of those rules also. This is our community. It's not the developer's ultimately. This is what we're going to live and pay for. The other comment I want to make, is in terms of this is an operating cost, so we want to be mindful of every light that goes in there, we're ultimately going to have to pay for it's operating expense, as an example; so we want to provide a balance between safety, appearance and other requirements, as well as economics. So this can't be that expensive. If it gets too prohibitive, it might be 400 homes before we can afford to have the whole thing in place, so that was just a comment. My final comment is one of the things... I mean, Heritage Creek is a very beautiful asset for this community and I think it's been very slow growing. We called our house the big house on the prairie, because

we were the only one in there and it has grown, but not as fast as other communities outside of the Town of Milton. One of our handicaps is the fact that we don't have a pool and clubhouse, so the sales have been slow, people come in and they look, they like it, but there's no clubhouse. So this is important, not only for the growth of the community, but this is also growth of _____ for the Town and will allow the Town to grow accordingly. So this is not just for ourselves, it's for the Town of Milton to see the Town of Milton grow, so those are my only comments. I don't know if anyone wants to add to that.

- Bob Burakiewicz, 108 Heritage Boulevard: As far as the fence is concerned, I have a 36" fence. It's 5' away from the right-of-way, so that there's visibility for me backing out of my driveway. Some people have a 4' fence and those are 8' off of the right-of-way, again, for visibility purposes. We've talked about a 6' fence; whatever the board feels and whatever the developer feels. I've been there 4-1/2 years. I've been waiting for a clubhouse, for a pool, for a long time. So have my grandkids. We have a joke around the community saying we'll be long gone before this is done. I'm glad that we're here tonight talking about it. Anything that delays this, brings it into another year and I would hate to see that happen. We've been 4-1/2 years waiting, so we're glad to have this happen and hope it moves forward.

Don Mazzeo: Any other comments? Hearing none. Seeing none. The public portion of the application is now closed. (Time is 7:41 p.m.)

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

- a. The applicant, Ocean Atlantic Management, LLC, is requesting a preliminary site plan review/approval for the construction of Phase 1 of the Community Center located at 301 Garden Street. The property is located in the Heritage Creek subdivision and further identified by Sussex County Tax Map and Parcel # 2-35-20.00-842.00. The application was submitted on behalf of Fernmoor Homes at Heritage Creek; **and**,
- b. The applicant, Ocean Atlantic Management, LLC, is requesting a preliminary site plan review/approval for the construction of Phase 2 of the Community Center located at 301 Garden Street. The property is located in the Heritage Creek subdivision and further identified by Sussex County Tax Map and Parcel # 2-35-20.00-842.00. The application was submitted on behalf of Fernmoor Homes at Heritage Creek.

Mike Coben, George, Miles and Buhr: We're here this evening for the Community Center at Heritage Creek and you'll notice that there are two items on the agenda. The owner has proposed to do this Community Center in two phases, with the pool and the portion of the building that's shown here in green, would be the first phase; that's this piece here and the pool and then the other community facilities located in blue here, a Pub Room, Office, Foyer, Craft Room, Storage and a gathering room, would be the second phase of the project. I've got Mr. Kerr's comments. We can go through those if that's okay.

Don Mazzeo: I would strongly suggest we do go through them, because I think there's a substantial number of them that were not, obviously addressed, prior to your arrival this evening, here, so let's go through them. Perhaps you've already addressed them.

Mike Coben: Sure.

Don Mazzeo: Go one by one, if you don't mind.

Mike Coben: Yes, Sir. The first item just states that this is an R-1 LPD. It's informational.

Second is tax map information. The Community Center is located in the Phase 2B portion of the sub-division, so this parcel that the Community Center resides on was created under Phase 2 and now we're proposing to do the improvements within it. We've talked about two phases, small building that will house the exercise room and restrooms; outdoor pool with patio; outdoor showers; pump house and storage area; parking lots as provided and that's also phased. The gray portion here would be constructed with Phase 1 and the remainder would be constructed in Phase 2. Twenty-seven spaces all together.

Lynn Ekelund: How many in [Phase] 1 and how many in [Phase] 2?

Mike Coben: I believe they're half and half.

Lynn Ekelund: 14 and 13?

Mike Coben: Yes, 13 first phase, two of those are the handicapped parking spots and then 14 in the second.

Lynn Ekelund: Thank you.

Preston Schell, Ocean Atlantic Management: It's important to note that this whole project has a lot of off-street parking spaces and also we want to encourage our resident's to walk; so some of our residents are sitting here and how far away they live from the pool; but we don't want to over park it and encourage them to all drive and we feel pretty comfortable that once it's fully built out, if we happen to have a big Homeowner's Association Meeting or whatever, there's plenty of on-street parking surrounding it, that to take a whole grass field and turn it into another parking field, just doesn't make sense.

Mike Coben: The other thing I would point out is if that turns out to be a necessity, that this area has been reserved for that purpose. We're hoping not to have to ever do that and we feel that the number of spaces provided is adequate and in our conversations with Mr. Kerr, I thought that he had concurred with that at the time.

Virginia Weeks: On the site plan does it state that that area is reserved for parking, if needed?

Mike Coben: It does not at the moment. No. We can certainly add that if you desire.

Virginia Weeks: Thank you.

Preston Schell: It did on an earlier version. We'll put it back on. Mike, it is important to point out that this plan is kind of preliminary in nature and typically, we had been giving extremely detailed original or initial plans to the Town, in the past, but this one was preliminary in nature and when we came back for final... so a lot of the comments were things that we were going to address or have in the final version; I just wanted to point that out, that it wasn't negligence on behalf of the engineer or us, it's just that a lot of these comments pertain to what needs to be on the final plan and they were always going to be on the final plan.

Mike Coben: I did want to make that point. Yes. We'll talk about that a little bit more when we get into the individual comments. Number 6 talks about the pool being located in front of the proposed building.

Preston Schell: So this was a big debate between my twin brother and I and I won, in the end. He thought we should have the building right here and put the pool in the back. As many of you know, this is our main entry boulevard. We spent a lot of effort and money on the landscaping, both along the edge of the boulevard and in the center of the boulevard, so our thought was that if you had a pool, with the clubhouse in the distance with the prettiest facade of the clubhouse on this side, anchoring the end of the entry boulevard, it just created a sense of presence and a sense of energy and activity; whereas if you buried it behind it, not only were you kind of shoving a pool in the face of some of the backyards of some of these homes back here, but you also were kind of taking the energy and the activity of the pool area and burying

it in the back, so it didn't have a street presence, if you will. So I was in favor of this and obviously, if we were putting a pool, which I think is what this comment really pertains to, in someone's individual house, you wouldn't want that person to put a pool in their front yard; but this is obviously very different than an individual home's pool.

Don Mazzeo: Will there be a fence that's going to run along there?

Preston Schell: Yes.

Don Mazzeo: And it will be a privacy type fence, I would gather.

Preston Schell: No.

Don Mazzeo: It's not.

Preston Schell: No, it will probably be a black wrought iron; we'll probably use aluminum; fence.

Don Mazzeo: So the bather's will be... and I use the term very loosely, will be "exposed" to the public...

Preston Schell: Just as you are on a public beach or a public pool or any kind of public pool area like this, yeah. Think about it, they're far more exposed to the other people walking around the pool area, then the person in their low-riding car driving bar at 15-20 mph. There will be landscaping, but we don't intend... we want these people to have a visual down our entry boulevard; that's the whole point; so we're not going to heavily landscape the front there. We're going to put low lying landscaping. I think, as Bob Kerr suggests, for safety reasons is the reason he suggested not for the reasons I wanted. But it's not going to block it.

Virginia Weeks: Excuse me. You didn't submit any drawings of the proposed fence. Correct?

Preston Schell: Correct. For Code and safety reasons, you're right, we do have to have a fence and it has to be at least 3'; 3' or 4'? But we can show you the exact specifications for that fence when we submit it for the final.

Virginia Weeks: Did you submit a landscaping plan?

Preston Schell: Outside of what you've seen here...

Virginia Weeks: It doesn't identify what's going to be in front of the fence.

Preston Schell: No and I think those are some of the comments we're going to get through as we progress through the comments; but we have not, but we will present it on the modified plan and give you specifics. Some of the landscaping, I think the other comment about the landscaping was how much would go in in Phase 1 and how much would go in in Phase 2? And we'll have that detailed on the plan, as well.

Virginia Weeks: May I? In my past experience, on a project like this, we have always required a landscaping plan that not only identified how many, but what kind of trees and plants were going to be put in.

Preston Schell: Okay, we will do that.

Virginia Weeks: Thank you.

Preston Schell: And you want caliber on there, as well?

Virginia Weeks: There is a caliber of requirement in the ordinance.

Preston Schell: Okay.

Don Mazzeo: And you're going to be submitting those drawings at your final, is what your suggesting at this point?

Mike Coben: They'll also be, once preliminary is obtained, then we need to go back through the agencies which also includes coming back through your Town Engineer and those details will be on that, as well as some of the detailed grading and some other things that we'll cover here. Typically you don't see all that at preliminary.

Virginia Weeks: Town Solicitor, if we leave them to put all of these details on the final, when it comes to us, we can't change anything that's on it. Correct?

Seth Thompson: No, it's not exactly correct. I think the Commission is probably more used to when something has been presented and approved at the preliminary phase, you can't then change your mind at the final phase. When something hasn't been formally presented and reviewed at the preliminary phase and is then presented, just like the landscaping plan, for instance, if that's the first time that the Commission is reviewing it, then there's going to be more discretion and more review. The bigger issue is if somebody presents a fully developed preliminary site plan, and then they do everything that you've asked them to do, and everything else on the final meets both what you approved previously and then what you required as conditions, then at that point you shouldn't be adding on additional conditions. But it sounds like we're dealing with something slightly different here; where the preliminary is not necessarily going to show certain items that will be on the final; and some of those sounds like a little bit more substantive, so the Commission at that point's going to have some more discretion in, for instance, reviewing the site plan or the fence, that sort of thing.

Virginia Weeks: Thank you.

Seth Thompson: You're just not allowed to change the rules; you're not allowed to change things as you go; so as long as the Commission hasn't considered it at the preliminary phase, then...

Don Mazzeo: If we haven't considered it, then, what I'm hearing is that the next presentation, which theoretically will be a final, we would then have a second bite at making changes and, in fact, negating this preliminary, if you will, and having a secondary preliminary hearing.

Seth Thompson: I would kind of view it as a...

Lynn Ekelund: Are we going to have a preliminary and then an intermediate and then a final? Because that's what it sounds like.

Seth Thompson: Really your process can involve three phases; your ordinance discusses a concept plan, although that's optional; and then a preliminary; and then a final.

Mike Coben: Bare in mind that your Town Engineer reviews this too, to make sure that the requirements of the landscaping plan are in place, before it comes back to you for final and some of these other things that we're talking about.

Virginia Weeks: It's my feeling, that a lot of the things that are in the engineer's report, should have been on the preliminary and they're not and I would really like to go through this and look at what should be there, that's not and then I don't know if going on to final would be right, or table it until you can bring it back with what should be on there. There are no meets and bounds. The parcel numbers are different.

Mike Coben: That's basically recordkeeping.

Virginia Weeks: Right, but it's still different. You're asking us to approve a plan and it's still different. There's no dimensions on the clubhouse. I don't know how big those rooms are. I don't know what the square footage is. I believe you're required to present a plan to us that shows 500' around the property line to be developed and that's not 500'. I don't know if those houses on the top are rear loading or front loading. I don't know where the street is. I don't know if on the other side of them, is an alley. There's a lot more I need to know.

Linda Edelen: I was a little surprised to see a 29 point letter from the engineer. Usually it's about ten, sometimes less and it feels, although it may not be accurate, it feels like you're really not ready to show us this. If you got this letter and didn't address it with what you've brought with you tonight; I feel it's...

Mike Coben: We haven't had an opportunity to tell you how we're going to address...

Virginia Weeks: But the required items for preliminary site plan...

Mike Coben: Are they required for preliminary?

Virginia Weeks: Preliminary site plan requirements... There are 13 items that are checked, Not Available.

Seth Thompson: Right. The way the Town Code reads, is there are preliminary items that are required on the preliminary site plan; those items can be waived by the Commission if they were to be deemed inappropriate. Now, of course, most people don't want to have a separate hearing on whether to waive certain requirements on the site plan, so we end up coming in... if you can just envision a very small site plan, a more simplistic project than something like this, that's going to affect a lot of people. So you might not necessarily need all that level of detail, but we typically don't take an application for a waiver of preliminary site plan requirements, deal with that at Planning and Zoning and then at a separate hearing deal with the preliminary site plan. So, those tend to be part of the same process. That's just the way the Town has developed its procedure over time. So the notion that every application that we receive has all of those things, wouldn't be accurate.

Don Mazzeo: And I would agree with that, to the extent that we probably have never received an application that was 100%; but I'm looking at this and saying, you counted 13, I think I counted more.

Virginia Weeks: I counted 13 just on this, which came out of the zoning...

Mike Coben: Now, what he's recommending to you is that all these things are provided on the final; he's not... There's nowhere in here that it's suggesting that...

Virginia Weeks: But we don't want them on the final.

Don Mazzeo: We don't have a shot at making corrective action.

Virginia Weeks: There is a public hearing tonight, so these people can voice their opinion of what they see your plan is. They are not able to see a complete plan. They don't know what the fencing's going to look like; they don't know what the landscaping is going to look like; they don't know how big the pool is; they don't know how big the building is. There are a lot of things that they don't know; that we don't know; so how can they, in fairness, give a real opinion of how it is?

Seth Thompson: If I could make a procedural suggestion. I think we could probably go through the application that's in front of us, because it could be that the applicant's thought of some of these things and come to certain resolutions, but maybe as one of the conditions make that final site plan application, or a second preliminary site plan application; have a public hearing at that point, on the items that haven't been discussed, more substantive items. I certainly understand the applicant's point where the articles of data can easily be included and somebody shouldn't necessarily have some significant opinion expressed at a public hearing as the tax, map and parcel number; but the items that we haven't seen, it would be possible that the Commission holds a public hearing at the final phase, to receive public comments on those items. It sounds to me like the Commission and the applicant recognize that everything needs to be reviewed for its substance. You wouldn't want to set up a scenario where people submit halfhearted preliminary plans, because they didn't think that they could put anything in the final and I don't think that's what the applicant's doing. It sounds like they recognize that the Commission will be reviewing more substantively the items that aren't on the preliminary, when it comes to the final site plan and it sounds like they recognize that.

Preston Schell: And Seth, just to add to that, we had a voluntary meeting with all of our

resident's recently to show them this plan. It was about two month's ago. We showed them the plan. We entertained questions. We showed multiple elevations. Asked them which ones they liked better. We actually sent out a survey to them. I guess, actually, they did that almost internally, about a year ago asking what components they want, what they didn't want and this is what resulted from it. I can tell you the developer that's paying for this, wants nothing more than this Commission to defer tonight, because if they do, then we can't get it opened by Memorial Day and he's probably going to delay it a whole year; so if you want to do what the developer wants, please defer, because now he can delay these expenses for a year, but if you want to do what our resident's want, let's try to go through the comments; see what our answers are and we'll see if we can address them and if we can address them to your satisfaction, then we can have it opened by Memorial Day. That's just the facts of the schedule.

