

Town of Milton
Planning & Zoning Commission
June 19, 2007
7:00 p.m.

Members Present:

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

Others Present:

Robin Davis	Bob Kerr	Debbie Pfeil
John Brady		

Linda Rogers called the Public Hearing to order at 7:09pm

Public Hearing

Linda Rogers: Debbie has a statement she would like to make. This is our consultant from URS, before we begin our public hearing.

Debbie Pfeil: We have a large agenda tonight and the Planning Commission is looking at a new meeting format that was brought up at the last meeting. We are asking during the public hearing portion of the meeting. When the item is called the applicant would come up and we're asking that you talk under 10 minutes, as we have a large agenda, if possible. We would like to be direct, informative. We are also asking the public when they come up for or against to step up to the microphone. Everybody will have to announce their name before they talk and we're asking that the public comment, if possible, we're asking that you be direct and under 2 minutes. We do not have a timer, we're just asking for this courtesy that you be direct and go right to your comments. They will be heard. The dialog tonight would be the public comment, then it would be closed for public comment. You'll have your opportunity at the beginning of the meeting. We will not be able to accept public comment when the regular meeting starts.

Linda Rogers: Okay, so the first item on our agenda is:

The applicant, Stansky Ventures LLC, is requesting preliminary site plan approval for an addition/enclosure to existing commercial buildings located on 110 and 112 New Street, Milton, Delaware. The property is zone L1-1 (Light Industrial) and is further identified by Sussex County Tax Map and Parcel # 2-35-20.11-24.00 and 24.01.

Linda Rogers: Is there anyone present on behalf of this application? If so, could you come forward and make your presentation please?

Stan Siegfried: I represent Stansky Ventures LLC and I am here as you said to try to get preliminary site plan approval for enclosing 3 existing structures. There may be some confusion in terms of the structures. The center building, which is open, is actually the

original building. The other two buildings on either side are 3-sided structures that were added to the center structure. The front wall was taken down originally, perhaps 10 years ago and there's no roof currently. So I am seeking approval for enclosing the existing structures that do cover both properties, 110 & 112 New Street.

Linda Rogers: Is that all?

Stan Siegfried: That's it.

Linda Rogers: Does anyone have questions of the applicant? Cancel that. Does anyone in the public like to make a comment for or against? There are no parties present wishing to make a comment on this application? Debbie, they're not allowed to ask a question on the applicant?

Debbie Pfeil: You would close the public hearing, the public (unintelligible) and you would ask them during your regular meeting.

Linda Rogers: Who we going to ask them to, him?

Debbie Pfeil: Yes, correct. You can have dialog. The attorney's recommend a dialog with the applicant at that time.

Linda Rogers: Okay. If no one has any comments they would like to make, I'll entertain a motion close the public hearing.

Dean Sherman: I'll make a motion.

Linda Rogers: Is there a second to that motion?

Louise Frey: Second.

Linda Rogers: We have a motion and a second to close the public hearing. All in favor say "Aye". Opposed – None. We'll move on to the next item. The next item on our agenda is:

The applicant, Terrific Toys, is requesting a preliminary site plan approval for a 4,350 square foot office and warehouse building located on 410 Broadkill Road, Milton, Delaware. The property is zoned C1 (Commercial and Business Use District) and is further identified by Sussex County Tax Map and Parcel @ 2-35-14.15-75.00.

Linda Rogers: Is anyone present in behalf of this application? If so, state your name and make your presentation.

David Meyers: I work with George, Miles and Burr. I'll be representing Terrific Toys this evening. The project is located on Broadkill Road near the intersection of Broadkill and Palmer. As you mentioned, the project is about a half an acre. The project has an existing building on it and an existing parking lot, which are to be demolished. If you look on the aerial photograph here you can see the project is here, there is commercial. Our site is commercial. There is a commercial district to the east of our site and there is also a residential district to the south. The proposed building on the site is going to be a metal building. It's 4,350 s.f.; 3000 s.f. is going to be warehouse and 1350 is going to be office. All the building setbacks have been met. There's a 30' setback in the front, 15' in the rear; that's to meet the requirement for a commercial butting with a residential district. There's a side street of 15' and a side yard of 10'. The parking - we have 14 parking spaces provided on our site plan, there's only 11 actually required by zoning. I am now looking through the comments. There was one comment regarding the parking being within the front building setback on Palmer Street. With the extra parking spaces we believe that we can reconfigure the parking some to meet that setback. When we laid

out the site plan, we were under the impression that Palmer was not a front yard setback but that the State Rt. 16 was the front and the side yard setback would apply to Palmer, but it's not a problem, we can reconfigure the parking to meet that. The parking lot lighting - we do have an electrical engineer on our staff that looked at the parking lot for lighting. I believe the lighting was shown on the site plan that was submitted. There is one on the east side of the parking lot; there's one on the west side of the parking lot; and then there is one that is kind of centered on the north side of the parking lot here, and then we've got a proposed light on the front of the building for parking lot lighting. We are proposing one ground entrance sign, here on the east side of the entrance. Obviously that would be designed to meet all the zoning regulations with respect to size, location, lighting and all that kind of stuff. Landscaping - pretty obvious the way the landscaping is plotted on the drawing there. I believe that should meet all the Milton requirements. Storm water management pond- on the north side of the project here, water from the site is proposed to just sheet flow from south to north into the tension basin. We've been working with DelDot to get permitting to outlet into a catch basin that's on the northwest corner of our property there. We are also working with DelDot to get the permit for the "right out" only entrance onto State Rt. 16. Water and sewer - there is existing water and sewer on Palmer street, which the existing building is tied into. We are proposing to use the same connection services for the proposed building. I guess, in conclusion, I'd just like to say looking through the review comments, I didn't anything that should prevent us from going on to final site plan review and I'd like to make a request for an approval with conditions and with that I'll open the floor to any questions you have.

Linda Rogers: Does anyone in the public they'd like to make either for or against? If not, I'll entertain a motion to close the public hearing.

Louise Frey: So moved.

Linda Rogers: Is there a second.

Dean Sherman: I second.

Linda Rogers: We have a motion and a second to close the public hearing all in Favor say "Aye". Opposed - None. Public hearing closed. We'll move on to the next item. The next item on the agenda is:

The applicant, Key Ventures LLC, is requesting a zoning amendment for R-3/LPD (General and Multi-Family Residential Use District/Large Parcel Development District) located on Sam Lucas Road, Milton, Delaware. The property is zoned R-1 (Single-Family Residential Use District) and is further identified by Sussex County Tax Map and Parcel # 2-35-21.00-44.00.

Linda Rogers: In the absence of our lawyer, I have a question and that is referring to the fact that this application was forwarded to planning and zoning by the Town Council on June 7th, and in the zoning ordinance, Article 14, Section 14.3, Item 14.3.1, by publishing notices of proposed amendment at the time and place of public hearing in the newspaper of general circulation in the Town, not less than 15 days prior to the date of the public hearing. We've only been 12 days since this was forwarded to Town Council to us. So, I would like an answer from the lawyer when he gets here, if we can legally hear this public hearing. But in his absence, we'll here what you have to say.