Don Mazzeo: Let's continue going through this with an open mind on the Commission's standpoint; that we recognize that everything is not on the plans; however, I'll ask then, that the applicant will be certainly advised that when we go to vote on this, that I will be expecting to see a condition placed on this approval, should it go forward, that there will, in fact, be a second public hearing attached, prior to final review and/or votes.

Preston Schell: We have no objection to that and I agree with that.

Don Mazzeo: Alright. So we were somewhere in the vicinity of...

Virginia Weeks: The pool fence.

Mike Coben: Which was number...

Virginia Weeks: Six?

Robin Davis: No, that was just the location of the pool. We were at seven.

Preston Schell: We were at seven. So it says meets and bounds in the property, not provided. That's accurate.

Don Mazzeo: That's eight; that's a paperwork item.

Preston Schell: There's no site data information as required by zoning ordinance; we agree with that and we will put that on. I personally apologize that this plan is as poor as it is and I will pay more attention to the Code to ensure that our engineer's are paying more attention to the Code, the next time we submit a plan.

Don Mazzeo: Well recognize that if it isn't according to our Code, it just won't get through. It's quite simple.

Preston Schell: I agree. The record plat shows parcel to contain 1.8 acres. It is 1.8 acres and we'll make that more clear on the...

Mike Coben: I would point out and I do apologize too, that some of these things are not on the plan, but most of these things are in the application itself; the size of the property; the size of the building, is actually on the plan; it's 3,250 square feet.

Preston Schell: And it's too scale, so you know it might not be on a scale ruler, but we don't typically write all the dimensions on the pools, or something like that. You usually look at the scale and if you want to figure it out, you measure it.

Mike Coben: Again, number 10, there are no problems with adding the dimensions and the distances to the property lines. Number 12, elevation views. Preston did you have something on that?

Preston Schell: We have two different elevations. This is actually the ones that our resident's didn't prefer, but Fernmoor Homes asked us to bring this one, because if we changed it to the ones they do prefer, they're happy; but if we present you with the one they prefer now and they want to change back to this, you guys will probably be unhappy. I didn't agree with that

approach, but I don't own the project. So this is one of two different elevations we have for the property.

Don Mazzeo: This is the one that's currently going to be presented to this Commission for preliminary approval.

Preston Schell: Correct.

Don Mazzeo: Okay.

Preston Schell: So this is the side that faces the pool; this is the main entry area, which is essentially over here and the parking field is right here. This is the other side, this is where you enter for the bathrooms, from the pool area; two outdoor showers and then this is the rear of the building, which is essentially the side that faces the...

Virginia Weeks: That's the front, right?

Preston Schell: It says front, but... it's the front, but the side that actually faces the homes in the back.

Don Mazzeo: The rear is the front, that faces the main road coming in.

Preston Schell: The architect and I had a disagreement over that and he said the door's right here though; this is the front door; so we just left his wording the way he wanted it.

Don Mazzeo: Does this have an address?

Preston Schell: An actual street address?

Don Mazzeo: Yeah.

Preston Schell: I assume it will.

Don Mazzeo: Will there be a mail delivery to there?

Preston Schell: I doubt it. If it's to the management company or anybody, it will just be a P. O. box.

Robin Davis: But it does have a physical address. Yes. It has to be addressed, the parking has to be addressed.

Don Mazzeo: What street is the frontage on?

Robin Davis: Garden Street.

Don Mazzeo: That's the back?

Robin Davis: No.

Don Mazzeo: That's the front.

Robin Davis: The back is to the sidewalk; the front where the pool is, is Garden Street.

Preston Schell: Good, so I was right and the architect was wrong. 301 Garden Street was on the application.

Virginia Weeks: Just a quick question. Who's going to own that building?

Preston Schell: It's going to be owned by the Homeowner's Association.

Virginia Weeks: Thank you.

Preston Schell: But controlled, I think, by the developer, as the controller of the Homeowner's Association in the meantime. This is the little building; this is essentially Phase 1.

Don Mazzeo: That's the pump house.

Virginia Weeks: No, that's Phase 1, what's in green down there.

Don Mazzeo: Oh, the little one.

Preston Schell: So essentially we'll add onto that when we build Phase 2. During Phase 1, this is likely going to be a community meeting room, as opposed to an exercise room; so we'll build it, put the bathrooms in, but instead of putting all the equipment in and no longer having a congregation or a community meeting area, we're going to hold off on the equipment until this is built and use it, essentially, as the gathering room in the meantime.

Don Mazzeo: Question on the timing between Phase 1 and Phase 2. Where do you anticipate that to be? If you were to break ground; and just picking a date; if you break ground on March 1st...

Preston Schell: The commitment to the homeowner's is by the 200th home.

Don Mazzeo: It's based on the number of homes sold. So, if in fact, you never achieve, which is highly unlikely, but if you never achieve that, the second portion will never be built.

Preston Schell: I guess so, yes.

Don Mazzeo: Under those...

Preston Schell: Instead of setting a date and then you've seen what's happened over the last five or six years with developer's that set dates, rather than targeted sales; you end up in some cases, burdening your homeowner's with a high Homeowner's Association dues, to cover an amenity that far outsizes what they would actually need; but you've committed to a certain date, so you built it when you had 57 homes, even though your intention was to build it when you had 200 homes.

Don Mazzeo: How many more between now and the 200, do you need?

Preston Schell: About 150.

Don Mazzeo: So you won't have 50; you have 150 to go?

Preston Schell: Yes.

Don Mazzeo: Okay.

Virginia Weeks: Question. Are there showers in those bathrooms?

Preston Schell: There aren't showers in the bathrooms, but there are showers out here.

Virginia Weeks: Okay, thank you.

Preston Schell: He asked about the pump house and the...

Don Mazzeo: Well that's number 13 on our checklist.

Virginia Weeks: No information.

Don Mazzeo: No information provided. Period.

Preston Schell: And we need to do that. These are teeny little buildings that architecturally look a lot like the first phase of this building and one houses the pump house and one houses storage for the furniture in the off-season. We will get you plans on that. I guess they're fairly basic buildings.

Mike Coben: Okay, we did talk about the parking spaces a little bit. Similarly a commercial facility would normally be one per 200 square feet or 17 spaces; 27 is what's been proposed. We do feel like that would be adequate. With regards to what we talked about before, number 15, we would ask that the depressed curb and entrance ramp, that are already in place here, be allowed to stay in place; just in case that parking needs to be added at some point in the future. The alternative would be to tear it out now and maybe have to put it back sometime later on.

Virginia Weeks: Is it different than the other curbing in the project?

Mike Coben: No, Ma'am. It's a driveway opening similar to the way the alleys enter.

Virginia Weeks: Does the rest of the project, in front of the houses, have depressed curbing? Does it have the 8" curb at all?

Preston Schell: No, it doesn't have the curb, because it eventually may serve as an entrance to an additional parking field; so it looks exactly like this does at that location.

Virginia Weeks: And in front of the pool, what kind of curbing is there, on Garden Street?

Preston Schell: Here?

Virginia Weeks: Yeah. Is that regular 8" like in front of the houses?

Mike Coben: It's the same as everything else in the development. Yes.

Virginia Weeks: Okay, thank you.

Mike Coben: These two entrance openings are already there. The street's been constructed. They're already in place.

Virginia Weeks: So we're only talking that the curbing will be different in that small shaded area; that may be an entrance area?

Mike Coben: Yes, Ma'am.

Robin Davis: What Mr. Kerr was referencing is, at one time, originally, way back, I think there were going to be two parking lots; one on each side. So that's why you have the driveway entrances on both sides of the pool.

Mike Coben: Right.

Robin Davis: Now that the proposal is to remove one of those parking lots, Mr. Kerr said let's remove the driveway entrance, to make it a curbing. But what the applicant is asking is, if that ever gets needed for a parking lot, they would have to rebuild in that.

Mike Coben: Or even if you needed to use it for overflow for a one time event, you'd have it...

Don Mazzeo: That was going to be my next question. Is that going to be blocked off in any form or fashion, or are you going to allow, as you say, overflow parking for some type of event and you're going to have cars running all over the place on grass?

Virginia Weeks: Which is prohibited.

Robin Davis: Yes, that's our concern; that that doesn't happen.

Don Mazzeo: That that does not happen, so either we remove it and hopefully you do not need that overflow parking and if you do need overflow parking, you better explain to us where you're going to put that overflow; we don't want you on the grass. So it's an either/or condition and I know your neighbor's in there may not have a problem with it; but it's against the ordinances. You can't park on grass.

Preston Schell: Is there an alternative way of preventing people from parking on grass; either with signage or with blocking off?

Robin Davis: Can you put trees there? Or landscape it?

Mike Coben: Certainly.

Don Mazzeo: If you landscape that to the degree that would prevent vehicle traffic, that would probably suffice, in my opinion and I'm guessing the rest of the Commission. I see a lot of shaking heads.

Virginia Weeks: Some good, healthy bushes or trees.

Robin Davis: That way, if it ever does become parking, the trees would need to be removed and the bushes.

Mike Coben: That's an excellent solution, I think.

Preston Schell: We agree with comment number 16. Right here, he's saying the connection should be made right there and we agree with that.

Virginia Weeks: Exactly.

Mike Coben: The finished floor on the pool patio, the detail grading of that will be provided at final. Usually the pool deck is very close in elevation to the building floor elevation; which has been set here at 31.59'; depending on the developer's preferences, sometimes it will be a 3 or 4' drop from there and handicapped access will be ramped down. More often, we see them to be more or less flush with the back of the building.

Virginia Weeks: Mr. Chairman, this number 17 and the others that pertain to grading, I would like that, when we come to final, to be as new because we don't have an engineer here tonight and hopefully we will at the next one. I'm not sure that I fully comprehend.

Don Mazzeo: Well what I think I just heard, was that you were going to let the developer choose what he wants to do and that's not the way it's supposed to be, in my opinion. We're going to ask you to do one or the other; okay, but not leave it open ended.

Mike Coben: Yes.

Don Mazzeo: So we will be talking about that at what we'll call the second preliminary/final; intermediately.

Mike Coben: That's no problem. It would have been counter productive to put all that effort into the detail grading, before we knew that the layout itself was acceptable to everybody involved. There's no problem with providing that. I would point out one thing that caused a little bit of confusion; this 29 contour is actually mislabeled; that's a 31; so flow is actually from the back of the building to this inlet here. So that's the reason for the confusion and I apologize for that.

Robin Davis: Mr. Coben, that will be corrected on the final plan, am I correct?

Mike Coben: Absolutely. In fact, it's already been corrected on our plans. That's another grade issue.

Virginia Weeks: The architectural plans shows a set of double-doors...

Don Mazzeo: What does the elevation show?

Mike Coben: It shows 29, but he just said it's really supposed to...

Don Mazzeo: No, no, no, I'm sorry. Building elevation was the word.

Mike Coben: That is actually the same issue; this is actually a 31, so it's only a 6" difference between that contour and the front door there; not a foot and a half.

Virginia Weeks: But what is going to be outside that door?

Preston Schell: Grass.

Virginia Weeks: They're going to step right onto grass? No pathway?

Preston Schell: When the building was originally designed, it had a parking field back here, which we decided didn't make sense, so you kind of wrap all the way around and so we left the building largely as it is; if they wanted to do a barbecue or something on the grass, they could use that door, but I expect that door to be used very infrequently, because it goes out to nothing.

Virginia Weeks: I think I would prefer to see a sidewalk going from that door to the sidewalk on the street.

Preston Schell: From here to there?

Virginia Weeks: Yup.

Robin Davis: Or to the parking lot.

Mike Coben: How about to here.

Robin Davis: To the parking lot.

Don Mazzeo: At least to the parking lot.

Virginia Weeks: At least to the parking lot.

Linda Edelen: At least to the parking lot.

Virginia Weeks: But some sort of a...

Don Mazzeo: You have a door dropping off into the grass; it doesn't make any sense.

Mike Coben: I would suggest to here, since you already have a connection from here to the sidewalk back here.

Virginia Weeks: That's fine, but I want some sort of a path off the door.

Don Mazzeo: And by recommendation, put that to the side of that parking lot.

Lynn Ekelund: And you've agreed to do that?

Preston Schell: Yes.

Mike Coben: Number 19, we've talked about the fence; we're talking about a black, bar, aluminum fence; details of that will be provided.

Virginia Weeks: I don't know how the rest of the Board feels, but I certainly want some plantings in front of that fence, along Garden Street.

Don Mazzeo: They've already said they're going to have something.

Virginia Weeks: I don't want it to look like a cemetery fence, in other words.

Lynn Ekelund: No, I agree.

Mike Coben: We would suggest, if we move onto number 20 that those be ground covers. Mr. Kerr points out rightly, so I think if that fence is to be an open type fence, that it's better to keep the view clear.

Don Mazzeo: Absolutely.

Mike Coben: So we would prefer to keep those ground covers.

Don Mazzeo: Mr. Kerr also does make a note here that safety and security of the pool area should be discussed and I'm not specifically knowledgeable what his concern was. Do you have any input, Robin?

Robin Davis: Yes, his concern was not having the fence. Mr. Kerr preferred having an open fence, other than a closed in fence, because if kids did jump that fence, nobody would ever see the kids in there, if something happened, so that was more for the security portion; so if somebody is hiding behind a totally closed in fence; so the open fence would be preferred.

Don Mazzeo: That's where we're at...

Virginia Weeks: Mr. Chairman, do we want to discuss what height that should be?

Don Mazzeo: We have an ordinance that specifies what the fence height must be around a pool.

Robin Davis: It would have to be 4'.

Don Mazzeo: That's minimum.

Robin Davis: Minimum. If I'm not mistaken. I'll check while you're discussing.

Don Mazzeo: 4'.

Virginia Weeks: I agree that it probably says 4'; but I'm not real comfortable with 4'; if you're talking about having it opened to prevent kids from jumping over it, I think...

Don Mazzeo: 5' is more appropriate.

Virginia Weeks: I vote for 6'.

Don Mazzeo: 6' starts to look like a cemetery plots. 5', it's a nice, median number let's say. I don't know what the standards are in the fence industry...

Preston Schell: I'll have to look at what we did at our other...

Virginia Weeks: A 4' fence is about yea high, I imagine; off the floor.

Preston Schell: I tend to agree that 4' is not enough.

Don Mazzeo: 4' I believe would be too small for that.

Preston Schell: I think maybe 6'... I'm trying to think of what we have at Breakwater, Hawk's Eye and the other pools, but I think 6' is generally what we have. But the thing is, even if you make it 10', because we've had this problem at Breakwater; we have security cameras now, a security guard, an alarm that goes off and flashes a red light and we still have people that break in.

Virginia Weeks: Are you going to do that here, also; security cameras?

Preston Schell: I hope not. I hope these residents are better behaved.

Virginia Weeks: I just prefer the taller fence. Granted you'll have teenager's and stuff that jump over it, but maybe not 8 year old's.

Preston Schell: I agree.

Robin Davis: And just for the record, Zoning Code 220-58 Fences; in ground swimming pool shall be completely enclosed by a fence of not less than 4' in height.

Don Mazzeo: Not less than, okay that would make sense.

Virginia Weeks: Okay, so we can go higher.

Don Mazzeo: Alright, so we have an agreement, 6', based on all of your other developments.

Preston Schell: Yes, I want to clarify here that I'm not the guy paying for the fence, so it's easy for me to sit here and say 6', but I can say it's going to be in excess of 4' and it's going to comply with your code.

Don Mazzeo: It's easy for us to sit here.

Preston Schell: I'm going to shoot for 6'.

Don Mazzeo: So are we. Where are we?