Keith Rudy: Okay, thank you very much. Good evening. I'm an engineer with McCrone, Inc. I'm out of their Dover office. With me this evening behind me is Kevin Burdette. He is also with McCrone out of the Milton office. What I would like to do is I'd like to briefly go over the plan and provide an overview and, in my understanding is I will be back for detailed questions if there are any. With that, we are pursuing a rezoning application to an R-3/LPD. Based on the density control table, the net allowable density would be somewhere in the neighborhood of 590 units. This proposal before you is a proposal for 355 units, mixed use, and they consist of 39 single family homes, 100 Town homes and 216 condominiums and 12 buildings. We did go to PLUS; we have received comments and we responded. I was provided staff report this evening. We will forward that to your attention soon after this meeting. The single family homes consist of minimum of 5,800 sf. and maximum of about 10,000 sf., over 10,000 with an average of 7,300. These are larger than the minimums, so clearly we felt that not maximizing the density of the yield to provide a more attractive product; more attractive home was probably a wise thing to do. In addition, the Town houses are oversized typically. They exceed the minimum. They range from 2,520 sf. up to 10,900 sf. for an end unit Town house. The average for that is just under 3,600 sf. per lot for a Town house. The building envelopes, the available building envelopes following the standard subdivision requirements for single family home would be approximately 2,000 sf. per floor, so they are rather large building envelopes. In addition to the Town houses, would be approximately 1,200 sf. per floor, so again, they're oversized and the Town houses we're proposing 24' wide to allow some flexibility in design. With that width of an oversized Town house, if you will, that can allow for internal garage and also a first floor master suite; some things that allow some flexibility, design and the architecture. The condominiums consist of 6 per floor, typically 3 per floor, 18 per structure. They would range anywhere from 1,100 sf. to about 1,440 sf., so they are also rather large condominiums. We've also made provisions for ample parking. I noticed there was some staff comments regarding the parking but in terms of the code and what is allowed, we've actually added quite a bit of parking with the two car garage option. We could even exceed the minimums that we are proposing, depending on homeowner preference with what's on a plan before you. In addition, the open space; we've tried to provide various areas of open space. You can see in this lower area there's quite a bit of level, usable graded land available to the community. There is an active area component to this; an athletic field is being proposed. In addition, centrally located there is a community gathering space, kind of like a, not quite a Town square cause maybe it's a Town triangle, but basically it provides a gazebo, a gathering, open space. We are proposing sidewalks on both sides of all streets; curb and gutter throughout; street trees; and there is a significant amount of landscaping also included in your package. We've also attempted to provide for buffers and minimal disturbance to wetlands and other environmentally sensitive areas. We've really limited our encroachments to just a few crossings, so there are techniques that we can incorporate if we get into further design to allow for soft bottoms and things of that nature that are more ecologically sound. We've also incorporated sufficient set-asides for DelDot. You may be in aware that DelDot I sin the process of revising the regulations. We anticipate they be in full force and effect but we've also allowed for significant upgrades to both Sam Lucas and Cave Neck Road along the frontage. This project requires a traffic impact study. We have not entered that

process with DelDot yet, but I can assure you that there will be significant offsite improvements required by DelDot as a result of this project. Furthermore, we've also provided for sufficient set-aside for storm water management; we've been in dialog with Conservation District and we were made aware that there are several drainage complaints so the facilities proposed in the plan before you are oversized so we can provide extended detention time to limit the impact to the downstream folks. Basically, the plan before you will show that we've tried to group the condominiums together. We tried to provide pods of similar-like use. We have groupings of Town houses in here, flanked by single family homes as shown. We've tried to create some more private, secluded lots that border the wooded areas. We've also provided for walking trails in between additional space that we've left as set-aside for active use and again, we've provided for ample parking. Also, along the perimeter, you'll note in the landscape plan that there are provisions for a significant landscape buffer and a berm to provide that visual break-up and I think that's basically it. Thank you.

Linda Rogers: Does anyone in the public have any comments they would like to make either for or against?

Pauline Stuklick: I live across the road from this proposed development. You people have cut me off at the knees because I had two pages of questions to ask about this project. I am not happy with it. We live in a rural area. There are 10 single family homes combined on Cave Neck Road and Lucas Road that surrounds this area. There's a lot of open space. We're not used to having a small city in our front yard. We're not used to having the traffic that this project is going to bring about. I was wondering, this project right now that these people are asking to be zoned R-3, as I understand it?

Linda Rogers: Yes.

Pauline Stuklick: And how many living accommodations does R-3 allow for?

Linda Rogers: I think it allows 500 and some if they went by what's allowed, correct. We have to take down your questions and see if we can get them answered.

Pauline Stuklick: And then I would like to know how many R1 would apply to? How many living accommodations would be allowed under R1? These people, we're concerned about entrances. Cave Neck Road is horrendous now. If there's an entrance off Cave Neck Road, I'm afraid we'll need a traffic light there. We're concerned about drainage. There's two drainage ditches go through this property. We're concerned about where the flow from those drainage ditches is going to go. We're concerned about the trees. How many of the trees are going to be destroyed? We're concerned about buffer zones. I think anybody that reads the newspaper in the last couple weeks is aware of a situation that has arisen in Angola concerning a developer which cut back a buffer zone. Are we going to have buffer zones to perhaps stop our views of this development? We're concerned about the number of vehicles that will go in or out from this development. We're concerned about the streetlights. Are the streetlights going to be on 24 hours a day? If they are, if they're very tall, we're going to have to put up with that lighting. I'm sorry. I've tried to cut back on my questions. I have a lot more here but I don't know how many of my neighbors are as concerned about this as I am. I'm not as concerned about the sewage plant as I am about the small city that's going to be placed in our area. Thank you.

Linda Rogers: Does anyone else like to make any comments? For or against?

James Carey: My brother and I own the farm across the street from it and I'm concerned, or curious to know right now there is 8 existing lots the front here, along which there are two houses that are privately owned. I'd like to know what's going to happen to those 6 lots. Are they going to eventually turn them into commercial property like they generally do in front of other developments later on down the road or what's their plan for those 6 existing lots that are not developed?

Linda Rogers: Thank you. Does anyone else have any questions or comments? No? If not, we'll entertain a motion to close the hearing.

Virginia Weeks: So moved.

Linda Rogers: We have a motion is there a second.

Bill Brierly: I'll second.

Linda Rogers: All in favor to close the public hearing say "Aye". Opposed – None. We've close the public hearing portion of our meeting.

Business Meeting

Linda Rogers called the meeting to order at 7:34pm.

Additions/Corrections to the Agenda

Linda Rogers: Are there any additions or corrections to the agenda?

Virginia Weeks: Madame Chairman, I would like to ask that Mr. Robino's petition for Holly Lake be tabled and put on next months agenda. The reason for that is this is coming into after 14 months. It's been 14 months since we saw the preliminary report. We approved the preliminary site plan. There have been major changes in the site plan in the configuration of the buildings and the land. At least two of our members were not present then and cannot vote on this. I don't know about anybody else, but this is not real fresh in my mind what we asked for. I spent a lot of time on the Town website and couldn't find the minutes for the April meeting of 2006 and the zoning ordinance on page 61 on 6.1.8, allows us to do this if I may. It says "if more than one year has lapsed between the planning and zoning Commissions report on the preliminary site plan and submission by the applicant of a final site plan application, and if the planning and zoning Commission finds that the conditions have changed significantly in the interim, it may require a resubmission of a preliminary site plan for further review and possible revisions prior to accepting the proposed final site application for review". I have no idea what the signage on this property is going to look like. I have no idea what kind of lampposts they are going to have, and there's a whole lot of questions that are not available to us, so I am asking this Commission to please table this for a month so we can have all that information, including the minutes of April 2006, well before our next meeting so we can review it properly and attend to the final site plan in a proper way. And that would also allow our two new members to be able to participate in this vote. Thank you.

Debbie Pfeil: Do you want me to address that?

Linda Rogers: Yes, because I don't know that we can just automatically do...

Debbie Pfeil: We asked for interpretation from the city attorney and the applicant has submitted and met with the project coordinator prior to the expiration of the preliminary site plan, therefore the city attorney's, before we placed this on the agenda, it was his interpretation that they can move forward with final. If you needed additional information for your packets, I believe the packets were delivered last week, I'm not sure if Robin had any requests from the Commission. You can discuss the item tonight. If it does not meet all of your concerns or questions from the applicant, you do have the right to table it and have them come to the next thing, but the applicant has submitted, and according to this city attorney, they have made the time before the expiration came out, so that is why they are on the agenda tonight. If the planning Commission any times needs additional information prior the meeting, please feel free to contact Robin, George Dickerson or Stephanie for additional information, even if it's not posted on the website. But, I would entertain to you to at least hear it and get through as much as you can tonight. If you're not comfortable with all of your questions and solutions, you have the option to table, deny or approve. But the applicant is here tonight; this is the first we have heard of this, is that correct, Robin?

Robin Davis: Yes.

Debbie Pfeil: It's the first we have heard of this. Now we did consult with the city attorney prior to placing them on the agenda.

Linda Rogers: So, does anyone else have any additions, corrections or changes they would like to make to the agenda? If not, would someone like to entertain a motion to proceed with the agenda as printed.

Bill Brierly: I make a motion to proceed with the agenda as written.

Linda Rogers: We have a motion to proceed with the agenda as printed, is there a second. Is there a second?

Dean Sherman: I'll second.

Linda Rogers: We have a motion and a second. All in favor say "Aye". Opposed – None. Okay, we'll proceed with the agenda.