Virginia Weeks: Number 21, will there be a fence on the back side of the pool? There's no indication that a fence will be...

Preston Schell: Yes, that's a great question.

Don Mazzeo: Where is the fence line going to be?

Preston Schell: It's going to run straight down here, so there's kind of a rock wall right there, and it's going to continue to run all the way down and connect with that corner of this building. That's essentially the fence right now, but as you come here, it will run and connect right there.

Don Mazzeo: There will be one entrance?

Preston Schell: Yes, we'll probably have a gated entrance right here, where your fob works for that, as well...

Virginia Weeks: My one question is that on the plan of the pool, you're going to have the fence so when they come out those double-doors at the bottom, that area is going to be totally fenced in?

Preston Schell: No, those double-doors will be locked when the pool is locked. You won't be able to get through those double-doors when the pool is not opened.

Virginia Weeks: But people in bathing suits and so on, will be able to enter into that area?

Preston Schell: We're going to highly encourage them to enter into this area, that has the tile floor and the bathrooms. I think if that becomes a recurring problem, then maybe during pool hours, we leave that locked or something; but our intention is not for people in bathing suits to wander into the hardwood floor gathering room area.

Virginia Weeks: Thank you.

Preston Schell: But if we have an event for the homeowner's and they're half inside, half outside, then we want to leave that ability, so they don't have to walk all the way around, so we want to leave a door there.

Linda Edelen: All that area, just out of curiosity, is within the fence; but not the pool itself. Is that being tiled or is that all...

Preston Schell: No, it's concrete.

Linda Edelen: Just concrete?

Preston Schell: When you get fancy, you generally regret it four or five years later and the homeowner's really regret it when they have to maintain it.

Linda Edelen: Nobody really cares about fancy. They just want to get the sunshine.

Virginia Weeks: Just so I'm clear. Sorry for being so obtuse, but the fence is going to go... how is it going to attach over near where the showers are; where is the fence attaching to the building there?

Preston Schell: That is essentially the fence.

Virginia Weeks: Okay, thank you.

Robin Davis: Still on the fence, I see in the corner of the pool area, there is a fireplace and there's a wood docking area. If that fence behind there is going to be open, are you going to see the wood from the outside?

Preston Schell: No, it has a... this is kind of my vision and whether I actually get it or not remains to be seen, but it has a metal opening that's totally blocked out, that's locked from the inside, so you can't essentially get through the wood area into the pool area.

Robin Davis: But the back side that's going to be opened to the parking lot's going to be...

Preston Schell: No, the part that's opened is the part that's on the pool side. The part that's on the back side has a metal covering that you essentially unlock from the inside, but open from the outside.

Robin Davis: Okay, so the fence will not cover that. You're going to be stocking the wood...

Preston Schell: I know what you're saying. Assuming that that rock wall is high enough, which I don't think it really will be, the fence will probably come right up to it and we'll figure out a way to continue the 6' barricade all the way around the entire thing. We won't create some opportunity to jump a rock wall at that one location.

Robin Davis: They will load the stocking bin through the parking lot area, with a closed door when it's done.

Preston Schell: Yes, we're probably going to bring gas to that, just in case the homeowner's essentially decide that they're done with the wood, but I'm partial to wood, so I want it to be wood-burning, at least for their option. Where are we, number 22?

Don Mazzeo: Number 22, Landscaping as shown and identified, which I think we addressed at the very outset.

Preston Schell: And we're going to address the phasing of the landscaping, number 23, as well.

Mike Coben: As far as the phasing goes, just to give you an idea, I think you would see the perimeter landscaping going initially and the landscaping around the areas that are being constructed; probably not this stuff, because there's a great chance of it being damaged during construction of the second phase. Just to give you an idea of what we're thinking about that, if that sounds reasonable. Number 24, the bollard lights right now, are the only lights that are proposed in that area. The street network has a considerable amount of lighting and we're feeling like between that and the bollards, that would be adequate.

Virginia Weeks: What is the bollard light? Do you have a photo of it? Do you have a picture of it? Do you have something you can show us?

Mike Coben: Yes, basically just a pedestal light, two feet tall or so.

Virginia Weeks: So there's no overhead light in the parking lot?

Mike Coben: Not at present, no.

Virginia Weeks: And the parking spots on the other side, will be basically in the dark, because cars will be covering the bollard lights and preventing their illumination to spread across the parking lot.

Don Mazzeo: When it's constructed. The second phase.

Virginia Weeks: Or even the first phase.

Mike Coben: Bear in mind that you have streetlights on Garden Street there.

Virginia Weeks: You have one. I'm not real happy with that.

Preston Schell: We could essentially put one light here, and one light in the corner, if that would help with lighting.

Mike Coben: Yes.

Virginia Weeks: Lampposts?

Preston Schell: _____ the ones with the higher ones, to essentially cast more light further.

Don Mazzeo: Strong recommendation from the Commission would be to add those two lights.

Mike Coben: That's fine. There have been some discussion about too much lighting, so...

Don Mazzeo: Except that when you're talking in a public area, in effect, and it's a parking lot. It should be as well lit as practical. We don't want the lights to be shining, of course, into the neighbor's that are going to be right there.

Mike Coben: No problem.

Don Mazzeo: And how about lighting in and around the pool itself? I mean, are you going to have night hours; obviously in the summertime it's dark up until 10:00; are you going to be opened?

Preston Schell: To be honest with you, we haven't given that much thought yet. I think, as far as lighting on the pool, we're probably going to work with the pool contractor on what he thinks makes the most sense and then we'll decide... I think we should leave open the opportunity for night pool hours, even though I hadn't thought about it much, to be honest, but on the final plan we'll come back with a lighting plan around the pool and whether we'll have lights within the pool, I do not know.

Virginia Weeks: The other thing that I want to know, now on the side where the parking lot is, there's just... how wide is the green? How wide is this area from the parking spots to the property line?

Preston Schell: It looks like it's about 40-45'.

Virginia Weeks: Okay, that needs to be somewhat heavily landscaped to protect these houses.

Preston Schell: You've got parking right up against...

Virginia Weeks: If you're having pool parties at night, or if you're having functions at night, those people come out, they turn on their cars, they turn on their headlights and they go right into those houses.

Preston Schell: We're going to make it very clear to the buyers of these houses that they're buying against the pool, because we can't do anything about the noise. It's not that we're going to sell these houses first and then spring the pool on them.

Virginia Weeks: I would like to see the landscaping plan do something to have bushes that will be at least 4 or 5' high, above the height of the car headlights.

Preston Schell: Okay.

Don Mazzeo: Enhance the amount of landscaping in the vicinity of headlamps going into residential areas. That's _____.

Preston Schell: If there was an alternative to that, like placing a fence at the backs of these property lines, would you guys agree to that?

Virginia Weeks: Under the covenants, how tall can the fence be?

Preston Schell: I do not know, but I'm sure we can check.

Don Mazzeo: It may only be 3' high, too.

Virginia Weeks: I don't know what your covenants say.

Robin Davis: In a residential area it could be up to 6'; they can be up to 8' in a commercial area, but there are covenants and again, I'll use Wagamon's West Shores, they only allow for a 4' fence. That's all. So again, we would allow up to 6'.

Don Mazzeo: To answer your question, yes, I think the Commission would not have a problem with a fence in concert with additional landscaping there. People really don't want to see a

fence either. I think they're somewhat ugly.

Preston Schell: We will determine a method of blocking visual contact with parking cars right here, from the backs of these homes, that complies with Town Code.

Don Mazzeo: Good.

Virginia Weeks: Thank you.

Mike Coben: Number 25 points out that we have not proposed any new signage here and as far as I know there are to be no new signs.

Virginia Weeks: I realize that I could have scaled it out, but how wide is the entrance in and out of the parking lot?

Mike Coben: 24'.

Virginia Weeks: Are you going to have... That should be alright. Thank you.

Don Mazzeo: Do you have handicapped spaces in the lot?

Mike Coben: There are two here.

Don Mazzeo: We're good.

Robin Davis: Mr. Coben, I do have a question and I know it's not a public street, should there not be a stop sign coming out of that parking lot; I'm not all for putting signs everywhere, but people should realize when they come out of a parking lot they need to stop, but I'm not...

Mike Coben: I'm not sure I see the need, but we can...

Robin Davis: It just is a question. I just don't know if people come rolling out of that parking lot, without a stop sign...

Don Mazzeo: I have seen stop signs in residential community types that are about 18"; not the full...

Preston Schell: Maybe looking like a 3-1/2-4' or smaller?

Don Mazzeo: Yes, just something to make sure that if there were to be an accident there, somebody's going to be at fault and if somebody's running through a "stop sign", then we know who's at fault.

Robin Davis: With that, Mr. Chairman, I'm not sure if it's not of legal size...

Mike Coben: DelDOT has an 18X18" stop sign that I think would work there.

Don Mazzeo: Good.

Virginia Weeks: One other question, I noticed that both of the handicapped spots are closer to the pool, but they're a fair distance from the clubhouse; would you not want to move one of them down near the clubhouse?

Mike Coben: There are a couple of reasons for that. We want to get them in Phase 1 and the parking lot only goes to this point and initially your entrance is going to be here...

Virginia Weeks: For the... but not for the...

Mike Coben: For Phase 1. Now, I grant you when you get to Phase 2, you may want to move them, but...

Virginia Weeks: Okay.

Don Mazzeo: That's why they make black paint.

Robin Davis: In the drawing, the plan, you have identified it as number 6 on the drawing of the parking lot, you're talking about handicapped parking?

Mike Coben: Yes.

Robin Davis: The spots are down in Phase 1, but the arrow is up in Phase 2.

Mike Coben: You're right; those spaces were there initially. We moved them to put them in Phase 1.

Robin Davis: That's why you know that eventually they were going to be moved.

Mike Coben: Not necessarily.

Robin Davis: Ideally it would be best to have them closest to the entrance of the building, but I don't know if there's a requirement that says it has to be.

Don Mazzeo: When they have 150 more homes built, I think there will be a discussion.

Mike Coben: They could easily be moved later on, if we need to do that.

Virginia Weeks: I also noticed that the showers and everything are as far away from the parking lot as you can get. They're on the other side, so it would seem to me that people would be going in and out of the dressing room more, anyway. It's a far piece for the handicapped to go.

Preston Schell: Yes, but you do want to create a little bit of...

Virginia Weeks: Exercise?

Preston Schell: Privacy... for someone who would come in from that outside shower, 4' when people are walking in and out of the building.

Don Mazzeo: I would tend to agree with that.

Virginia Weeks: Oh no, I'm just saying that...

Don Mazzeo: It's an obligation and I understand.

Virginia Weeks: It's a far piece.

Virginia Weeks: We need to know where the dumpster's going.

Mike Coben: There would be no dumpster, there would just be a roll-out.

Virginia Weeks: How's trash going to be picked up?

Mike Coben: On a roll-out; same as residential trash, basically.

Virginia Weeks: Robin, just a quick question. Is the clubhouse allowed to use the residential pick-up?

Robin Davis: They can do what they want; we don't have a requirement. We will supply trash cans to other than homes...

Virginia Weeks: Okay, because like...

Robin Davis: So they can dispose of trash, as they see fit. There's no requirement that says they have to have a big dumpster, so if they want to take two roll-outs and roll them out to the curb...

Mike Coben: That would be perfect.

Robin Davis: And probably for their own trash company.

Don Mazzeo: Is there going to be a snack bar type of an arrangement here when Phase 1?

Preston Schell: No.

Don Mazzeo: None, okay so there's no food service per se in Phase 1 and there's really just a generic meeting area room in Phase 1, but if you happen to have a large party and I don't want to get into the details here, but if you have a resident who said I'm going to have a private party, I want to rent this out for the afternoon and they have 500 people show up; a lot of garbage is going to be created and a roll-out little bucket, while it may be good for Phase 1, I'm not sure in the instance of a private party should there be that occasion; or, if you get into Phase 2, particularly, now you're going to start generating something; you're going to have food service there and then you're going to have to provide something, I believe, on the outside.

Preston Schell: I think we intend to adhere to accommodate the trash needs of the community center. If someone comes in and has a 500 person party, I think we'll probably try to make the trash disposal their problem. My guess is they would have a caterer and you'd see one of those big fish vans back up and do a location right about, hopefully, down here and they would cater it in and out; but I hope we don't have to add a dumpster. You know what happens when you

add a dumpster to a building like this, it becomes not only the community dumpster for Heritage Creek, but people driving by that wanted to get rid of their sofa or something and they come back and find these dumpster's, because they do it in all of our communities and what happens is it becomes a huge nuisance and three-quarters of the trash in that dumpster, doesn't originate from the actual clubhouse; so you kind of have to either keep it locked or hidden and we're going to try and use totes to avoid that, as opposed to having a community dumpster sitting right there; not to mention, they're obviously unsightly and you can block them with landscaping or fences, but it's hard to block them entirely.

Virginia Weeks: Question for Robin. Will the Town be charging the clubhouse for trash removal, or will they have to contract with their own?

Robin Davis: It's set up right now we only supply trash service for residential use only.

Virginia Weeks: Right.

Preston Schell: So does anybody know how Cannery Village does it? Do they just have their own pick up?

Robin Davis: Yes, I don't think there are any area on their site for a dumpster.

Virginia Weeks: So when you come back at final, you'll let us know what your plans are for how the garbage is going to be handled, please.

Preston Schell: Yes and I think our answer's going to be totes, like regular garbage cans.

Virginia Weeks: But who's going to pick it up?

Preston Schell: Waste Management or BFI or some third party...

Don Mazzeo: It will be contracted within the community... by the community.

Preston Schell: Yes, correct. Number 27, I think we talked a little bit about this.

Seth Thompson: I was a little bit unclear on that though. Is the plan to start Phase 2, kind of break ground, when the 200th home that's sold; is that...

Preston Schell: That's exactly what the plan is. We'll see it coming. It's not going to catch us by surprise, but what we've told the homeowner's, because we actually went back and looked at minutes from an Homeowner's Association meeting, was that at the latest... we're not saying it's definitely going to be this late, but the latest we'll start it is when the 200th home sells.

Seth Thompson: The one thing, sometimes we use home vs. lots and when it's built vs. when it's sold; so I just want the Commission to understand that we're using home, so again, if they sell a bunch of vacant lots, that's not going to trigger the requirement and it's not just the 200th house being built, it has to be sold; so as long as everybody is clear on that.

Virginia Weeks: Actually it's sort of immaterial to us, because we're being asked to approve Phase 2 tonight and then go on to final, as if it were being built tomorrow; when they actually build it doesn't really come into...

Don Mazzeo: It doesn't impact us in a direct fashion, but we want, for the record to understand that it's the 200th home sold. Not property sold. Not built. But actually, physically sold and under a contract.

Preston Schell: The idea behind that is when you have 200 resident's, I know that there are multiple resident's in each house, but 200 residential owner's actually living there. If you sell 30 lots to some developer that says he's going to sit on them for five years, it doesn't really impact how many people are using your clubhouse.

Don Mazzeo: Exactly.

Seth Thompson: And the other element to that is people occasionally build spec homes and then they're not occupied, so...

Don Mazzeo: But the home is sold, even if nobody lives there.

Seth Thompson: Right. That's why it's not just 200 homes built, it's 200 homes sold.

Don Mazzeo: We're all on the same page with that one. Then, of course, number 28 is the entire checklist, which was attached, which I think we've kind of gone over line by line already.

Virginia Weeks: Locations. We need to have examples of the signs and we need to have examples of the lighting fixtures going to be used outdoors. You have that list, so we need all that. Easements. Notations and Descriptions of Deed Restrictions. Dimension for the center line to the side entrance.

Don Mazzeo: Literally everything that's listed on the site plan requirements checklist must be met.

Mike Coben: No problem at all. Are there any other questions?

Robin Davis: If I may, I'll go back to the gate for the pool. Is that going to be locked? How's that going to be secured?

Preston Schell: What we've been using that's pretty effective, are fobs and when we use a code, people give out the codes to their buddies and they don't give their fobs to their buddies, because they only get so many, so that's the intention.

Don Mazzeo: I believe it's an excellent system for...

Virginia Weeks: You mean smart cards?

Preston Schell: No, they're actually like these little... I don't have them on my... I do have one on my...

Virginia Weeks: Like for your alarm on your house?

Preston Schell: We have it in our new office building. It's this little black thing right here.

Don Mazzeo: The little black thing. You just touch it up to the magnetic, or whatever they happen to be using and it unlocks.

Preston Schell: They're even making some now that you can assign them individually, so it records Mr. Smith was in...

Don Mazzeo: Was in there at a certain time.

Preston Schell: So if you start having issues, you can somewhat track who the cause of your issues is.

Robin Davis: We use it at Town Hall and we're identified when we sign in. It's assigned to me and it will record exactly when I went into the building and when I left.

Don Mazzeo: That's an internal security issue, it's per se not the Commission's... we just want to make sure that there is security in there; not only for external folks, but for the people that actually live there.

Preston Schell: It is a big issue. I'd love to say it's not. But it is.

Don Mazzeo: It's an issue.

Virginia Weeks: Going back to the parking lot, what is the size of the parking spaces? 10X20'?

Robin Davis: Yes.

Virginia Weeks: And the area from one parking... the lane in between is at least 20' wide?

Mike Coben: I think it's 24'.

Virginia Weeks: Good. Thank you.

Preston Schell: The Fire Marshall I think requires 24'.

Mike Coben: The code requires 24'.

Don Mazzeo: Okay. Any other questions, concerns at this point from the Commission or from the side table? Do you have anything?

Virginia Weeks: No, I would like to see the dimensions of buildings and how far things are, the

depth and so on, when you bring it back. I would like to have all those measurements on it, please.

Preston Schell: Okay. (Time was 7:35 p.m.)

Don Mazzeo: (Time is 7:41 p.m.) At this time, I will take a motion for this application and I will read it specifically. The applicant, Ocean Atlantic Management, LLC, is requesting a preliminary site plan review/approval for the construction of Phase 1 of the Community Center located at 301 Garden Street. The property is located in the Heritage Creek sub-division and further identified by Sussex County Tax Map and Parcel # 2-35-20.00-842.00. The application was submitted on behalf of Fernmoor Homes at Heritage Creek and this is a question. Do we need two separate motions and two separate votes?

Seth Thompson: As long as the motion is abundantly clear that it's covering both applications, it's okay.

Don Mazzeo: Unless somebody on the Commission has an objection, I think we should bundle the two of them together.

Seth Thompson: It makes sense, given the conditions.

Don Mazzeo: Then I'll read the second portion, which is basically the same thing, except it's the application, Ocean Atlantic Management, LLC, is requesting a preliminary site plan review/approval for the construction of Phase 2 of the Community Center located at 301 Garden Street. The property is located in the Heritage Creek subdivision and further identified by Sussex County Tax Map and Parcel # 2-35-20.00-842.00. The application was submitted on behalf of Fernmoor Homes at Heritage Creek. Do I have a motion?

Robin Davis: Mr. Chairman, I looked at my list and I have one thing for Mr. Coben. Phase 1 and then when Phase 2 comes, you're going to bond them together. What is the wall between Phase 1 going to look like, until Phase 2 is done?

Preston Schell, Ocean Atlantic Management: It's sided. It's going to be siding, just like the other, we're just going to take it off.

Robin Davis: Okay. Alright.

Don Mazzeo: This is a very large motion, I'm thinking, because of what we discussed here this evening. Does anyone want to tackle this one?

Seth Thompson: Do you want me to run through the conditions that I'm interpreting and I don't mean to be presumptive, I suppose.

Don Mazzeo: Please do not feel that way, because there's a lot of activity on this particular application; unusually large amount of activity.

Seth Thompson: Based on the Commission's discussion, I believe the conditions would be that there be a public hearing at the final site plan; the tax map and parcel number be corrected; the area reserved for potential parking in the future, be added; and if I make any reference to numbers, they relate to Mr. Kerr's memorandum dated December 9, 2013, which will be incorporated by reference. Number 7, Meets and Bounds would be added; the site plan data number 8 would be added; the area would be added, number 9; number 10, the dimensions to the building and the pool would be added; number 11, the distance from the property line to the parking area would be added; numbers 12 and 13, those plans would be provided; number 15, rather than replacing the standard curb, gutter and sidewalk, that depressed curb, there would need to be some showing of landscaping involving bushes around that depressed curb; number 16, that sidewalk would be added; number 17, the grading detail would be added and the contour would be corrected, in terms of 29' to 31'; number 18, there would be a sidewalk from

the back door to the side parking lot that would be added; number 19, the notes details and other indicators of a fence around the pool/patio would be added; number 20, a landscaping plan showing the number of plants and the kind, as well as ground covers would be added. That would also include size. Number 21, where the fence's location is, would be added. That fence, at least at this point would be a black aluminum open fence in excess of 4'.

Linda Edelen: Were we not going to require that to be 6'?

Seth Thompson: If I'm not mistaken, I think the applicant said he would at least do 4', but that he needed to check with the developer to see if he had authority for 6'.

Don Mazzeo: I think this is the opportunity for the Commission to now speak as the Commission at this point, that we would like to see a 6' fence.

Lynn Ekelund: I agree.

Seth Thompson: Okay, is that a condition or is that a preference.

Don Mazzeo: That's a condition.

Lynn Ekelund: A condition.

Seth Thompson: That a 6' fence be added?

Don Mazzeo: Yes.

Seth Thompson: Okay. The phasing of the landscaping at number 23 would be added; under number 24 two lampposts on the far side of the parking lot would be added; also under number 24, lighting for the pool area would be added. In terms of number 25, the handicapped parking, those are two parking spots, those are not noted on Mr. Kerr's memo; but any movement of the handicapped parking spots after Phase 1, into Phase 2, would be addressed; there would be a stop sign that would be added at the exit of the parking area. Number 26, any sort of information in terms of the trash plan, would be provided; number 27, Phase 2 would commence no later than the 200th home being sold; and, this one doesn't particularly relate directly to a number, but there would be a fencing or landscaping plan to show how the applicant's limiting visual impact between the parking lot and the homes adjacent to the parking lot; the applicant would provide images, or examples, of the signs and lighting that are proposed and the fencing and the applicant would provide the checklist items that are indicated as having not been provided.

Lynn Ekelund: Was there one other thing that there was going to be a notation made on the opposite side of where the parking is that that be extended parking?

Seth Thompson: I think I hit on that.

Lynn Ekelund: If you hit that, I didn't hear that.

Seth Thompson: That was the proposed, potential parking.

Lynn Ekelund: Okay, I didn't catch that.

Virginia Weeks: And I think the other thing was that on number 17 with the elevations, that that needs to be the corrected map and so on; needs to be reviewed and accepted by the engineer.

Seth Thompson: That's right, the grading detail needs to be provided, so it can be reviewed next time, and corrected, with the 29' being 31'. Hopefully I've hit upon everything.

Don Mazzeo: Indeed, the primary one, in my estimation is the fact that this is going to be brought back to the Commission for a second public hearing and at that time would be a final review and/or discussions and approvals. Any other questions, concerns, other than what has been enumerated by the Solicitor? I will accept a motion.

Lynn Ekelund: So moved for preliminary approval, subject to the terms that Seth has just enumerated for us and the public to review.

Linda Edelen: Second.

Virginia Weeks	Yes
Lynn Ekelund	Yes
Linda Edelen	Yes
Don Mazzeo	Yes

Don Mazzeo: Hopefully you will have a pool by the time the water will get warm enough to use.

Virginia Weeks: You guys understand that all this stuff has to be on there, otherwise we can not give them final approval. Okay?

c. Report of actions taken at the prior Town Council meeting.

Don Mazzeo: Do we have input from either Solicitor or the gentleman coughing in the corner? Is there a report of any actions taken by the Town Council's last meeting?

Seth Thompson: Yes. I'm looking up the agenda. I apologize for that.

Virginia Weeks: I have it here. I presume you meant the Town Council agenda?

Seth Thompson: Yes. Thank you.

Don Mazzeo: And these are only items that pertain directly to Planning and Zoning's activities and purview.

Seth Thompson: I can recap the entire meeting, if you'd like.

Don Mazzeo: You can not, please.

Seth Thompson: In terms of the proposed ordinance to amend the Town Zoning Code regarding home occupations, that's been referred to you and we have that later on our agenda here. You're going to have a lot of work to do on that, frankly. The Council did not provide a lot of instruction in terms of how they wanted to organize... how the Town might deal with home occupations. But we'll deal with that more substantively when we get to it. In terms of the zoning relating to amendments to the Zoning Code, this is the "shall" or "may"; we also have the Advisory Report substantively later on the agenda, but the Town Council scheduled a public hearing on January 16th.

Virginia Weeks: Excuse me, Robin, was it noted at the Town Council Meeting that we had sent them a recommendation; because at our last meeting, we sent them a recommendation?

Seth Thompson: I believe it was noted. Certainly I will do that at the public hearing.

Virginia Weeks: Because for them to go...

Seth Thompson: Increase the requirement of the Super Majority, you're right.

Virginia Weeks: Yes. Thank you.

Seth Thompson: And we're approving the specific written Advisory Report at this point, although it was reported that you had recommended not changing the ordinance.

Don Mazzeo: That's correct. That's what we had recommended going forward, last meeting in November.

Linda Edelen: Are you talking about the letter that Marion was drafting?

Virginia Weeks: Besides that, we voted at the meeting, I believe, didn't we Don; to recommend that it not be changed. By putting that recommendation there before Council votes and it coming from us before they gave it to us, they now need four-fifths of the Council, in order to reverse our recommendation.

Seth Thompson: I would all it overriding, but that's...

Virginia Weeks: Okay, or overriding.

Don Mazzeo: Negating.

Virginia Weeks: Vetoing.

Seth Thompson: The public hearing is also going to cover the ordinance... although we have that on our agenda this time to deal with...

Robin Davis: Mark isn't here.

Don Mazzeo: Mark isn't here and he was bringing back some specific information relating to Georgetown's policing of that particular ordinance.

Seth Thompson: I always view that as an important issue; that you don't want to just enact ordinances that you're not going to be able to enforce. Hopefully we'll have the information so that Mark can present that information at the public hearing, if he wanted.

Virginia Weeks: I read this, that you sent us and thank you for doing so, Seth...

Seth Thompson: This is the FCC?

Virginia Weeks: And it seems to me that if we wanted, we could do it in two parts; because we do it for the Historic District, because this allows those prohibitions in the Historic District and get that settled.

Seth Thompson: I drafted it initially that way, because that's what I understood.

Virginia Weeks: Then take it up later to extend it throughout the Town.

Seth Thompson: That's certainly an avenue. It's easier in the sense that...

Virginia Weeks: It's just something I'm throwing out there to the Commission, if you wanted to do that, because apparently there is no problem in putting any restrictions on a Historic District.

Don Mazzeo: Because it's a unique district.

Virginia Weeks: Well, because this guy allows us. If we wanted to recommend that in the Historic District...

Don Mazzeo: It's totally, 100% not allowed. Period.

Virginia Weeks: No. Not visible from the street, would be my...

Don Mazzeo: That's my reference. We have that a little further down on the agenda.

Seth Thompson: We do.

Don Mazzeo: This is more of a recap of activities. If there is anything that hasn't been brought to us before, this would be the time that we would hear about that.

Virginia Weeks: When is the public hearing to that scheduled?

Don Mazzeo: 17th, 16th?

Seth Thompson: January 16th. I misspoke earlier, it's the 16th.

Robin Davis: The 16th is the third Thursday of the month. I think it's the 16th.

Virginia Weeks: It's after our next meeting.

Don Mazzeo: It's the third Thursday?

Seth Thompson: It's the 16th.

Don Mazzeo: I'm leaving here on the 14th. How perfect.

Seth Thompson: With regard to the sub-division of land, I think I sent an email to the Commission, but they were looking, basically to deal with improvements that affect public safety, as well as public convenience, so the street lighting, the sidewalks, the street paving, basically all of that; so it was a little bit broader than what we initially indicated with our streetlight issue.

Virginia Weeks: How come they want to refer that to us?

Don Mazzeo: Yeah, right. "Shall".

Seth Thompson: With regard to the draft ordinance amending the Zoning Code on parking,

they scheduled that for that same public hearing, for the 16th. With regard to the resolution opposing a moratorium on applications for new Master Plans, they voted not to impose the moratorium.

Virginia Weeks: On the LPD?

Seth Thompson: That's correct.

Don Mazzeo: Did they provide...

Linda Edelen: On the LPD?

Virginia Weeks: Marion has moaned and groaned about that...

Don Mazzeo: They will not approve...

Virginia Weeks: What did that pass by? Was it unanimous?

Robin Davis: No it wasn't. I don't think, but I'm not sure exactly what it was.

Seth Thompson: There might have been one dissenting vote, but it wasn't one that I had to count the votes at the end.

Virginia Weeks: Incredible.

Don Mazzeo: Was there any reasoning provided, other than no?

Seth Thompson: I think there's some concern that even the word "moratorium" is an anti-business word and that the Town didn't want to provide that sort of image.

Don Mazzeo: So they... Okay.

Seth Thompson: Then finally, with regard to the ordinance on special uses, that will also be on the agenda for the public hearing coming up on January 16th.

Virginia Weeks: So the public hearing is for parking, special uses...

Seth Thompson: The amendment process, I would call it.

Virginia Weeks: "May" or "shall"?

Seth Thompson: Yes and antennas and satellite dishes.

Lynn Ekelund: What's special uses? Is that home occupation?

Robin Davis: No, it goes from you to the Board of Adjustment, under the new...

Lynn Ekelund: Oh okay.

Don Mazzeo: We made the recommendation to give it to Board of Adjustment.

Virginia Weeks: Parking is not going to Board of Adjustment?

Seth Thompson: That's part of the parking ordinances.

Don Mazzeo: It is. It's one and the same.

Lynn Ekelund: Special uses. I was thinking parking.

Virginia Weeks: Seth, so we don't have to concern ourselves with writing ordinances on parking and special uses, because this public hearing is just going to address it going to the Board of Adjustment.

Robin Davis: Correct.

Virginia Weeks: Okay, great.

Don Mazzeo: That's the only thing that was basically taken away, but they've added to us, you see.

Lynn Ekelund: That's because they're going to take so much more away.

Robin Davis: I think that was waiving parking, not requirements for parking.

Don Mazzeo: Not establishing. Right. They were going to give the waivers through the Board of Adjustment.

Seth Thompson: Right. That's right.

Virginia Weeks: Well it was my understanding that we were charged with finding a way for waivers to be given.

Don Mazzeo: Well now we've given it to the Board of Adjustment.

Lynn Ekelund: We just found a way.

Virginia Weeks: So we don't have to worry about those anymore?

Seth Thompson: Assuming that passes, right.