Approval of Minutes

Linda Rogers: We have no minutes to approve.

New Business

Linda Rogers: The first item up for discussion is the preliminary site plan of the commercial addition/enclosure.

The applicant, Stansky Ventures LLC, is requesting preliminary site plan approval for an addition/enclosure to existing commercial buildings located on 110 and 112 New Street, Milton, Delaware. The property is zone L1-1 (Light Industrial) and is further identified by Sussex County Tax Map and Parcel # 2-35-20.11-24.00 and 24.01.

Does anyone have anyone have any questions, information or comments?

Bob Kerr: Mrs. Rogers, if I may. As I said in my memorandum Cabe worked with Mr. Siegfried on several projects. We've been a sub to him and he's been a sub to us and if the Commission feels that there's any conflict there, I would certainly step out, so if you could ponder that before we proceed so I know whether to stay here or leave the room please.

Linda Rogers: Do the members of the Commission have any concerns Mr. Kerr's company or Mr. Kerr making comment on this application?

Bill Brierly: I would say that based on the comments of our senior planner, and the comments by our Town engineer, they both follow closely together, so I would feel that our Town engineer has done an objective review and analysis.

Linda Rogers: Does anyone else have any questions or concerns? Otherwise, do we need to make a motion to go ahead or just go ahead?

Ted Kanakos: Make a motion.

Linda Rogers: Okay, let's make a motion. It'll be on record.

Ted Kanakos: I make a motion to proceed.

Linda Rogers: We have a motion to proceed and allow Mr. Kerr to participate in this review. Is there a second?

Dean Sherman: I second.

Linda Rogers: We have a motion and a second, all in favor "Aye". Motion carried.

Does anyone on the board have any questions or concerns that they would like to raise at this time?

Ted Kanakos: Yes. My concern is parking vs. the square footage. It seems to be I think they need something like 19 parking spaces or so, and only 3 parking spaces are provided? I think this is an issue.

Linda Rogers: You have concerns about parking? Anything else?

Ted Kanakos: It says here they require 25 parking spaces. Only 3 parking spaces are shown. These 3 parking places block access to a proposed overhead door in the new shop, so not only there are only 3, but one is or more are obstructions, through the egress and regress of deliveries.

Linda Rogers: Are we allowed to ask the applicant to answer that?

Debbie Pfeil: Your procedures would determine if you want the consultants to give their recommendations on the subject at the time - if you want Mr. Kerr's recommendation from that, my recommendations and then the applicant to come and address it. That's a norm you might want to try to do in a meeting format. So I think you just read Mr. Kerr's comment, correct?

Linda Rogers: So you want us to hear you all's comment and then go from there?

Debbie Pfeil: I'd recommend that.

Linda Rogers: Okay.

Debbie Pfeil: Mr. Kerr, did you want to read that again?

Linda Rogers: Either one of you go.

Debbie Pfeil: Under parking, I agree that the applicant is required to have we said 25 parking spaces. The applicant is providing 3. My recommendation was that the Commission allows the applicant the opportunity to discuss why they do not have a customer demand or vehicle flow with the business to provide 24 parking spaces. Under Section 7.2.1, where appropriate the planning and zoning Commission may upon the presentation of evidence, vary the number in circumstances of the following parking

space requirements. In order that the general welfare be served in the proposed uses be equitably treated. My recommendation would be that you discuss it with the applicant to see the need of their business and in it is within the planning Commission's jurisdiction if you felt you wanted to vary those spaces. It's the planning Commission's determination. That's one section of the parking lot that was brought up.

Linda Rogers: So now do we hear all of your comments and all of Bob's comments and then...?

Ted Kanakos: Hadn't we traditionally gone through them 1, 2, 3, 4, and 5 and have them comment?

Linda Rogers: Well haven't normally. Bob will go through them and she'll go through them.

Debbie Pfeil: If you want to follow that procedure, I will just chime in with my comments with your format.

Ted Kanakos: You can reinforce them or whatever, but I would like to go through one at a time because they aren't (unintelligible) comments.

Debbie Pfeil: You want the applicant to have a chance to respond.

Ted Kanakos: Sure. Absolutely.

Debbie Pfeil: So we have the one question, you want the applicant to respond?

Ted Kanakos: No, why don't we just fold it in as we go down 1, 2, 3, 4, 5.

Debbie Pfeil: Because we'll get on other topics besides parking, is that what you want to do.

Ted Kanakos: We'll take them one at a time. That's why they're listed.

Linda Rogers: We're trying to figure out the format we're going to follow.

Ted Kanakos: I suggested that we go through, in a numerical way, as they are presented by the engineers and the consultants, rather than I pick out parking and somebody else picks out this or that, we'll go through it systematically. They will both comment on it, then we'll give the applicant a chance to respond.

Linda Rogers: Okay. So Bob, would you like to review your comments please.

Bob Kerr: Yes ma'am. First item is just a general comment is zoned light industrial. It contains 22, 188 sf. All the properties around are also zoned LI-1. It's used by Siegfried Machines Supply and is composed of 2 one-story buildings although Stan said tonight it used to be 3 buildings of wall and roof was removed apart. The proposed change to the site includes basically putting that portion of the building back and enclosing two of the new buildings so it becomes one large single building. It's not written here, but this property was also developed before there were planning and zoning requirements in the Town of Milton. Item 2, there are no rear or yard setback requirements for this zoning district. There is a 40' setback on the front yard for this. Existing portions of the building are 20.5 and 30.8 feet from the property line. A portion of the proposed building is shown to be constructed within the front setback however section 5.6 of the zoning ordinance provides exceptions to the front yard requirements. You want me to just continue through or do you want to stop at each item?

Ted Kanakos: Just go through.

Bob Kerr: Just go through? Okay. Item # 3, curbs and sidewalks should be provided along the front property line. That's one of my standard things with the ordinance requiring that when there is new construction on a property. Item 4, the building is shown to contain approximately 12,020 sf. which would require 25 parking spaces based

on 1 per 500 sf. for industry or warehousing. There's only 3, as we've just talked about, shown. Part of those block access to an overhead door in the new shop. There is some room for additional parking on site but a parking waiver in accordance with section 7.2.5 would be needed. As Debbie said a moment ago, asking the applicant to explain why they don't need the required parking would be appropriated. Item # 5, there's fencing shown on the property that I believe there's also some new fencing shown, but to have it called out on the final site plan what type of fencing, where new fencing or old fencing will be so you know exactly what's going to be there. Item 6, the amount of impervious area is not significantly increased. There's no letter of objection from the Sussex Conservation District (SCD), and one should be provided or storm water management plan as well as an erosion sediment control plan should be prepared and accepted by the SCD before you would consider giving final approval. Item 7, there's not existing or proposed lighting shown on this site plan. Item 8, there's no location of a dumpster. Item 9, the area in front what appears to be the main entrance is show to be a stone area. A sidewalk and possibly landscaping should be considered for that area. Item 10, some of the information required by section 6.1.5 preliminary site plan requirement said has not been provided on the preliminary plan. Some of it's not applicable to this site but it should be provided if you choose to approve this and a final site plan would be accepted.

Linda Rogers: Does anyone have any questions on Mr. Kerr's comments.

Ted Kanakos: Some of the required information is not applicable but some is. That last # 10, what is required?

Bob Kerr: Some of the information required...it's easier maybe to say what isn't required, such things as number of lots and lot density and those items are not required. There's a basic data table that's required that how many acres of zoning, trying to page through and find at the same time. Those types of items and we can work with the developer, or the applicant, to make sure that the proper information is provided on the final if you choose to give a preliminary.

Ted Kanakos: Thank you.

Linda Rogers: Does anyone else have questions for Mr. Kerr.

Louise Frey: Mr. Kerr, I do on the lighting. He's not proposing any lighting and there is not existing lighting. Are you recommending that there should be lighting on the building or in the parking lot?

Bob Kerr: Depending on the fencing there may not be a need for lighting within. We generally do not require a site to have lighting we're as concerned about how the lighting affects adjoining properties is why we really look at or in a subdivision how it maybe aesthetically pleasing. In an industrial area, you generally have a bit more lighting for security reasons. It's more that it should be shown and I don't know if there's any existing lighting there, I would suggest we ask the applicant when we get to that portion of the meeting.