Don Mazzeo: If that doesn't pass, then it comes back here and we start the process all over again. But in the meantime, it's moving forward on our recommendation to send it over to Board of Adjustment for any waivers.

Virginia Weeks: Okay, good.

Don Mazzeo: Therefore, you have... c. is now complete.

- d. Ordinance to amend Chapter 220 of the Town Code, entitled "Zoning", relating to the reclassifying of home occupations from special permitted uses to permitted uses. This item was referred to the Commission by Town Council.

Don Mazzeo: And there's a substantial packet here, starting with Robin and I will then pass Robin's input on this one, because it's heavy. Before we go a whole lot further on these, recognizing that I guess, based on the fact that there's going to be a public hearing on these next month; in January; we have to come up with something... I will rephrase that. There is a request for us to come up with recommendations and/or commentary to Council. Would that be a fair statement?

Seth Thompson: That is fair. Once it has been referred to you, there's 45 days. This, however, is not one of the ordinances that they've scheduled for that public hearing on January 16th.

Don Mazzeo: This one is not.

Seth Thompson: This actually has never really been put into a draft ordinance, because it's involved to the point where it would be difficult to draft without some input at the beginning of the process, which I think is why Mr. Davis provided samples from other jurisdictions.

Don Mazzeo: And based on that and the fact that we are missing three active members, I would like to table this to our next meeting, unless there is something that indicates the Council's going to say you didn't provide this, so therefore we can't move forward.

Seth Thompson: No, in fact if anything, I think the Council has been fairly deliberate in it's approach to this subject, because there are a lot of nuances to it. Even your own current Code, there's the definition of home occupation that has a number of requirements and then in the substantive section on home occupation there are a number of requirements there and unfortunately, not all home occupations are created equal when it comes to their effect on the neighbor's. So this one, my impression has been that Council wants to have this thoroughly reviewed, so I don't see them champing at the bit to then pass something after the 45 day time period elapses. I mean, again, there isn't even a draft ordinance out there that would allow them to do that.

Don Mazzeo: Okay.

Lynn Ekelund: I have a comment before we table this or do anything else. I went through all of these selected portions of the minutes and I ended up with Councilman Collier's comment, at the very last meeting. Now there's nothing provided from the December 2nd meeting, so I don't know what went on there, where he said we need somebody to set a baseline for this thing, meaning Council. Then it's up to Council and Planning and Zoning to review it and fine tune it. So we don't even have a baseline. We don't have a scope of assignment, we have really nothing. I think we should ask Council for something a bit more definitive, as to what it is they're looking for, rather than here review all of these different Codes, from all of these

different municipalities and don't forget to be business-friendly when you do, because that's what we want and then come up with something. I mean, I'd like a little bit more guidance.

Virginia Weeks: I also have a question for Seth, if I may. I am conflicted, or I don't understand, if we allow home occupations to be a Permitted Use... because we had two applications were a part of our packet. They were both, I believe, in Cannery Village, or in sub-divisions...

Robin Davis: Actually both of them were in Cannery Village, but one of them was on Canning House Row, which has their own covenants.

Virginia Weeks: We pass it, supposing the Council passes it and says yes, all home occupations are now Permitted Uses and the covenants of an organization prohibit it; what prevails?

Seth Thompson: Really you're talking about two different jurisdictions, so obviously when we pass something in the Town Code, it affects the Town in its entirety. The Town is charged with enforcing its Code. I think it's important to think of restrictive covenant as a contract, that you're agreeing to, when you buy in that neighborhood and the person that enforces the restrictive covenants, is typically either the developer, or if he's already turned it over, the Homeowner's Association. The Town doesn't have jurisdiction to enforce those covenants, so I understand that people come and say that well there's a difference here. The problem that happens is very often those covenants aren't enforced, whether that's because just over time people like not to do so and legally after there's no defined threshold, but once there has been a substantial change in the neighborhood, they're not enforceable anyway. Delaware Case Law does say that it has to be that specific restriction, so for instance, detached sheds, there are a number of cases about detached sheds. If you have a 100 house neighborhood and 20 of them have detached sheds, even though the covenants say you can't have detached sheds, chances are they're not going to be able to enforce that restriction against anybody else. The other element is very often the declaration of the restrictions actually gives some sort of authority for a variance, at least the newer neighborhoods do; the older covenants they tend to be a more pared down version, so there's also that possibility. It's very difficult. Number one, it's not really the Town's business to enforce somebody else's private contract. Number two, if you just look at the covenants, you might not be getting the entire picture anyway, which makes it difficult. Now, obviously, the commission dealt with the issue where somebody applied for a Conditional Use. I think you can look to the covenants as some level of evidence, as to what's in that neighborhood, but it shouldn't be a definitive item and again, really it's not the Town's jurisdiction. Frankly, they could amend their covenants too; that's the other element...

Virginia Weeks: In the past, we've been put between a rock and a hard place, when somebody from Shipbuilder's came in and wanted to open a day care center in her tiny little apartment. The covenant's over there say, you can't do that.

Don Mazzeo: Except that a day care center is acceptable state-wide.

Virginia Weeks: So it put us in a very difficult...

Linda Edelen: It really doesn't, I don't think, because our Code is what our Code is and if we say she can, that doesn't mean she can, because she contracted with the developer by building in there, not to do it. I don't see it as our issue.

Seth Thompson: The interesting thing is, if the proposal is to make it a permitted accessory use, it takes you even further out of the process, which I would actually recommend. In other words, they wouldn't be coming to the Town, other than just for their business license. They wouldn't be coming the way they do now, for a Special Permitted Use. The way the covenants are drafted, normally anybody in that neighborhood is able to enforce them. So the notion that the Town is somehow preventing other people in that neighborhood from enforcing their own

covenant's, doesn't make a lot of sense. I think normally what it is, is people don't want to pay to enforce their covenant's, so they look to the Town to try and do it, but again the Town isn't a party to that contract, so there's no privity there, so we can't enforce their covenant's; so they're trying to do that through the Town's Special Permitted Use process.

Lynn Ekelund: And Shipbuilder's doesn't have a Homeowner's Association and there is no developer, so there is no one to enforce the covenant's anyway.

Seth Thompson: Other than the individuals.

Don Mazzeo: It's supposed to be self-enforced.

Lynn Ekelund: Other than the individuals and they're certainly not going to pay for it.

Don Mazzeo: But I think the gist of this particular one is, does the Town, I'm talking the general town, does the Town want all home businesses to be permitted, regardless, or is it more specific to say let us define those that will be permitted? We can shorten the list, if you will...

Lynn Ekelund: That was my impression.

Don Mazzeo: That's what I was getting to and I think right now nothing is permitted without going through a process, coming before us, spending X numbers of hundreds of dollars, perhaps unnecessarily, depending upon the business, so I think if we were going to attack this, we would be looking at let's define what should be, or at least potentially could be, a Permitted Use, which is not today; but let's be realistic. If somebody says I'm going to have a business with five employees and three trucks coming and parking in front of my driveway everyday, yeah, it's a home related business, but would we consider that permitted? The answer is probably not.

Virginia Weeks: We would have to also look at restricting how many employee's, if any.

Don Mazzeo: Precisely. We don't have to get into the big package called this particular code we're into; I don't even know what number it is. We'll give definitions and becoming very finite in what we would recommend to Council with.

Lynn Ekelund: What was the Town that said if you do this, yes; if you do this, no.

Robin Davis: Lewes.

Lynn Ekelund: I liked that.

Don Mazzeo: I'm sure Robin loved that too.

Robin Davis: It's not only for me, it's for any applicant coming in. They can look at that and say I can, I can't. That's it.

Lynn Ekelund: That would be the approach that I would recommend, something similar to that.

Robin Davis: When this all first came about, that's where it came from. We ended up with a list of 70 some businesses that have state license, they don't have town license. When we started looking at those, the vast majority of those were home-based of some sort. Some of them don't do business in town; some of them are consulting individuals that lecture or something, at other sites. The example that I used to Council originally was the difference between an individual giving tutoring lessons and a day care. They both now currently fit under the home occupation, which requires a Planning and Zoning public hearing; is there a need to split them? I'm not saying that all that were listed need to fall under one side of the fence, or the other, but I think that we, as a Town and the Council and the Commission need to look at it and maybe better define what it is; but still hold those that you feel are an impact to the residential area that they have to come before the board.

Virginia Weeks: Absolutely. For example, if somebody in Cannery Village wanted to open up

an in-home day care center; certainly I think that needs to come before a board, because restrictions have to be put on for hours and for drop-off and pick-ups and how many children and all kinds of things.

Seth Thompson: Day cares are licensed through the State.

Don Mazzeo: They're eligible anywhere.

Seth Thompson: But the question is where they could be located in town.

Virginia Weeks: But under six children, it's pretty easy to get the license; there are no physical requirements and so on.

Seth Thompson: I think generally, at least in the municipalities that I've either applied for people, or represented, day care's tended to go through some permitting process because you're dealing with children and you're also dealing with drop-offs; it tends to be a lot of traffic. That one seems to me, and I don't get a vote here, but that one seems to me to probably require some permitting vs. some people that just... I technically use my house as a home occupation under your definition, when I work from home.

Don Mazzeo: As soon as you open up the laptop and start typing an email to one of your clients, or your coworkers, you're working from your home.

Seth Thompson: I never have client's come to my house, at least I hope not.

Virginia Weeks: You also have the problem of an engineer, who all of a sudden has an office manager and another engineer working for him and at one point on Union Street when those folks wanted to open the home decorating; the Wheeler's... Well they're not going to have employee's, they're going to have consultants. They're contractors. We need to look at that sort of thing, also, because it takes up parking and if you have somebody on Union Street who all of a sudden is allowed to have two or three employee's, where are they going to park?

Don Mazzeo: Call it what you will, they're excess people. I think what I would like to do still on this one then, is also just put it to the table; table this particular one, until we have a full, or at least more members here. Again, I don't think it's going to be a negative going back to Council and saying we have postponed this because of lack of input; I won't say lack of input. We would like more input from more Commission members.

Virginia Weeks: Mr. Chairman, I would also like to suggest that, and I would like to ask the others how you feel, doing this at 6:30 at night at a meeting...

Don Mazzeo: I'm tired.

Virginia Weeks: I'm tired.

Linda Edelen: I walked in tired.

Virginia Weeks: I would like to do it at a work session during the day sometime.

Don Mazzeo: We'd have to poll all of the members; we have several of them working during the day.

Virginia Weeks: Well we have four here. On a Saturday.

Robin Davis: No.

Don Mazzeo: No. But we could do it without representation from town staff. I don't think that would be appropriate though.

Virginia Weeks: Well then start the meeting earlier, start it at 5:00 or 4:00 or something.

Lynn Ekelund: Why don't you just have a meeting on that specific topic and not have to do it after we've dealt with Fernmoor Homes?

Linda Edelen: That's true.

Don Mazzeo: There's no objection on my part. I would guess it would have to really fall to Robin or Seth; because I think representation from both staff and legal are important. Very

important.

Virginia Weeks: Absolutely.

Don Mazzeo: For them to come out on an additional evening; we're paying them, which that's almost secondary; they're going to get paid regardless. I would want them to be here. Now we couldn't do it at 4:30, because as an example, they're just getting off of their regular hours. That's right, Robin doesn't work until 4:30.

Robin Davis: No I work until 5:00. I could work my schedule if you decide. It's like any appointment that I would have to go to. If you have the meeting at 1:00, that would be what I would be doing at 1:00.

Don Mazzeo: I think a daytime meeting may be inappropriate, since we do have members that are fully, gainfully employed and not likely to be able to attend.

Lynn Ekelund: I would just suggest that we carve out a meeting, where we just discuss this, rather than...

Virginia Weeks: Home occupation.

Don Mazzeo: Does anybody have a calendar with them, we can almost put on a temporary, after Robin can confer with the Library, particularly if we need a room; we don't need a big room; it's not going to be a public meeting; it's going to have to be noticed, but there will be no attendees, I almost guarantee that.

Virginia Weeks: I would like to do that at our next meeting, giving the Council time to have one more meeting and see if they come back with something.

Don Mazzeo: Our next meeting will be...

Robin Davis: I don't know if the Council is going to come back with anymore...

Don Mazzeo: They're not. No.

Seth Thompson: My impression is that the Council has been focused on the businesses that are unlicensed; which while some of them might help, in that it gives you a more direct snapshot of the home businesses, or potential home businesses, that exist in Milton. The only thing is, I tend to encourage Towns and Commissions to have a broader view than just legislating for that specific moment in time.

Don Mazzeo: What type of activities do you anticipate seeing in January's meetings? I'm guessing Fernmoor Homes is going to be back.

Robin Davis: Fernmoor Homes will be back for Phase 6 of their sub-division.

Virginia Weeks: We need to have an extra meeting.

Don Mazzeo: Then we need to schedule an additional meeting, which when we get into...

Robin Davis: Also, it doesn't have anything to do with when we meet, but I think Council from what I'm hearing is looking to schedule three additional meetings in January for themselves.

Virginia Weeks: Yeah, but they get paid.

Robin Davis: There's something about and I don't want to spread rumors, but I was talking about something with the Comprehensive Plan and there's going to be an additional Council Meeting...

Lynn Ekelund: But they've got their tax appeal thing, too.

Robin Davis: The tax appeal too.

Don Mazzeo: The tax appeal is like on the 27th, the 29th.

Virginia Weeks: The public hearing is on the 16th.

Robin Davis: It's just that January's...

Lynn Ekelund: Why don't we just do it by ourselves?

Don Mazzeo: Do you mean without the input of town representation?

Lynn Ekelund: No, it's going to be business-friendly.

Linda Edelen: Oh, the focus?

Robin Davis: Again, this item has been reviewed by Council at three separate meetings...

Don Mazzeo: With no resolution, of course.

Robin Davis: And then at third, the December meeting, it was forwarded to Planning and Zoning.

Linda Edelen: They don't want us to send it back and ask them for more direction.

Don Mazzeo: I don't think we need to go back either.

Virginia Weeks: I think we need to sit down, decide how we want to define a home office and loosen it up as much as possible for the businesses, while keeping in mind the resident's and I think it's a discussion we need to have in a very free flowing work... then take it to a meeting for a final vote.

Seth Thompson: I think it does make sense. I kind of envision forming a list of most, or hopefully all, potential home occupations and then figuring out which ones have some sort of significant effect on the neighboring properties and the ones that don't, can potentially fall under the automatically permitted accessory use and the ones that do, continue to be under the Special Permitted Use and then the next step, I would think, would be reviewing the requirements of the home occupation. Those requirements apply to everything in terms of the size of the floor plan, those kinds of requirements. Again, they really would apply to all home occupations, so that's kind of how in my mind, the process could work. That if the product is going to be a list of home occupations that are automatically permitted uses, then that's fine, we'll have that list and we can use the definition method the way they've done here. But then also, we need to probably revisit the requirements that apply to all home occupations in terms of size and that sort of thing.

Virginia Weeks: We have to look at signage. Are you going to let people put signs up in their house?

Seth Thompson: Exactly, because that's another general requirement. Can you hang a "shingle" so to speak?

Virginia Weeks: Exactly.

Don Mazzeo: I would propose then, that we do have a special meeting and I can't make it most of the month of January, unfortunately. The 14th and the 15th, that's a Tuesday and a Wednesday, fit my particular calendar, but that doesn't mean I have to be there; you've got six other people.

Linda Edelen: I don't like that without you there.

Don Mazzeo: But if there are six other members here.

Virginia Weeks: The 14th is our regularly scheduled meeting, right?

Don Mazzeo: Our meeting is on the 21st.

Virginia Weeks: Ours is on the 21st?

Robin Davis: That's right, because of the way it is. But my Tuesdays are Historic Preservation, Planning and Zoning and Board of Adjustment. Normally I don't have a Board of Adjustment, but I can't say that.

Don Mazzeo: And since we're kicking more over there now... And you say the 16th, the Council already has a meeting scheduled; that's a Thursday.

Virginia Weeks: What about the Wednesday?

Don Mazzeo: The Wednesday is the 15th.

Lynn Ekelund: And for that you're available?

Don Mazzeo: I am at this point in time. I don't know about Robin.

Virginia Weeks: I'm good January 15th.

Lynn Ekelund: I'll do it.

Linda Edelen: I'm good.

Seth Thompson: I'm available. I think the legislature starts that week, but I can't imagine they're going to swamp me with bills in the first week and that's committee day, so I would be able to get here certainly by 6:30, but if you planned on doing it earlier...

Don Mazzeo: If we could move it up a half hour, would that impact negatively?

Lynn Ekelund: No.

Virginia Weeks: No, start at 6:00?

Don Mazzeo: I'm not negating your input, don't get me wrong here, but if we have legal input and we are all relatively intelligent individuals based on what we have seen and spoken about, we can know our direction; yes, your insight would certainly be most appreciated; but if you can't make that meeting, I think we could probably move forward.

Virginia Weeks: Okay, so January 15th 6:00 p.m.

Robin Davis: I would generally have to be here, or some staff member would have to be here on the recorder; somebody's got to be here.

Don Mazzeo: Okay.

Seth Thompson: You technically can take handwritten minutes. I know that they're not preferable.

Don Mazzeo: I know, technically, but who's going to do that. Alright well at this point then, I would like to schedule a special meeting on the 15th.

Robin Davis: It would just be noticed as a regular Planning and Zoning meeting, not special.

Lynn Ekelund: Please don't put anything else on the agenda.

Robin Davis: I would understand if it was workshop, when you say it's a meeting but it's only for the home occupation.

Seth Thompson: The word "special" means that there's less than seven days' notice under FOIA, so that's why I shy away from that.

Don Mazzeo: So that's why we're having a meeting; it's going to be a Planning and Zoning meeting, with the single item and I guess you'd have it as a public hearing?

Lynn Ekelund: No.

Virginia Weeks: No, no, no.

Seth Thompson: You might.

Virginia Weeks: No, if we have a public hearing it will go on forever and we don't even know where we want to begin yet. Public hearing further down.

Seth Thompson: I certainly think public input is valuable, especially on something like this, but I would probably want to have some draft...

Don Mazzeo: Probably.

Virginia Weeks: Exactly.

Linda Edelen: Is somebody going to notice the other members? Email or something.

Robin Davis: I will let them know. Do not throw away that paperwork that I gave you. I don't want to cut anymore trees down going that; but I tried to supply everything I supplied to Council, so you have an idea of what was... hopefully, by that meeting, the December 2nd minutes for Council will be part of this. Again, it was a long discussion where it circled back around to we don't know. Give it to Planning and Zoning. Basically is what it was.

Linda Edelen: Okay.

Don Mazzeo: So we will now have anything to do with home occupation, which is over here.

Virginia Weeks: Can we have a five minute break please?

Don Mazzeo: You can take a five minute break.

Lynn Ekelund: You guys can go on, I just have to excuse myself.

Virginia Weeks: We don't have a quorum.

Don Mazzeo: Home occupation's is now dated January 15th.

- e. Ordinance to amend Chapter 220 of the Town Code, entitled "Zoning", relating to Section 52 – Antennas, towers, and satellite dishes

Don Mazzeo: There's been some discussion that we prevent the antennas, towers, dishes, etc. in the Historic District; separated from the balance of Town. Is there some discussion to that point?

Robin Davis: This idea originally came from a member of the Historic Preservation Commission. He brought this to the Historic Preservation Commission's attention and it was decided at that meeting to do it town wide, not just isolate the Historic District out of this, because it does affect homes; there's one actually on Union Street; it's just outside of the Historic District, but it has a satellite dish on the front pole of it's porch...

Virginia Weeks: As does Mrs. Black's old house, the red vinyl one in the Historic District.

Robin Davis: That's why they decided, instead of just isolating it to the Historic District, let's do the town-wide, with the Council and then Council referred it back to you because of 220.

Virginia Weeks: If you all go to Page 3 of 9, are all restrictions prohibited? It says restrictions necessary for Historic Preservation, also may be permitted, even if they impair installation, maintenance or use of antenna. To qualify this exemption, the property may be any prehistoric or Historic District site, building, structure, object included or eligible for inclusion on the National Register of Historic Places. My feeling about that is, that we do it right away for the Historic District and for all 198 houses that are on the National Register already; and the University of Delaware I think we can get it from the Museum; because Melinda had it, has a disk of other houses that they considered important enough, and areas important enough to be on the Register.

Lynn Ekelund: I can get that disk, if you need it.

Robin Davis: I have it.

Virginia Weeks: So that could cover all those houses under this one thing, for now and then battling of what is permitted and isn't permitted for the rest of the Town, for the FCC, but we can protect those houses and those areas, right now.

Robin Davis: The basically 200 potential ones, can they fall under this, even though they're potential?

Seth Thompson: In other words, ones in the Historic District, but aren't contributing structures?

Robin Davis: No, they are not currently in our Historic District, we only have 198 in the district right now. There was a survey done of approximately 200 more...

Virginia Weeks: By the University of Delaware.

Robin Davis: Yes, by the University of Delaware that potentially could be historic, or could be added to the Historic District, but they have not been formally done.

Lynn Ekelund: They were considering expanding the Historic District and they hired the University of Delaware to come down and evaluate certain houses as contributing structures, but they were considering evaluating the entire district.

Seth Thompson: Did the Town adopt anything that actually designated them as historic

structures?

Virginia Weeks: Under this, it says that to qualify for this exemption the property may be at any pre-historic or Historic District site, building, structure, or object, included in or eligible for inclusion, on the National Register of Historic Places and all the ones that the University of Delaware identified are eligible for inclusion.

Lynn Ekelund: That's correct.

Don Mazzeo: So basically, we want to segregate those potential 200 and the existing 198...

Lynn Ekelund: The eligible 200; not just the potential, the eligible.

Don Mazzeo: Well they're potentially into the Historic District...

Virginia Weeks: And this was done by Robin, whatever her name is, who did National Register of Historic Places; I mean this was not a fly by night thing; this was an in depth study and so I think we can protect those houses and buildings right now, while we grapple with how to do the rest of the Town, within the FCC.

Lynn Ekelund: We got grant money and we paid them quite a bit.

Robin Davis: The only concern that I have is... it's great. We have identified the ones in the Historic District. We know those. It's just somehow putting an asterisk beside these other 200 homes, somewhere in our system that they're not formally in what we have in the Historic District, so as far as if somebody puts a satellite dish up, it would be trying to identify that home to make sure that they are in or out of these 200.

Don Mazzeo: And have those owner's been notified that they have been identified as eligible for potential historic markers?

Virginia Weeks: That they are deemed eligible for...

Don Mazzeo: My question is have they been informed at this stage?

Lynn Ekelund: My belief is when University of Delaware undertook the survey, that they notified the owners at that time; whether it's the same owner, I don't know.

Seth Thompson: When was this?

Linda Edelen: Isn't there an issue with the fact that they may be eligible, but not everybody that's eligible, takes an affirmative step toward getting that classification and if I don't do it myself, as a homeowner, who's to say I have to follow requirements of...?

Lynn Ekelund: About four years ago.

Robin Davis: The Town can't force you to be in the District.

Virginia Weeks: The Town can force you to be in the District.

Lynn Ekelund: The Town can force you to be in the District.

Seth Thompson: We can expand the District.

Lynn Ekelund: You can expand the District.

Linda Edelen: Not houses by house.

Don Mazzeo: Change the boundaries of the District.

Virginia Weeks: The Historic District Ordinance is now written that the District is created by Ordinance of the Council.

Seth Thompson: Your Zoning Code also has... I think we only have one house that has elected to receive the town designation of a historic...

Lynn Ekelund: Mike Filicko's, yeah, on Bay Avenue.

Seth Thompson: The one concern obviously is with the passage of time, if it's a different owner, I suppose theoretically a structure might not be contributing anymore either. Somebody could have torn it down, that sort of thing.

Virginia Weeks: But all of the houses that the University of Delaware identified are

contributing.

Seth Thompson: Right, but I think my point is if they were never... so the University of Delaware identified them, but they're outside of our Historic Preservation District; there was nothing stopping the owner from tearing the house down.

Don Mazzeo: They have that right.

Virginia Weeks: To what?

Don Mazzeo: Knock it down. It's not been identified as historic and it's not within the Historic Preservation District.

Seth Thompson: So there could be a change to that list; the odds are not a great change; but I can check the FCC regulations just to firm up... Obviously that's kind of a cheat sheet that I provided to you guys, but I'd want to look at the regs to make sure, eligible... I imagine they have a list of requirements when they use the term eligible, so I can look at that. I think it makes sense where you're setting up a two-part system where you have the historic structures and it's abundantly clear that they need to follow the rule of no placement within...

Don Mazzeo: Invisibility.

Seth Thompson: That's right, but then the other ones, obviously, the non-historic structures, the rule is going to be slightly different; that being if they're somehow prevented from putting anywhere else, then they'll be able to put it on the front.

Virginia Weeks: Maybe then we could recommend back to the Council that the Historic District be put in immediately, as well as those houses that are eligible for the Historic District, as defined by the University of Delaware and that those people need to be notified and that we suggest that for those houses, that they be allowed to have satellite dishes, as long as they're not visible from the street.

Don Mazzeo: I think that would work.

Lynn Ekelund: I think it makes good sense.

Don Mazzeo: The next step would be that we would widen our expertise of applying where it is in the balance of Town.

Robin Davis: I'm jumping to the other side of the fence again, so I'm looking at this from a Code Enforcement issue. Having Mike, the Code Enforcement Officer, go out there when somebody has a satellite dish in their side yard that is invisible from the street.

Virginia Weeks: That is invisible?

Robin Davis: Yes.

Virginia Weeks: Then that's okay.

Robin Davis: I thought you said that you couldn't have it if it was visible from the street. That's what you're saying.

Don Mazzeo: You cannot see it.

Robin Davis: So that would not be allowed, because it would be visible from the street; even though it's in the side yard?

Don Mazzeo: Correct.

Virginia Weeks: Exactly.

Robin Davis: Even though it's in the side yard.

Don Mazzeo: That's also correct. If it's visible from the street, the instrument that's being looked at, must be moved; unless the FCC says otherwise.

Robin Davis: The individual lot has a front and back road to it; then it's visible from all sides, so they wouldn't be allowed to have a satellite dish.

Linda Edelen: You're taking my satellite dish?

Robin Davis: They would.

Don Mazzeo: You would, you're sitting here.

Seth Thompson: The way the language is currently drafted and Robin, I know that very often when a house is on a corner, it's deemed to have two front yards; but your example there... Is there ever a scenario where a house doesn't have a rear yard?

Virginia Weeks: No.

Robin Davis: Not by the Code. In the Historic District it talks about things that have to go before the board; it talks about seeing from an adjacent public right-of-way or street, or something like that. So the ones that do have a back alley behind them, they're going to be because it's an adjacent right-of-way.

Virginia Weeks: For example, the pink house on Union Street that Ginny lives in, that Karen what's her name, that works in Georgetown now; her house...

Robin Davis: You have it out there by St. John's Church; there's the alley by P. D. Camenisch...

Virginia Weeks: But is that alleyway a public way, or is that a...

Robin Davis: Yes, it's a public, so they get affected from...

Virginia Weeks: Well then it can't be seen from the front of the house.

Seth Thompson: The way I wrote the ordinance and again this was the draft, that doesn't differentiate, but I wrote that the antenna needs to be placed only in the rear yard or in the side yard if it's not visible. So, again, you can always put it in your rear yard and you can put it in your side yard, as long as it's not visible. So as long as every house has a designated rear yard, the way this is drafted, they would be able to put it in the rear yard.

Robin Davis: Even though it had a street behind it, it's still classified as the rear yard.

Don Mazzeo: And unless, of course, the only place that they get any reception, whatsoever, is in the front, then what do we do?

Seth Thompson: If it's outside of the Historic District, then you're stuck with it.

Don Mazzeo: No, I'm saying if it's inside.

Seth Thompson: If it's in the Historic District...

Don Mazzeo: They cannot have it, period.

Seth Thompson: You'd be able to prevent them from having it. That's right.

Linda Edelen: Just curious about, you know where I live, I live on a lane in Cannery Village, so I don't have any front yard, no road in the front of my house. I only have the back lane. Where are you putting my antenna?

Virginia Weeks: Well those would be considered when we take this up next time.

Robin Davis: Yes, the way that would be handled, even if you were in the Historic District, in the rear yard, even if you had an alley behind your house, you could have it in the rear yard.

Linda Edelen: Rear yard is... There is a rear yard, but I don't have a front yard, so some houses don't have a front yard. I just have a yard that is in the back of my house because that's where my garage is, so I call it the back yard.

Robin Davis: You technically have a front yard. You still do. You just don't front a street; but you have a front yard.

Don Mazzeo: The street's not there.

Robin Davis: Yes, so the rear... it's where the back of the house; anything to the back side of the lot past your house is classified as the rear. And it's the same thing from the front; the front corners of the house, out to your side property lines are classified the front.

Don Mazzeo: So directionally we're going to recommend that we implement the exclusion of dishes and antennas in the current Historic Preservation District immediately, as viewed from

street-side and the balance of Town will then just be brought into the new ordinances, when we have the opportunity to review them.

Virginia Weeks: When we get more information.

Linda Edelen: The eligible ones...

Don Mazzeo: I don't think we're going to do the eligible ones at this point. I just don't think it's appropriate, because they've not 1) been informed that they are, in fact, eligible and 2) many of them may want to opt out anyway.

Lynn Ekelund: But I think that would be a good second step.

Don Mazzeo: That's the next step, absolutely.

Lynn Ekelund: I agree. Take this step, at least do something.

Don Mazzeo: We will get the Historic District impounded right now...

Virginia Weeks: Because they're specifically exempted from...

Lynn Ekelund: Because it's easy.

Seth Thompson: So I'll have to amend the draft ordinance, obviously, to make that distinction between these two.

Don Mazzeo: Subsequent discussions on the balance of the 200 eligible and the balance of Town.

Seth Thompson: Great.

Don Mazzeo: Alright? We good?

Lynn Ekelund: Sounds good to me.

Virginia Weeks: What's the matter, Robin?

Robin Davis: I'm just thinking about enforcement.

Don Mazzeo: Enforcement. I figured that.

Robin Davis: Noting now that okay, do I know that the house at 305 Union Street doesn't have a satellite dish and tomorrow it does. After this starts to get enacted by Council say in January, the idea of who has satellite dishes before the approval...

Virginia Weeks: The dish company can tell you that. They'd be happy to give you a list.

Robin Davis: It's going to be a big fight.

Don Mazzeo: That's true, but are we grandfathering in anyone who has a dish today on their front porch?

Virginia Weeks: I don't think we have a choice. Do we? Can we remove them from the street? We have people on Union Street, which is a major gateway and we've got ugly antennas on the street. It's beginning to look like Mudlig Hollow in Kentucky.