Louise Frey: Thank you.

Linda Rogers: Does anyone else have any questions for Mr. Kerr and his comments?

Ted Kanakos: Yes. The location of a dumpster is not shown in the site and I know that they have some sort of industrial refuse that they have to get rid of on a regular basis, I'd like to know what facilities or they have made for this.

Linda Rogers: Debbie, do you have any comments?

Debbie Pfeil: Do you want me to read my comments into the record, item by item? You have your standard First State, which I am not going to do the same exact readings that Bob did, so I am going to skip throughout my letter of the highlighted areas that words of planner. It is a permitted use under Section 4.7.2.1. I concur with this that sidewalks that currently do not exist on the frontage of the property. If you look at this letter, this is kind of a test of the new format you'll be looking at in July, so we'll be able to follow comments that way. Section 7.2.1 was the parking where you can request the applicant to discuss why they don't have the customer demand or vehicle flow. The applicant has an existing light pole. Under 2.7, the applicant has an existing light pole located on the property that was found, but it's not shown on the plan when we walked it. It's recommended that the applicant provide any and all existing lighting and proposed building lighting during the final site plan submission, so I hope that addresses the Commissioner Frey's request. The parking lot is proposed to be paved. Landscaping requires at least 10% of the area to be landscaped. It's recommended the applicant plant additional trees and shrubs on the grass area as well. Any area possible, there's a lot paving and a lot of gravel and anything they can do for landscaping. Off-loading and loading requirements, once again, the planning Commission, this will need to be discussed with the applicant regarding the anticipated amount and the type of deliveries needed to conduct their business and it's at the discretion of the planning and zoning Commission. We're going to skip down again to the structure. The applicant has provided elevations to demonstrate how the structure will look upon completion. The applicant is proposing a structure that will enhance the character of the neighborhood as come in on the brick veneer and the design of the structure for industrial type use. So I do want to let you know, it's not always negative comments but there was some work put into that building. Another comment as well, the overhang door with columns is an architectural feature and aesthetically pleasing. It would encroach on the required 40' front yard setback area, but that gives the option to apply for a variance or remove the encroached porch which we discussed with them. I also have, whenever possible for handling all freight shall either be on those sides of any building which do not face any street or proposed streets or be suitably screened. That the neighboring property across the street is a maintenance building for tractor trailers, and it faces New Street, and two other industrial type uses on the same street of the corner lots, also face Federal Street, so I just want to make sure you ensure what the character of neighborhood is. Buffer landscapers may be met if the applicant can comply as stated earlier in the code. The setbacks for this property, I concur with Mr. Kerr's comments and the sign will be in conformance with the C1 section and viewed prior to final. Those are the comments that I have at this time.

Linda Rogers: Does anyone have any questions for Debbie? Or her comments?

Virginia Weeks: In your section under parking C, you say that the first requirement that is not met is the providing of curbing and wheel stops to keep paralleled vehicles within the proper boundaries. And the second requirement not met will be addressed once they obtain, what is the second requirement not met?

Debbie Pfeil: What section are we on of my letter again, I wasn't clear of it?

Virginia Weeks: Parking. Letter C.

Debbie Pfeil: He has not met the first requirement of curbing or wheel stops to keep the vehicles parked in proper boundaries. The second requirement will be addressed. The

second requirement of the code is drainage. So, I do know that I discussed with the applicant and they are aware of this prior to final.

Virginia Weeks: Okay. Thank you.

Linda Rogers: Does anyone else have any questions of Debbie?

Michael Filicko: With this new format, when will landscaping, lighting, and parking be addressed?

Debbie Pfeil: It's in your code now as far as one of your requirements for preliminary but all the new formats' going to do is organize the meetings. It's not going have new topics, so if you look at the letter that I drafted, tonight was an example of, and Mr. Kerr didn't have an option to do this so I apologize, we just wanted to see and go in the order in which the comments were read so when Mr. Kerr reads his, I would be able to read mine and we'd all be on the same topic at the same time. It's much easier for the developer to respond by topic instead of getting sidetracked which is easy to do when talking about large projects. But we haven't done any changes as far as requirements. We are still meeting those under the preliminary concept and final (unintelligible). Right now it would just be a meeting format change.

Michael Filicko: Thank you.

Virginia Weeks: I have another question for the planner if I may. Debbie, I noticed that there are I believe 6 loading doors in the plans. Is that correct?

Debbie Pfeil: Now what's the question, I'm sorry.

Virginia Weeks: How are trucks supposed to back up to those loading doors off of the street?

Debbie Pfeil: I would say that is more of an operational question and I would probably defer to the applicant. I'm not sure how they drive their trucks or how large they are for the turn radius.

Virginia Weeks: Okay, thank you.

Linda Rogers: Does anyone else have any questions? Now, do we direct our questions to the applicant?

Debbie Pfeil: Correct, if that's what you choose to do.

Linda Rogers: Could the applicant come forward please? No do we individually get to ask them questions?

Debbie Pfeil: I would recommend if you want proper meeting format to start at one end of the table and just go all the way through and get all the comments done and have the applicant address them. If somebody on the Commission has already, my recommendation would be, if somebody already brought it up, and your answer has been fulfilled, it does not need to be brought up again. That would just be a recommendation.

Linda Rogers: Ted would you like to start with any questions you have of the applicant?

Ted Kanakos: Yes. My basic concern is parking. How many employees do you have.

Stan Siegfried: I only have 2 employees.

Ted Kanakos: Plus yourself? Any partners?

Stan Siegfried: No, just plus myself.

Ted Kanakos: So you need basically 3 parking spaces for the people who are there.

Stan Siegfried: Well, actually 2, but if you want to consider me, 3, because I actually drive a utility truck on a regular basis. The garage door accesses are actually for the trucks to get them out of site in the future when the building is completed so that we will not have construction trucks out. Parking is an issue there. There's no way that I can see

I can get 25 parking spaces. Perhaps I could get more if I were allowed to back out as everyone else is on that street. Everyone backs out into traffic, now.

Ted Kanakos: Could spaces be provided where you show gravel?

Stan Siegfried: I think it can. The big thing is depending on what the fire marshal is going to request.

Ted Kanakos: It looks like you can get at least 3 or 4 more in.

Stan Siegfried: I think so, yes.

Ted Kanakos: That would be fine.

Stan Siegfried: And I do think that's going to fit in. Bob would know better than I. I'm assuming you can back into a fire lane to get out. You're not parking in the fire lane, you're backing out over it.

Bob Kerr: Yes, you can back into a fire lane to leave the property but there would be a concern, and I'm sure the fire marshal is going to make a certain portion of the building that you can't park near. You have to have so much of the perimeter directly accessible.

Stan Siegfried: In front of the doors is what they are requesting.

Ted Kanakos: Thank you.

Bill Brierly: You've received the comments from the engineer, the same ones we have perhaps, and you've also received the comments from the senior planner with URS I assume? Are there any comments or suggestions that they have in these two written up statements that you don't think you would be able to comply with? Take objection to maybe.

Stan Siegfried: The one that we may not be able to comply with and I think the fire marshal even has difficulty with it, is the curb, as you refer to them as curb stops for the cars not to roll over. I think it's going to become an issue with them as well because that would eliminate the free flow if you will across the front of the property so I don't know if there's some that are available that would stop a car moving slowly yet allow you to drive over them? I don't know what's acceptable in terms of that. So, that issue will I think they determine here shortly when the fire marshal reviews the site plan which then comes to the Town of Milton in front of the fire chief for his approval.

Debbie Pfeil: If I can interject, I'm sorry. I was just concurring with the Town engineer. We were discussing the curbing and it is an industrial site. Therefore, in most industrial sites, especially if you look at that neighborhood, there is, I probably be comfortable saying, non-conforming parking within the street area? And according to Town attorneys' interpretation last time, that planning Commission can eliminate the curbing or wheel stops if you choose to do as such. I just wanted to make sure that was addressed. If the fire marshal does come back and it is a hazard, or if they have to drive traffic through there, our concern is if you put in wheel stops there, the backhoes, the trucks, the tractors will all go on the street and then back out into the lot again. So it might be a safety concern that the Commission might want to take into consideration if you want. Sorry for the interjection.

Bill Brierly: So given the comments that you received, are you going to show these other things on the final plan – the lighting, the signage, etc.?