Seth Thompson: I've never been there, but...

Virginia Weeks: I have.

Linda Edelen: Well the one at 409...

Don Mazzeo: The one on the table is can we prevent grandfathering of this particular issue?

Seth Thompson: Delaware Law allows zoning ordinances to take effect after a period of time that removes the grandfathering; you can't do it immediately. The most common case cited was a sign ordinance, where I believe signs were allowed, pre-existing, non-conforming signs were allowed to exist for a period of five years and then they needed to be removed. You could do something along those lines. Obviously, we then have the layer of the FCC, where if somebody has a pre-existing, they would come in and say well this is the only spot I get reception. Now, how they would know that, since it's already there, I guess they'd have to have somebody come out and test to see if they could relocate it; but that's the extra wrinkle here, because of...

Don Mazzeo: What if we said 18 months after ordinance is enacted, they have; that gives them

18 months and of course, the enforcement officer has to go down and look.

Virginia Weeks: To move the dish.

Seth Thompson: Right and I think if we tied the timeline to for instance, the contracts, the standard contract of those dishes; I suppose that seems to make it more plausible.

Linda Edelen: Change of owner, issue.

Seth Thompson: Yes, there are a number of other ways to do it. If the contracts, for instance, are only and I think we did have the discussion as to who owns the dish. I don't know if we came to a definitive answer on that.

Robin Davis: I just know that when I switched mine, I had Direct TV and I have Dish and Direct TV did not want their dish back; Dish said get rid of it; get it out of my way.

Virginia Weeks: I would prefer that we say that 18 months from the passage of this, anybody that has a dish on the front of their house, needs to have it moved to the rear.

Don Mazzeo: Right. You put a finite...

Virginia Weeks: It's not that we're prohibiting them from having a dish, but they have to reestablish where it goes.

Don Mazzeo: And I think if there's a contractual agreement between the provider and the resident, it's probably not more than a year at a time.

Robin Davis: Again, the ones that I had, there was no time limit; as long as I kept paying my monthly bill, they were happy.

Virginia Weeks: But you would know that if we passed this ordinance, on such and such a date, 18 months from then, no house in the Historic District should have a dish that could be seen from the front.

Robin Davis: With the exception of, if they couldn't...

Seth Thompson: If it's in the Historic District, you can just flat out bar it, even if that's the only location.

Robin Davis: Okay, so in the Historic District it doesn't make any difference. After 18 months you need to move it.

Don Mazzeo: Right, that's why we're separating the two pieces of the pie here.

Robin Davis: Okay. I just wanted to...

Virginia Weeks: We're only talking Historic District here.

Don Mazzeo: Right, this is specific to the Historic District.

Virginia Weeks: And give them 18 months to move it to the back of the house.

Don Mazzeo: Or find another service provider that gives them what they want, at the price that they're willing to pay. But that's independent.

Virginia Weeks: Is that okay, Seth?

Don Mazzeo: That work?

Seth Thompson: I think I understand.

Don Mazzeo: Glad you do.

Lynn Ekelund: But will it work?

- f. Ordinance to amend Chapter 188, Subdivision of Land, - timing process for the installation of streetlights, roads, utilities and matters of public safety and convenience

Virginia Weeks: I would like to table this until we have a wider...

Seth Thompson: It might be helpful to... I wanted to bring it to the Commission's attention. I don't know if the Commission wants to take it on, or if they want Robin to do it, or if they want me to do it; but this is probably one of those where it would be good to look around and

see what other municipalities have done, because it's difficult striking that balance and we've talked about it and when do you want your roads done? If they're done too soon, they're going to get nicked up during construction; that sort of thing? Again, I'm always willing to do whatever the Commission wants. I work on assignment, as I say. I just need to know that I should be doing it.

Don Mazzeo: Okay, under those circumstances then I hear what your tabling was, but I would also add Seth, would you then provide at least two, or perhaps three other Town's ordinances at it relates to this particular issue.

Virginia Weeks: And also the exact numbers in Chapter 188 that we need to review.

Seth Thompson: Yes, sure.

Don Mazzeo: It's a very long chapter.

Seth Thompson: That and zoning are your...

Don Mazzeo: It's the book. So we will table this to another meeting, when we have additional membership here and we have input from Seth on similar town ordinances.

Linda Edelen: But not the meeting that we're only going to discuss...

Don Mazzeo: Not the next meeting. No. No. The next meeting is specific to home occupation.

Robin Davis: The 14th is the...

Don Mazzeo: What did I say?

Robin Davis: The next. You said the next one, which would normally be the 21st or whatever it is. The 15th meeting is only on home occupations. The other is going to have other.

Don Mazzeo: Yes. I'm confusing you, aren't I?

Robin Davis: I just want to make sure we're all on the same page.

- g. Proposed ordinance amending the zoning code to reflect a discretionary referral by Town Council to the Planning & Zoning Commission. Review of written advisory report for submission to Town Council

Don Mazzeo: Barry is the author of that particular document and unfortunately he is not here this evening.

Virginia Weeks: But we can change it.

Linda Edelen: He said do anything you want.

Lynn Ekelund: He said go ahead and do what you want.

Don Mazzeo: Okay, everybody got that out?

Linda Edelen: Unfortunately, I didn't bring it.

Don Mazzeo: That's okay, Robin has extra copies.

Linda Edelen: I have one comment.

Virginia Weeks: "The members of the Town of Milton Planning and Zoning Commission are unanimous in our opposition to proposed changes and would prefer to eliminate... referred by the Planning and Zoning... our strongest opposition is on the following: This action flies in the face of our town's founders desire to establish a system of checks and balances, that is essential to prudent and democratic governance."

Don Mazzeo: That's wonderfully written.

Virginia Weeks: Does anybody have any objections to that?

Linda Edelen: Where are you?

Virginia Weeks: First bullet here.

Don Mazzeo: Next bullet.

Seth Thompson: I don't know that the "founders".

Lynn Ekelund: That's what I was wondering. Are we going to get into is it Milltown, or named after John Milton?

Seth Thompson: I think it would be “predecessors”. Founders might be a little bit much in that I don't know if we can trace this one all the way back.

Lynn Ekelund: I think it's a little strong.

Virginia Weeks: Well I think what he was referring to, was that when the Zoning Code was written, that's what...

Don Mazzeo: Was a checks and balance system appropriate, now this would eliminate that.

Seth Thompson: I would say predecessors. That might be...

Virginia Weeks: How about, the Town's desire to...

Don Mazzeo: Yes, just take out the founders. The Town's desire to establish a system...

Virginia Weeks: Desire to establish a system of checks and balances.

Don Mazzeo: So take out founder and then we move along.

Virginia Weeks: Next bullet, right? “By making consultation with the Planning and Zoning Commission optional, this action also makes the use of a particular knowledge and experience optional. We believe that our Town should strive to make use of particular knowledge and Best Practices, mandatory, not optional.” I happen to think that the second sentence should be the first sentence.

Don Mazzeo: Yes, I would agree with that.

Lynn Ekelund: I agree.

Virginia Weeks: Then I have no problem. Third one. I would take out “contrary to the Council's good intentions”.

Lynn Ekelund: I would too.

Linda Edelen: Say again.

Virginia Weeks: I would remove “contrary to the Council's good intentions”.

Linda Edelen: I'm good with that.

Don Mazzeo: We don't want to sound like we're attacking.

Virginia Weeks: Then “we believe this action creates an environment of uncertainty for perspective businesses and investors.” Agreed? Next. “This action reduces government transparency and due process, by truncating decision-making processes and eliminating opportunities for public engagement and comment.”

Don Mazzeo: I don't necessarily agree that it does, because they, the Mayor and Council, will still have an open session.

Virginia Weeks: No. No. It's a Permitted Use.

Don Mazzeo: No.

Seth Thompson: This is on the amendment process, so they would still have to have their public hearing...

Don Mazzeo: The due process and input from the applicant certainly, and the town's public, is not going to be eliminated; it's just going to be reduced by one.

Lynn Ekelund: Well, it didn't say it was reducing.

Virginia Weeks: Okay, so truncating, becomes reduced.

Lynn Ekelund: Well we've got this action reduces, because it does reduce due process. It is less, rather than more, due process. It is.

Seth Thompson: I don't know that it reduces government transparency.

Don Mazzeo: No, it doesn't.

Lynn Ekelund: Transparency, I don't think so, but... due process.

Virginia Weeks: How about we take out “government transparency”?

Don Mazzeo: It reduces the due process by truncating decision-making.

Virginia Weeks: This action reduces due process by truncating decision-making processes...

Don Mazzeo: Does it eliminate the opportunities? It doesn't eliminate the opportunities.

Seth Thompson: I would say it limited, perhaps.

Lynn Ekelund: It reduces.

Don Mazzeo: It just reduces.

Linda Edelen: Limiting?

Don Mazzeo: Limiting, there you go.

Virginia Weeks: No, eliminating an opportunity.

Don Mazzeo: Limiting.

Virginia Weeks: Or limiting.

Seth Thompson: You could say eliminating an opportunity or limiting; either one makes sense.

Don Mazzeo: Limiting.

Seth Thompson: Okay.

Virginia Weeks: Okay.

Don Mazzeo: Limiting.

Virginia Weeks: _____ agent and comment.

Seth Thompson: Again the word “transparency”, makes it sound like now something can happen behind closed doors and that's...

Don Mazzeo: That's not true either.

Linda Edelen: Cross that out.

Virginia Weeks: No, we knocked out government transparency.

Seth Thompson: Okay.

Lynn Ekelund: So what is it now, this action reduces...

Virginia Weeks: “Due process by truncating decision-making processes and limiting opportunities for public engagement and comment.” Is that good?

Don Mazzeo: Much better.

Virginia Weeks: Who wants to do the next four?

Seth Thompson: I'll jump in for a minute here and I think I mentioned it to Barry when he first emailed it. At the very top, the Code Section should really be 220-99.

Don Mazzeo: Correct.

Linda Edelen: I thought it was 98 that first set up the "may" and "shall".

Seth Thompson: No, the "shall" was in 99. It says “Every proposed amendment, unless initiated by the Planning and Zoning Commission "shall" be referred by the Town Council”. 98 is the one, in my mind, that creates ambiguity, where it says that the Town Council "may" amend the Code, whether it's based on recommendation of Council, or on it's own motion, or by petition of somebody. That's 98. 99 is the one that has "shall" in it.

Don Mazzeo: Okay, the next one is, “This action neither advances nor references the Town's development goals, as expressed by the Comprehensive Plan.”

Lynn Ekelund: What does that have to do with the price of tea in China?

Virginia Weeks: It does, because if they can put any amendment in, they need to make sure that it reflects the Comprehensive Plan and I don't know that the Council would do that. All zoning ordinances have to reflect the Comprehensive Plan. Right, Seth?

Seth Thompson: Right, the Comprehensive Plan is going to govern, so for instance, if the

next Comprehensive Plan approves something that's different from our current zoning map, then you need to change your zoning map, to be in compliance with your Comprehensive Plan.

Virginia Weeks: Right, for example, if you take something and they amend home office businesses, right; home business, then all of a sudden everybody's allowed to have any kind of business they want in their house; well that's against what the Comprehensive Plan and how the Town is developed and what the zoning ordinances, in there; what the definition of the different districts are.

Don Mazzeo: I understand the intent of the bullet point, but I don't think the vast majority of Mayor and Council and probably the public, who will hear this, ultimately; I think it will bypass them. I completely concur with your references that, in fact, everything has to be based on the Comprehensive Plan, but in theory, it says that when you take an Oath of Office that you are upholding everything that the Town has put on paper to include the Comprehensive Plan. So if you're a councilperson voting on something, you have to be taking that into consideration. Unless I'm wrong here.

Seth Thompson: I guess part of it is... maybe Barry looked through the Comprehensive Plan and found some language in there that said that any amendments will have a minimum of a two-step process, something along those lines. Although I think if there were some direct language...

Don Mazzeo: He would have referenced it.

Seth Thompson: I think that's the case.

Virginia Weeks: So what do you want to do with this?

Linda Edelen: Can we just take not "nor references the town's development goals"; does not advance.

Don Mazzeo: Let's hold that aside temporarily. I'm not... Again, I understand the meaning behind it, but I don't think this is the right way to express it.

Seth Thompson: I think the notion is that this should be a thought-out process; so you could say "this action doesn't advance the town's deliberative development goals"...

Virginia Weeks: I'm not happy, actually, with the word "advance"; this action doesn't reference the town's...

Don Mazzeo: What are the development goals in a Town, by the way? Is that written someplace?

Seth Thompson: They should be the Comprehensive Plan. The only thing is, they're often very general.

Don Mazzeo: That's what I'm saying. This is kind of like...

Linda Edelen: When you use the word "reference", it's just like you just sort of said something about it, guys. That's so weak that I don't like it, but I do like this action doesn't advance the town's development goals.

Seth Thompson: You could say, it doesn't advance a deliberative development process. Because I think that's really.

Linda Edelen: That's good, I like that.

Don Mazzeo: Can you write that down?

Virginia Weeks: Wait, wait, wait.

Lynn Ekelund: I like that.

Linda Edelen: Say it again.

Seth Thompson: This action does not advance the town's deliberative development process.

Don Mazzeo: That sounds like a Barry word.

Virginia Weeks: The town's what?

Lynn Ekelund: Deliberative.

Linda Edelen: You're not mentioning the Comprehensive Plan at all?

Don Mazzeo: Exactly.

Linda Edelen: Could you read it again?

Don Mazzeo: Or you could say, in accordance with...

Virginia Weeks: Town's deliberative development plan?

Seth Thompson: I said process. Because that's really what we're talking about here.

Virginia Weeks: Yup, that's okay, I was questioning, that's all.

Linda Edelen: This action does not advance the town's deliberative development process.

Seth Thompson: Process, I would say, because taking it out of the context and I know everybody's thinking about the restaurant element, but the other amendment that most town's pass, are a change in the map; so you would want to do that through a deliberative process.

Virginia Weeks: As expressed by the Comprehensive Plan, right? Or take that out?

Don Mazzeo: Yes. Okay.

Virginia Weeks: Are we leaving as expressed by the Comprehensive Plan in?

Robin Davis: No.

Don Mazzeo: That comes out.

Virginia Weeks: Okay.

Don Mazzeo: Next bullet point. "This action, which is intended to create a more business-friendly environment, does nothing to address what we believe are the real obstacles to business development here in Milton. We believe this objective can best be advanced with proper staff training and supervision." Is that what this action was intended to do, by the way? Was it expressly stated someplace?

Linda Edelen: They said it often enough.

Lynn Ekelund: They said it a lot.

Don Mazzeo: Saying it and expressly written down or on record...

Lynn Ekelund: Well, I think when they're asked to provide the reason for their vote in the affirmative and they say that Planning and Zoning is not business-friendly...

Don Mazzeo: Don't shoot the questioner.

Seth Thompson: I think they often say that the Code isn't business-friendly; it's not necessarily the Commission, but rather the Code. Basically somebody comes in and decides... the direct impetus was we'd like to open a restaurant. Okay, you have to go through this process. Well, what if it was just a Permitted Use?

Lynn Ekelund: My understanding was nobody came in and said, we want to do this. It was done in anticipation of the hamburger joint coming into town.

Seth Thompson: I don't know the specific facts.

Virginia Weeks: Councilman Coté asked the question specifically.

Lynn Ekelund: Councilman Coté explained to us.