Stan Siegfried: Yes. Lighting is definitely...with the fence, the fencing that's around the property right now is not mine, but it has caused a concern in terms, so I will have lighting around the building. I don't think it will affect any of the neighbors. High pressure sodium I think is the one, the wall packs, that provides a yellow lighting.

There's parking lots all the way around me so I don't think that will become an issue. But we will have lighting and show lighting around the building.

Bill Brierly: It will be shown and described, right, exactly what kind it is?

Stan Siegfried: Correct. And to answer the second part of your question, the sidewalk issue, personally I can't see encouraging anyone to walk that street, especially school children. Tractor trailers are backing up constantly up and down that road. Also, they back into my property occasionally and trying to swing the 50' trailers which would destroy any sidewalks, and that's just to help with Reeds and their situation because they have a very tight area. But I mean it would destroy it. They have a difficult there with their own property with the wheels turning in destroying both concrete and blacktop, so I think sidewalks, personally in my opinion, would be a bad thing, because it would encourage people to walk down a road that they'd only get down half way and then they'd have to go across a parking lot that is very active. That being Reed trucking. They have 44 tractor trailers and I think that would be a very bad thing to do.

Bill Brierly: I'd say the only itching to get along that it is a public road and maybe it shouldn't be encouraged but it is a public road.

Stan Siegfried: It would start at my property on one end and end at the other, so that would be another odd...

Bob Kerr: Mrs. Rogers, if I might. This has come up many times before and it's something that planning and zoning really has no control over. It is a Town ordinance outside the zoning ordinance. In order to issue a new, it's part of issuing a building permit, curbs and sidewalks are required. Mayor and Council would have to, you would have to request Mayor and Council to waive that requirement, not planning and zoning.

Stan Siegfried: Okay.

Bill Brierly: I'm finished.

Michael Filicko: Is this the time to ask the question in lieu of waiving the parking spaces that are required, may we ask for a detailed landscaped plan and irrigation?

Debbie Pfeil: It's an industrial area. If you look at the additional landscaping in the area, I think the applicant will work with minimal, there is not a lot of space for landscaping, but the irrigation, to the best of my knowledge, irrigation for landscaping is not in any code requirements, and people can landscape how they choose to; if they choose to water buffalo in, use their hose through Town water or etc. At this time, based on the industrial site, I would ask the applicant to work on landscaping for the final site plan, but as far as how he chooses to maintain the landscaping would be up to the applicant. I cannot find an ordinance that requires that. Is that correct Mr. Kerr?

Michael Filicko: Debbie, it's not an ordinance. The ordinance states that there be 20-some parking spaces, correct?

Debbie Pfeil: That's correct.

Michael Filicko: So, my question is, in lieu of waiving those parking spaces, that's why I would like to see a detailed landscaping plan even though it's not required.

Debbie Pfeil: A landscaping plan is required and the applicant will supply that for the final site plan. I don't, I wouldn't, probably not recommend additional constraints outside the zoning as far as the irrigation because I think that is more of a property maintenance issue and how they maintain. But it is an industrial area and if you did walk the area, there is industrial around the surroundings, and he would have to make the requirements for the landscaping whether there is a parking lot requirement. You are not

asking to waive the landscaping, you're just asking to relax the parking spaces. I've never heard of recommending irrigation. I'm not sure if Mr. Kerr has as a requirement.
Michael Filicko: I'm just thinking about the aesthetics of the Town Debbie and even if it is an industrial site, it's still should be an attractive site for the Town of Milton.

Debbie Pfeil: I do agree with you. I'm not saying that you shouldn't do any landscaping on the record. I am saying that how he chooses to maintain that landscaping whether it's underground sprinklers, whether it's he brings a water buffalo truck in, how he maintains that is up to the applicant and I do also want to let you know that Town of Milton does not have design standards yet. I know you are going towards that design standards on how buildings have to look. You do have landscaping requirements that have to be met; on how buildings have to look and where they put the landscaping and what kind. You only have a certain percentage in your code right now, but you do not have design standards manual yet. I do know that you guys have said that you wanted that done. Now if we could go in the Commission order again, I'm sorry, just to not get off track. Did we get everybody done?

Michael Filicko: Dean did not have any questions. In addition, the fencing around the trash bin.

Linda Rogers: Reed has a dumpster placed on the plan, correct?

Michael Filicko: Will there not be a dumpster?

Stan Siegfried: Yeah, there will be a dumpster and as far as irrigation, that's not even an issue. That's not a problem at all. And in my effort to put something that's aesthetically pleasing, we'll do that; that's not an issue. So the irrigation I mean is probably one of the smallest factor in this whole battle to start with, so it's not an issue, we'll do that.

Michael Filicko: Thank you very much.

Stan Siegfried: As far as a dumpster, again, that's a new requirement to me, to show a dumpster on the site plan so we'll include that and whatever we can do. My biggest problem there is that we have overhead power lines. I'm not getting any cooperation from the power company at all. I'm looking at over \$20,000 to make changes because the pole that's currently serving us and Reeds, so they don't feel that anything needs to be done with that. But that's another issue, but we'll try to work out some sort of area for the dumpster that will be somewhat out of site. We don't really have any control over the truck coming in and picking the dumpster up unless we put gates on it, which would require him to get out and open it up, so I don't know how well that will go. We can look at that, I mean the driver would have to open those gates because we won't be around to open it for him, so. We'll look into that and put that on the site plan. The only reason the site plan, the new site plan isn't here is because of the fire marshal. I have to get that squared away first.

Michael Filicko: Okay.

Linda Rogers: Mike, do you have any other questions.

Michael Filicko: No, thank you very much sir.

Linda Rogers: Gene?

Gene Steele: No questions.

Louise Frey: No questions.

Virginia Weeks: I have a couple of questions. You are going to be just 2 employees.

Stan Siegfried: Currently we are 2 employees, yes.

Virginia Weeks: And what is going on in the building?

Stan Siegfried: We do fabrication. We're utility contractors so we fabricate a lot of piping.

Virginia Weeks: Because on the plans we have, it says you are going to be fabricating trusses, roof trusses. Did you see that?

Stan Siegfried: No. There's fabricating roof trusses for the building itself for the construction of it.

Virginia Weeks: Maybe manufactured roof trusses?

Stan Siegfried: Yes, that's what that's referring to.

Virginia Weeks: What is the height of the building going to be?

Stan Siegfried: Right off the top of my head I don't what that is. That should be mentioned on those plans.

Virginia Weeks: Did I miss that Mr. Kerr, somewhere?

Bob Kerr: Elevations for the roof, the peak of the roof.

Stan Siegfried: I honestly don't know.

Virginia Weeks: The other thing, right now down there it's pretty messy and awful and I can understand because the building is inadequate. But, once it's finished, there will be no unscreened outside storage permitted. Are you aware of that? Under the, I believe it's 7.10 of our zoning code.

Stan Siegfried: Ok.

Virginia Weeks: Also, you have to...it also states that "all areas not occupied by buildings, parking, driveways, walkways or storage must be landscaped". That's in the development for industrial areas, and I was just curious, if you're only 2 employees, why are there 4 bathrooms?

Stan Siegfried: Well, we're allowing for anything in the future as well. I mean, we can pull those bathrooms out of there, but I mean that's...just I mean we are allowing for everything in the future you know what I mean. They may not even be finished 100%.

Virginia Weeks: No, I was just wondering; it's very generous. Because when we talk the giving 23 parking spots, we also have to think of the future and what the use will be in the future. It's an awfully large building for just 2 employees.

Stan Siegfried: Correct.

Virginia Weeks: So, what is the size of the truck that will be coming there? How long?

Stan Siegfried: The size of the trucks in our business?

Virginia Weeks: Yes.

Stan Siegfried: Our trucks are 20', 25' at the most. Currently we are probably only 20' long on all of our utility trucks.

Virginia Weeks: And you said that most of these doors here are doors for the trucks to be inside, so there will be no loading outside?

Stan Siegfried: Loading and unloading of tractor trailers?

Virginia Weeks: Yes.

Stan Siegfried: Oh, absolutely there is, for equipment that's brought in.

Virginia Weeks: And how frequently will that happen.

Stan Siegfried: We're probably lucky we get a delivery, or 3-4 deliveries, every 2-3 weeks. Sometimes even longer than that.

Virginia Weeks: Okay. And those are those, standing on New Street facing the building, those will be restricted to the loading dock on the right hand side where the truck can get off the street?

Stan Siegfried: Well, we're going to have to take a look at that whether he can back down and unload on the side of the building, side of the brick building between our property and Pettigans, or pull in front of the building and unload in front of the building.

Virginia Weeks: And if he pulls in front of the building, he would be blocking New Street, right?

Stan Siegfried: No. I'm talking about actually driving on the property. See, if we don't have the curb stops or the stops for the cars, then he can actually ride across that area in the front.

Virginia Weeks: But where would the cars be parked then?

Stan Siegfried: Well, we're looking at additional parking in there. I'm trying to abide by not backing into oncoming traffic which everyone does do on that street right now.

Virginia Weeks: No, the streets a mess.

Stan Siegfried: I mean, Pettigans is set up that way, because he has no other choice. But we'll be looking at additional parking which case they will be on the side of the building and not in the front.

Virginia Weeks: Okay. And when you come back with your landscaping plan, and we're all starting out pretty new here, there is a requirement that trees be of a certain height and that shrubs be of a certain height, so please keep that in mind if you would.

Stan Siegfried: Sure. I mean it's not even an issue for me; that's the easy part.

Virginia Weeks: In know, but it's important to us. And we need to see the design and the size of signs please. Thank you.

Stan Siegfried: Okay. You're welcome.

Linda Rogers: Bernice?

Bernice Edwards: Yes. He asked a question; you answered the question about the parking, because I was going to ask what provisions you were going to make for some additional parking spaces.

Stan Siegfried: Right.

Linda Rogers: Okay. All questions and comment have been answered. Bob?

Bob Kerr: Mrs. Weeks asked a question on the building height and based on the elevations that were provided, it's approximately 28 to 29' at the ridge.

Virginia Weeks: Thank you very much.

Linda Rogers: Ladies and gentlemen, what's your pleasure?

Ted Kanakos: I would make a motion that we approve the request pending the changes that Mr. Siegfried said that he would do. I think it would be a great improvement to the community, to the block, to the area. And commend them; I think it's wonderful.

Linda Rogers: And in reference to the variance for the parking places, does that need to be a separate motion or can it be part of this one? Okay, do you want to make that part of your motion?

Ted Kanakos: Yes. That the parking will be addressed as well as the other issues that Mr. Siegfried said he would address.

Linda Rogers: No, we would have to officially give him a parking waiver.

Ted Kanakos: I would like to see exactly how much parking is there. I don't want to give a waiver until we know if he can increase the parking a little bit. He said in the graveled area that probably was a possibility. Three parking spaces for 3 employees and future employees doesn't appear to be in the interest of that street or the Town, but if he would come up with 1 or 2 more, I could live with that.

Linda Rogers: So...

Dean Sherman: We can definitely waive the 25 requirement though.

Ted Kanakos: Oh, yes.

Dean Sherman: That seems to be ridiculous on that street.

Ted Kanakos: Yeah, if he comes up with 5 I, I mean I have no problem but it has to be more than 3.

Dean Sherman: Yeah, well, we'll try to get as many as we can. I think the fire marshal ruled the day over that.

Ted Kanakos: That would be fine.

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

Bob Kerr: You're going to have to...you better restate the motion.

Linda Rogers: Okay. My understand of what you have said is we want to approve this as a preliminary and allow a waiver of the 25 parking requirements but want him to get as many as he possibly can to bring back on the final plan. Plus, he will be required to have all his other state agency approvals. And all the things that are noted on a final site plan will have to be noted.

Bob Kerr: Yes.

Virginia Weeks: Madame Chairman, do we really want to make it a waiver of 25 parking spots or 20?

Linda Rogers: It's from the 25 requirement but we're not going to give him a number until he comes back with the final. Is that...?

Ted Kanakos: But we waive the 25, if he came back with none, would that...where would we be?

Virginia Weeks: Exactly.

Dean Sherman: We wouldn't approve it.

Ted Kanakos: Okay.

Dean Sherman: He's got to come back to final.

Virginia Weeks: But if the waiver is given, isn't giving it tonight, can we take the waiver back at final site plan? No.

Dean Sherman: You're waving the 25, you're not approving any particular number so that would be done at final.

Debbie Pfeil: May I interject? I recommend that you do choose the number tonight, because the applicant, he can come back at final and say the fire marshal stated we cannot park there in our additional parking. We know we have 3 tonight. The applicant's proposing, I think you made a recommendation of 5, if the fire marshal allows that additional parking to be done. We are looking for a number tonight for the applicant to be able to design for final and take to the fire marshal instead of coming back to the planning Commission, and maybe back to the fire marshal, on that issue.

Ted Kanakos: So we can waive 20?

Debbie Pfeil: If that's the consensus of the planning Commission and ask for the applicant to agree to.

Linda Rogers: So is that what you want to do? The 23 or the 20? Because 22, because he can do 3, and if the fire marshal comes back and says that he can't put any on the side, he wouldn't be able to give us five, is that correct?

Ted Kanakos: I'm looking for 5 total. Now there's a gravel area that seem to be large enough to put in at least 2 or 3 or maybe even 4. And I think that Mr. Siegfried agrees.

Linda Rogers: So we would like the applicant to provide a minimum of 5 parking spaces total.

Ted Kanakos: Correct.

Linda Rogers: Okay. Does that clear what the motion is?

Dean Sherman: We're making a motion that we're waiving 20 parking spaces?

Linda Rogers: Yes.

Dean Sherman: You will supply us with final?

Stan Siegfried: I certainly hope so. I mean, again, it depends on what the fire marshal says, but I, we have 42' on the side of the property, I can't imagine the fire marshal requiring all of that.

Dean Sherman: Stan, if you can't get the 5 places, just when you come back, make sure you can document that the fire marshal won't let you do it.

Stan Siegfried: Oh, yeah, it will be documented because I have to sprinkle so I have to....

Dean Sherman: That's what I say, that's all. The fire marshal ruled the day so this all we're exercising, you're....

Virginia Weeks: May I say something?

Linda Rogers: Do you have a question to the motion?

Virginia Weeks: I have comment to the motion which is that sometimes if the fire marshal doesn't allow it, then the building needs to be reconfigured in such a way that the five spots would be there. Maybe the building is too big for the lot. But we have to look at the future of what could happen down there in the industrial use in a building this large and to just go ahead and waive a whole bunch of parking and have this sold in 2 years and have 20 employees in there would be a problem. So I'm not so hot to track just if the fire marshal says it can't be done and then we waive everything. I just wanted to make that clear. Thank you.

Linda Rogers: Okay. We have a motion on the floor, is there a second to that motion?

Dean Sherman: Second.

Linda Rogers: All in favor of the motion? Roll call vote:

Ted Kanakos: Yes

Bill Brierly: Yes

Dean Sherman: Yes

Linda Rogers: Yes

Michael Filicko: Yes

Gene Steele: Yes

Louise Frey: No

Virginia Weeks: No

Bernice Edwards: Yes

Linda Rogers: Okay, motion carried.

Stan Siegfried: Thank you.

Linda Rogers: Thank you.

Linda Rogers: The next item on our agenda for review is for a preliminary site plan – Office/Warehouse Building.

The applicant, Terrific Toys, is requesting a preliminary site plan approval for a 4,350 square foot office and warehouse building located on 410 Broadkill Road, Milton, Delaware. The property is zoned C1 (Commercial and Business Use District) and is further identified by Sussex County Tax Map and Parcel # 2-35-14.15-75.00.

Bob Kerr, would you like to make your comments, please?