Virginia Weeks: Has an application for a restaurant come in yet?

Robin Davis: No.

Virginia Weeks: There you go. So it was done with a wink and I can understand where this came from, because there seems to be some sort of a hang up, also, with what people think they hear Robin saying and what Robin thinks he's saying.

Robin Davis: Yeah, I have a little concern about this making it sound like the staff members do not know what we're talking about.

Don Mazzeo: I agree with that. This is a very negative. It's not even just a shade, this is very negative.

Robin Davis: I like the idea of maybe having Council put more money in the budget for our training, but I don't like it as being you're basically saying we don't know what we're doing.

Virginia Weeks: I think what we need to do, Robin, is take out the words "proper staff training" and change it to "further staff training".

Linda Edelen: Or, do we have to have it at all?

Virginia Weeks: Yes, I think so, because I think we need to give it impetus for further training of the staff.

Seth Thompson: It's interesting to me, because I almost feel like, and we touched upon this when we had the joint meeting with the Council; I almost feel like the public needs to be informed, as well, that you need to look at these things before you just start theorizing as to what you can do. It might that you can change it to we believe this objective can best be advanced through disseminating information, training and supervision.

Don Mazzeo: Yes. Just under generality. Don't make it specific to "staff", because it's inherent in that and I think it would be more informative.

Virginia Weeks: What did you say?

Seth Thompson: I said through disseminating information... Disseminating sounds a little bit could. Through providing information, training and supervision.

Virginia Weeks: Providing...

Seth Thompson: Information, training and supervision.

Robin Davis: Would providing mean...

Seth Thompson: The public gets provided information.

Robin Davis: And the concern with that is that these people... I don't want to say don't know, just assume and I'll go back to Amy. She's the restaurant owner. She's supposed to open a restaurant. She was under the assumption, I think through the Fire Marshall and Board of Health, that she could take her place and just pop it into the new restaurant; as what she was telling me that she was ready to open up her restaurant last December. She did not get Fire Marshall and Board of Health approval until a month ago. That, to me, was she not knowing the process. Until she comes and asks me or until somebody comes to me, I cannot provide them the information.

Don Mazzeo: You can't go out and search out an applicant.

Virginia Weeks: When did she put an application in, Robin?

Robin Davis: Actually it started with Mr. Jefferson. He's the first one. It was May 2012.

Virginia Weeks: And when he put that application in was he given a checklist of the things they needed.

Robin Davis: He did not actually come in and put an application in. He came and talked to me, that he was thinking about buying the place out on 16. That's how the conversation actually started and I'm thinking about helping Amy, move her restaurant out there; so that's where the conversations basically started. It was more conversations than anything and then he got into what do you actually want to do? I needed more information from him. He kept coming in, got information. Then he talked about I'm buying the property behind there, too. I want to rezone that property to make it part of the restaurant property. We went through that process. I said, Mr. Jefferson, you're probably reaching out there to get that property

rezoned, because it's Residential; it would probably be a fight from the Town, because the Comprehensive Plan wants it Residential. Then we talked about parking. Currently with the 2,600 square foot building, I think there were only 12 noted parking spots on the site at that time. He needed an extra 14. How was he going to get the extra 14? He wanted to go ahead and use the property, the Residential property that he had, for parking. Looking at it, I told him you're going to have to design something, but I don't think that the size of the lot that you're going to be able to meet the parking requirements. I also talked him about asking for a waiver. I said you can come before Planning and Zoning, pitch your idea, say okay maybe my residential lot will only hold 10 parking spots; see if they'll give you a waiver first, before you redesign anything. He was back and forth on what he wanted to do. With him not knowing what he wanted to do, I could not give him any information on what to do; but when we finally found out that it was better for him to put it on the commercial lot and go through the Special Permitted Use process, instead of a Conditional Use process for the Residential lot, for the parking lot, he was given paperwork on what he needed to supply the Town with and he was also informed it was in his best interests to have his professional; any professional; I didn't care who he used, to submit it, documents or talk to me that way. Mr. Jefferson and I met... he would walk into Town Hall at least twice a week, when he would walk out, I think he had the same look on his face as when he walked in, but at the same time he was also working to sub-divide his parcel on Union Street. So there were times that we were talking about two projects, at one time, in a five-minute time span.

Virginia Weeks: Was he ever given a list that said you're going to need this from the Fire Marshall, you're going to need this from Soil Conservation, you're going to need this from DelDOT, you're going to need this from...

Robin Davis: We do not give them a list of the outside agencies, because we do not know what they require. As part of our Code, it says you need to go to those people and find out what they need. We're not in the business of saying, okay the Fire Marshall is going to want a, b, c, d, e.

Virginia Weeks: No, but do we give them something that says you need to check with these departments?

Robin Davis: It is on the site plan's review stuff, when it says final, it says that you have to go to the outside agencies; they're told they have to go to the outside agencies. They're not given a phone number.

Virginia Weeks: I just think that it might be good if at the very first moment...

Lynn Ekelund: It's not like in an 18 point font, but it is there.

Robin Davis: It's there. I'm not saying it can't be defined, but the problem is that people think... it's almost like businesses. I get a phone call from a realtor, I've got a couple of people looking or interested in starting a business in Town, what do I need to do? I always say what's my first two questions, where's it at and what type of business? I don't know, just what do I need to do? I cannot tell you that, because of where you're going to put that business and what type of business it is. It's basically the same thing with Amy. Amy's is a little extreme because of what Truitt wanted to do with the property; starting with his combining the residential and commercial; then putting the parking lot on the residential and then wanting to move it onto the commercial lot. There were a lot of variables that I don't think Mr. Jefferson just didn't grasp the concept. He was going back, telling Amy everything was fine; which it wasn't, because nothing was submitted. But individuals are given... once I get a reference point and get them guided in what they need to do, they are

given paperwork from our Code that says these are the definitions, this is the Special Permitted Use, this is what you need to do for site plans, this is when you have to have this submitted. It's not an actual physical checklist, but the checklist of what is on the site plan is given to them.

Virginia Weeks: Okay. Good, we've just taken care of 8.

Don Mazzeo: I was just going to say, we just went over the last item on our agenda.

Robin Davis: Again, I think there might be a need for some sort, but I just don't want people to think I pick up one piece of paper and it pertains to anything I want to do in this Town. It doesn't. That's the same thing with the business license.

Don Mazzeo: Actually, there is such an item and it's sitting in front of Seth right now. That great big book. That's why an applicant should have experts, professionals, on their payroll to provide that information to them.

Robin Davis: It's cumbersome. I try. It's the same thing you look at with the Conditional Use that came through for the U.K. goods individuals. They had a warehouse out on 16. Business was getting bad, so they had to move into their house. Of course, it turns out that since they were storing goods there, it could not be a home occupation. So it had to go Conditional Use. They did not have a problem going through the process, at all. I gave them the information. They did a site plan of what little bit it had to be; it didn't have to be the 27, 28 things that are, because they were doing it out of their home; went through the process with no problem at all, because they took that information and read the information. I tell anybody, it's the same thing with Historic Preservation Commission, get yourself together, come see me. I'm always there. Come in. See me. I'll tell you whether it's right or wrong, we'll send it back. That way you're not coming to this Commission with half information, but I can't make them do that. If they want to move through the process, they submit and I forward it on and then we're at a bad point; but then it turns out to be... sometimes it gets pointed towards the Town as the bad person. Sorry for the long...

Don Mazzeo: I think it's enlightening, particularly in light of the fact that we've just gone through this most recent applicant.

Virginia Weeks: Has she been sent a letter saying her light is not up to Code?

Robin Davis: No, Mr. Trotta did speak with them the next day, after it was approved; the word was that did have a concern for me and still does; Delmarva Power said, not a priority; we'll get out there when we get a chance.

Virginia Weeks: Who said that?

Don Mazzeo: Delmarva Power. But in effect then, she has had her... I know she's had her Certificate of Occupancy.

Robin Davis: Yes, she was given her Certificate of Occupancy.

Don Mazzeo: And she's operational.

Virginia Weeks: And doesn't have enough parking.

Don Mazzeo: Well I wasn't out there at that point, but the light is still not readjusted.

Robin Davis: From what I heard the other day, no.

Don Mazzeo: Since the last...

Lynn Ekelund: It is not.

Robin Davis: From what I heard, no.

Lynn Ekelund: I attest to that.

Don Mazzeo: I haven't been out there. I don't care that Delmarva Power is on some kind of their own schedule.

Virginia Weeks: They were there quick enough to get it up for her.

Don Mazzeo: Oh, absolutely.

Virginia Weeks: But also I would like to say that Grace Church on Union Street also needs their lights in their parking lot readjusted.

Don Mazzeo: Something to put on your hit list, along the way, Robin.

Virginia Weeks: FYI. Okay, so we have providing information, training and supervision. Is that good?

Don Mazzeo: Yes.

Virginia Weeks: And the last one, I think Linda you had problem?

Linda Edelen: My reading of this the first time around and I talked to the group about it, is that that should not be in here, at all.

Virginia Weeks: Finally, we _____ that this action is being taken to provide a retroactive justification of recent zoning change to amend the Town Code...

Linda Edelen: My reason for it was that I didn't see it to be this particular issue, and that they're fully aware of what we believe they did and why they did it. We don't need to smack them in the face and have them focus on something that is really...

Virginia Weeks: I could be honest with you, Linda. I agree with you, but I still think... I don't understand how they were able to do that in violation of the Code.

Linda Edelen: Our Solicitor can tell us that.

Virginia Weeks: Was it a legal vote?

Linda Edelen: And who can challenge it?

Seth Thompson: Again, I read 220-98 as being inconsistent with 220-99; that's the issue that I see. I appreciate your point, Linda, that I think we know the direct impetus for why this was suggested, why it came about; but it almost rather than rehash that, it's important to see what affect this is going to have on everything going forward. I don't want to put words in your mouth, but is that basically your point; that if we talk about why they proposed it vs. what affect it's going to have, we're kind of diluting our own argument. Is that...

Linda Edelen: Yes, that is one of the points and the other is simply, that I want the Council to focus on what we're talking about, not what they did and I don't think we need to get them looking at the wrong thing.

Lynn Ekelund: I think this bullet point is waiving a red flag in front of a bull.

Virginia Weeks: Alright, so we'll take it out?

Linda Edelen: Why didn't I say that?

Virginia Weeks: Shall we just take it out?

Don Mazzeo: Yes. The recommendation is that we eliminate the final bullet, which says, finally, we are troubled.

Linda Edelen: We have others.

Virginia Weeks: However, if we don't want them to change 99, then we should recommend that they change 98 and clarify.

Seth Thompson: And clarify. I agree with that.

Lynn Ekelund: I agree with that. That was my singular point.

Virginia Weeks: That they "may" with the Advisory Report from Planning and Zoning, from time to time. If we put into 98, the Town Council of, or the Town Council of the Town of Milton may, with an Advisory Report from Planning and Zoning, from time to time on it's own motion or petition, upon recommendation of the Planning and Zoning Commission, amend...

Seth Thompson: Right. I see your point, that if we're not going to change 99, we need to change 98 to clarify.

Don Mazzeo and Virginia Weeks: Then we need to change 98.

Lynn Ekelund: Or we're going to be right back here in five years.

Virginia Weeks: I'm sorry, Linda.

Linda Edelen: So what would you recommend?

Seth Thompson: The Town Council of the Town of Milton may from time to time following referral...

Lynn Ekelund: Do we need it all?

Don Mazzeo: Do we need it to be attached to...

Lynn Ekelund: Do we need 98 at all?

Seth Thompson: That's interesting. You certainly want to reserve the right to amend it, although frankly that's in the State Code, that you're allowed to amend your own ordinance. Maybe we don't draw those distinctions. I think it could just be the Town Council of the Town of Milton may from time to time amend, supplement, or change by ordinance, the boundaries or the regulations herein, after public hearing and notice. So rather than drawing those three odd sort of categories as to how it can start, whether it's on their own motion, whether it's a recommendation of Planning and Zoning or a petition; which I thought was odd. I gather that meant a petition from a resident.

Don Mazzeo: Yes, somebody says I don't really want to be where I am. I want to be in a different one and I'm right next door, so why can't I change it?

Linda Edelen: So if you do that, then 99 would remain.

Seth Thompson: It would remain as it is, you wouldn't have that potential inconsistency, that potential contradiction.

Virginia Weeks: How about if at the end, Seth, we just put all proposed amendments of regulations to Districts herein established, shall be found in writing on a form required by the Town Council and forwarded to Planning and Zoning for a recommendation.

Don Mazzeo: Yes.

Virginia Weeks: And shall be forwarded to...

Linda Edelen: Then 99 says...

Virginia Weeks: It describes it and says what we have to do and get it back to them.

Linda Edelen: Except on motion of...

Virginia Weeks: Do you know where I'm going?

Seth Thompson: I do.

Linda Edelen: No.

Seth Thompson: At the very end of 220-98?

Virginia Weeks: What do you think of that?

Seth Thompson: I still think... On it's own motion makes it sound like, because of the way that sentence is structured, it makes it sound like it's either this or that.

Don Mazzeo: But we want this and that.

Seth Thompson: That's right. I think the easiest thing is to just take out those three categories and then just let the rest of that section flow; this is how you do it; this is the process.

Don Mazzeo: Yes.

Lynn Ekelund: I like that.

Virginia Weeks: That's how I originally read it, that this said you can do this and that 99 was

the process to get it down.

Linda Edelen: That's how I originally read it too. It wasn't until I went back and...

Don Mazzeo: So do we understand it?

Seth Thompson: Yes. I don't know if you want me to... In the letter, you can just say that in addition, Planning and Zoning plans on proposing an ordinance to revise 220-98 to remove any contradiction with 220-99. I don't think you have to do it in the letter. Do you know what I mean?

Don Mazzeo: Okay.

Linda Edelen: We couldn't attach your redraft with the letter?

Seth Thompson: You could. We could have it done at the next meeting.

Lynn Ekelund: I like that, attach his redraft of 220-98 with the letter.

Virginia Weeks: I would like to get this into the Council for the next meeting.

Seth Thompson: Right.

Virginia Weeks: I think it's imperative that it's in there on time.

Seth Thompson: I think it is helpful to have the Advisory Report in sooner, rather than later.

Linda Edelen: So you want the report to go in without the modification?

Seth Thompson: I think that makes sense.

Don Mazzeo: Yes.

Virginia Weeks: I would like to see it done in time and then maybe you could send it to Don and he could print it and sign it and submit it with the changes that are here?

Don Mazzeo: I can do that. That will work.

Seth Thompson: Yes. You just need a motion to approve the letter, as amended.

Don Mazzeo: The amended letter? Do I have a motion to have the amended letter prepared by Town Solicitor to be returned back to me and then forwarded back to Mayor and Council...

Virginia Weeks: With the additional language for...

Don Mazzeo: With the additional language.

Linda Edelen: I so move.

Virginia Weeks: I second it.

Don Mazzeo: All in favor say aye. Opposed. Motion carried. Seth you have your work cut out for you; when you get it, send it out to me.

h. Possible checklists for applications and Town's directions to applicants

Don Mazzeo: We already discussed this in great length. Does anyone else have any other business that has not been on the agenda, because you can't talk about it; because our agenda's been posted.

8. Adjournment

Don Mazzeo: Do I have a motion to adjourn?

Lynn Ekelund: So moved.

Linda Edelen: Second.

Don Mazzeo: All in favor say aye. Opposed. Motion carried. Meeting adjourned at 9:24 p.m.