Bob Kerr: Concerning my comments, the first is a general that it is zoned C1, Commercial and Business use. It's located at the intersection of Delaware Route 16, Broadkill Road, and Palmer Street. Item 2, the property is presently being used as an office and warehouse for Terrific Toys. They desire to construct a new building and demolish the existing building. If you recall sometime ago, they came in with another preliminary plan that they tried to add on to the existing building and that really didn't work, and I guess this is the result of that first preliminary plan. Item 3, the building setbacks are shown correctly on the drawing and the building is outside those required setbacks. Item 4, 11 parking spaces are required – 5 for the office; 6 for the warehouse – 14 spaces have been provided. A loading dock has been provided. Item 6, bumper blocks should be provided for all of the parking spaces. Item 7, Section 5.2, which is corner lots, refers to a front yard of at least 15' on the side street of a corner lot, so that in this case there are, it is considered to be 2 front yards. They have shown the setbacks in that manner. They have a 10' on one side and a 15' on the Palmer Street side. The parking along Palmer Street does extend into the setback. You are allowed to modify that or waive that, but it is something that should be part of any motion to approve. Paving along Rte. 16 also extends into the front yard setback, but it's not actually a parking space. Parking lot along the east property line, scales what appears to be about a half a foot from the property line; very close to the property line. Item 8, the proposed structure is shown to be approximately 22' high; will contain an office and a warehouse, and the building exterior is proposed to be a metal skin. Item 9, they have dedicated an addition 5' of right-of-way along Rte. 16; that's typically a DelDot requirement. Item 10, curbing is shown along Rte. 16 and a portion of Palmer Street. The curbing should be extended from the entrance on Palmer Street to the southern property line. The curbing should be labeled integral curb and gutter. Item 11, they are showing a 4' concrete sidewalk along both streets. To be in conformance with the Town code, it should be 5' wide. Item 12, landscaping has been shown on the drawing. Additional detail should be provided on the final site plan. Item 13, location of lighting for the parking lot has been shown. Additional detail should be shown on the lighting prior to final approval; the type of light, the height of the light, etc. Item 14, no signage has been shown and should be provided on the final site plan. Item 15, the storm water management basin is shown along Rte. 16. Item 16, the proposed used existing water and sewer connections for the new building. Item 17, a trash receptacle area has been identified on the drawing. Details of the fencing or screening of the dumpster have not been provided and a preliminary site plan requirements checklist is attached, showing the things that have been provided or not provided or not applicable.

Linda Rogers: Do you have comments Debbie?

Debbie Pfeil: Yes I do.

Linda Rogers: Do you want to go his? Do we go over them separately or hear them both, because some of them are the same?

Debbie Pfeil: If you want me to, I'll skip the same ones that Mr. Kerr did. We concur on a lot of items.

Linda Rogers: Okay. Go down. Ted, do you have any questions of Robert?

Ted Kanakos: No, I'll just wait for Debbie to finish her comments. I think it's a lot easier.

Linda Rogers: So we want to do yours? Ok, do yours Debbie.

Debbie Pfeil: I have some of the same comments. I will just skip over to some additional comments I have. Mr. Kerr did say parking shall not be permitted in the front yard setback as you see on the applicant. Once again, the planning Commission is empowered to go ahead and relax that requirement in the front yard setback. They do meet the parking requirements. I agree with the bumper and curb stops within this application based on the parking lot layout. Landscaping is on the plan; we're going to request detailed landscaping and to ensure that they've met all of the buffering and percentages as required by the code. The DelDot approvals which Mr. Kerr said prior to final site plan submittal, all outside agency approvals need to be met. The structure, I hate to be the one that always brings up bad news on structures, but I know aesthetically pleasing is what we're going for. I feel that the metal building is lacking character and design. Several building enhancement features can be used on a metal building, such as window shutters, planter boxes, overhang entrances, ornamental trim, window awnings, and multiple metal-color coordinations. I would like to see the applicant spend some more time on the design of the building as this is on one of your entrance-ways as you might say, as you've said in the past, through Milton. I think you just the high building that was metal that has some brick in it the front of it and some columns and some overhangs, so my recommendation would be the applicant spend some more time in elevations. Sidewalks as Mr. Kerr said. Landscaping is ditto, and lighting, however we need to see the design and size. I'm unsure what character the applicant is going for. The character that I would describe at this time, my personal feeling, would be an industrial look, but we would recommend a different type character with the lighting features as well. That's the comments that I have at this time.

Ted Kanakos: I would concur with everything that's said, but especially the look of the building. It looks more like it should be in an industrial park; much more appropriate for an industrial park, and not actually in a neighborhood. Palmer Street is a residential street and I think the neighbors deserve, not only to have it shielded by the landscaping, but just have a much prettier build. It would probably enhance his business anyway. But with that being said, basically the architectural changes are the big thing.

Bill Brierly: I don't have any comment at this time, although I would say though that it is an entrance-way into our community and into our Town and I would like to see something that is more aesthetically in keeping with the character of our Town.

Dean Sherman: Martin, is this GMB's best effort at architect stuff or what? The crowd wants some architect stuff. You got some more? You won't break the bank by dressing it up will you?

Martin Dusbiber: GMB. The owners have already purchased the building that there's now. They have a grey building on site presently. The warehouse building is, I assume is grey. It's already purchased. We can look at adding some things to the building to dress it up but it a warehouse. It's a metal building.

Dean Sherman: It's a pre-fab metal building?

Martin Dusbiber: A pre-fab metal building, right. We're going to try and decorate the windows up a little bit with shutters and add some color to the doors. Change the color of the office so it's a different color than the warehouse itself. I think we might be able to look at some ornamental things that we can add to it. Possibly, Debbie suggested maybe an awning or something like that; that would help, but it is a metal building and it is a warehouse and...

Dean Sherman: I just needed a clarification because you've got your name on it and I didn't know. I didn't think it was anything you built; I thought it might be a kit.

Martin Dusbiber: No, it's a pre-fab building already purchased. We didn't have a whole lot we could do with it.

Dean Sherman: Exactly. Other than that, I don't have any comment.

Linda Rogers: Mike. The comments are to Debbie and Bob.

Michael Filicko: Debbie, Bob, all the areas that you mentioned need to be addressed and that's my comment.

Linda Rogers: Mr. Steele.

Gene Steele: No comment.

Linda Rogers: Ms. Frey.

Louise Frey: I agree with Mike. I think that all of the comments from Mr. Kerr and Debbie should be addressed.

Linda Rogers: Ms. Weeks:

Virginia Weeks: I'd like to know, what kind of fencing is going to be around the perimeter? Is there going to be fencing?

Bob Kerr: There presently is no fencing shown around the perimeter of the property or anyplace on the property other than around the trash receptacle or dumpster and I don't have any details on that fencing or screening.

Virginia Weeks: What concerns me is a storm water area at the front of the building with no fencing around it. Is that permitted?

Bob Kerr: Yes, and in many locations it's the preferred method because the kids seem to be able to get over the fence, but the adults can't get over to save them.

Virginia Weeks: Okay. And is there going to be any landscaping between the walkway and the storm basin? Will there be some bushes or plants or anything?

David Meyers: GMB.

Debbie Pfeil: Actually, if you just want to address that question, they've got all the information in front of them. I know the boards are fun, but....

David Meyers: Okay. Yes, we are proposing landscaping.

Virginia Weeks: Other than grass?

David Meyers: Yes. We are proposing some bushes or whatever. The detailed landscaping plan would be submitted for the final site plan review that will detail all plant things, height, the type and things of that nature.

Virginia Weeks: I am very concerned that at the rear of the building that the landscaping be a good buffer to protect the residential area behind it. When you submit the landscaping plan, please make sure that it conforms with Section 7.14, whatever, which gives the height of bushes and trees and the canopy needed for each plant. Thank you.

David Meyers: Yes.

Linda Rogers: Ms. Edwards.

Bernice Edwards: None.

Debbie Pfeil: If I may make one more comment. I know the Commission is very adamant in not receiving new information the night of the meeting. The board that you see in front of you that is first tonight, the consultants did not have a chance to review the board nor the plan that was submitted to you so we will be reviewing those prior to final. And we will be, once again, installing your recommendation to not provide new information the night of the meeting. That's upon your request.

Linda Rogers: Okay, does anyone else have any questions or comments?

Ted Kanakos: Yes. I am a little confused. How can a man buy a building, put it on his property ready to assemble it and not get approval; before he gets approval. Is this a gamble, a risk, on his part? Is it going to be a hardship that he can't send it back, so we have approve it?

David Meyers: I'd like to refer to the owner, Dirk Grove, if he'd like to speak on that.

Ted Kanakos: Well, I'd certainly like to hear something. It shows a certain disregard for this Commission.

Dirk Grove: I'm the owner of the property. What happened with the building was that we didn't anticipate...we had a different engineering firm prior to GMB taking over. We got some bad advice. We did not anticipate all the preliminaries that had to be addressed. Some of that bad advice included being advised if we wanted to have the building in a timely fashion, we had to order the building. We got ourselves in a situation where the building was made and had to be delivered, and that is what the situation is. So we are doing our best to work around that. It's the type of building that we want but we want, but we are certainly willing and happy to dress it up in any way that you require.

Virginia Weeks: May I ask the owner a question?

Linda Rogers: Let's go down the row.

Ted Kanakos: That's fine. Go ahead.

Linda Rogers: Do you have any questions for the applicant?

Michael Filicko: Not at this time.

Linda Rogers: Mr. Steele?

Gene Steele: No questions?

Linda Rogers: Louise?

Louise Frey: Are you going to...? The entrance-way and exiting, is it going to be the same from Rt. 16? How are you going to do this? What street are you going to come in on?

Dirk Grove: The only entrance into the site is from Palmer Street. The exit only is on State Rt. 16, Broadkill Road.

Louise Frey: Will people be able to make a left hand turn then it they are coming out of that building? Or don't you know that yet?

Dirk Grove: Onto Rt. 16 they can only turn right.

Linda Rogers: Ms. Weeks?

Virginia Weeks: I have no questions, thank you.

Linda Rogers: Ms. Edwards?

Bernice Edwards: None.

Linda Rogers: Okay, being no further questions, would you like to...what?

Michael Filicko: I believe we shouldn't as a Commission not vote tonight and table this until the comments and questions that Debbie and Bob have are addressed.

Debbie Pfeil: I just consulted with the Town Engineer and we do not have a problem with the applicant moving forward for final submission as long as our comments are addressed and we will work those out prior to your next submission. You can make the recommendation contingent upon meeting the requirements as stated by your engineer and planner; that would assure you that they have been met prior to them coming back to the board. But at this time we do not have a problem, correct?

Bob Kerr: Correct.

Debbie Pfeil: Mr. Kerr and I do not have a problem with them moving forward contingent upon following our recommendations for the next submittal.

Linda Rogers: Ok. Would someone like to make a motion?

Virginia Weeks: I'd like to make a motion that we approve the preliminary site plan with the stipulations that all the requirements from both URS and the Town Engineer be fulfilled and addressed. Two, that a detailed landscaping plan come back and, at this time, I'm not sure, do we need to waive or make a waiver for to allow the parking within the setback on Palmer street? And also, that they need to work on softening the building; the appearance of the building; the façade can be played with and it needs to be softened.

Linda Rogers: Does everyone understand the motion?

All: Yes.

Virginia Weeks: We have a second down here.

Linda Rogers: We do? Who?

Louise Frey: I'll second it.

Linda Rogers: Ok. We have a motion and a second, all in favor say "Aye". Roll call:

Ted Kanakos: Yes

Bill Brierly: Yes

Dean Sherman: Yes

Linda Rogers: Yes

Michael Filicko: Yes

Gene Steele: Yes

Louise Frey: Yes

Virginia Weeks: Yes

Bernice Edwards: Yes

Linda Rogers: Motion Carried.

Linda Rogers: The next item on the agenda is...

Debbie Pfeil: Commissioner Rogers, if I may, I just contacted your Town attorney, Mr. Brady, as you requested to be here for the next item. He is leaving Dover and will be here within a 45 minute time frame. My recommendation would be if you wanted to, if the consensus of the Commission, if you wanted to take Item # C and put it under Item # E, you could move forward with the office building unless there's any kind of legal questions on that. Here will be for that last item and maybe the second to the last. It's at your discretion.

Linda Rogers: Do the members of the Commission want to rearrange the agenda order in order for our attorney to be present when we review Key Ventures?

Louise Frey: I move that we take the McBride and Zeigler request next, which is the lot at the corner of Union and Route 16.

Ted Kanakos: I second it.

Linda Rogers: Alright. All in favor say "Aye". Opposed – None. Okay, the next item on our agenda is:

The applicant, McBride and Zeigler, Inc., requesting a conceptual site plan approval for a 5,700 sf. Office building located at 611 Union Street on the Southeast corner of the intersection of Rt. 16 and Union. Property is zoned C-1 (Commercial & Business) and is further identified by Sussex County Tax Map and Parcel # 2-35-14.15-107.00.

Mr. Kerr, your comments please.

Bob Kerr: This submission is for a concept plan at the intersection of Union Street and Delaware Rt. 16. It's where the old pizza shack is located now. Item 2 on my list of comments is the property loans are shown incorrectly. The pumping station on this site is owned by the Town; it's a 10 x 40 parcel of land. That would reduce the growth area by approximately 400 sf. Item 3, integral curb and gutter and a sidewalk, 5' wide, will be required along Rt. 16. It will probably be a fight between the Town and DelDot on that one, but the Town has prevailed on most of those. Item 4, the plan shows an entrance on both Union Street and Rt. 16. DelDot will be the one who ultimately decides that, since both streets are state maintained. But having people put out onto Rt. 16, that close to the intersection, is going to be a problem, even permitting turns to go right onto Rt. 16 may be a problem that close to the intersection; so that needs to have some look and probably some input before you would really want to finalize that area. The property to the south of the site is zoned R-1. The property to the east is a commercial zoned C-1. On the west side of Union Street there's both commercial right at the intersection and then R-1 a little bit further to the south and then on the north side of 16 is the Milton Park Center that you recently had an action on that it's zoned C-1. Item 6, you need to look at which is the front yard. They have proposed that Union Street is the front yard the way they're showing the setbacks. Again, this is a corner lot so you would have a setback, a front setback required on 2 sides – a 15' on one side and 30' on the other side – so it's which one you define is the front yard. On the other side of the street at the Milton Park Center for the corner lot, you said that Rt. 16 was the front yard. Number 8, paragraph 7.2.1.1 states that parking shall not be permitted in the front yard setback except following site plan review. This essentially fills most of the setback area with parking. The parking places are shown to be 9 x 18'. The zoning ordinance requires a 10 x 20' parking space. Item 10, if the Rt. 16 side of the property is considered to be the front of the property, the square footage of the building would have to be reduced by about 165 sf and there's, at this point, and it is simply a concept plan; there's no information concerning storm water management, but that certainly make take up a portion of the site unless they are using some type of infiltration gallery under the parking, but something for them to be aware of.

Debbie Pfeil: Once again, I won't go over the same comments that Mr. Kerr did. I do want to state that I do have an error in my letter on 2B on page 204. I inadvertently put the wrong parcels for the side yard and rear yard, which they would concur with Mr. Kerrs. The parcel 106 is zoned C-1 and parcel 108 is zoned R-1. I'd just like that clarified. I like to point out my mistakes; that's always fun. The same thing with the side yard setbacks – once the applicant determines which, I believe you stated in the past, Rt.

16 is the front yard, they would need to redesign and reconfigure with the recommendations Mr. Kerr had. I agree the parking standards have not been met, from the size to the curbing to the drainage. Landscaping as well needs to be defined for final site plan and needs to ensure they are met by the certain percentage in the buffering and landscaping requirements. Once again, DelDot will determine the standards off of Rt. 16. The structure, the information was not review, was not provided for review. It's recommended that the applicant ensure the structure is designed in accordance with the character of the Town. It's further recommended that the applicant ensure ample architectural features are used to include all sides of the building as it is a corner lot. (Unintelligible) enhancements as you've heard in the last applicant are recommended. Mr. Kerr handled sidewalks, landscaping and lighting as well. I would encourage that lighting and signage compliment the character of the building. And it is recommended that the sign be designed with the character and structure that come with the small Town character of Milton. Those are the additional comments I basically had on top of Mr. Kerr's.

Linda Rogers: Any questions for Debbie and Bob?

Ted Kanakos: Just a procedural question. On a conceptual, the principal doesn't have to be here to make a presentation. They just submit?

Linda Rogers: They are here.

Ted Kanakos: They are here.

Debbie Pfeil: They are here and what the intent of the conceptual is to get as much worked out at the conceptual level so that they can go ahead and address that at preliminary. I do know the applicant is here and they probably do have some comments, because they have already called us on our comments. So if you have any questions for them, they are here.

Linda Rogers: Ted, do you have any questions?

Ted Kanakos: No I do not. I was just checking procedure.

Bill Brierly: I would really like to hear the representatives go through the comments from the planner and engineer and address those that they concur with and those that they have various other comments about.

Linda Rogers: Would the remainder of the board prefer to hear from the applicant and then address any questions or comments that have been brought up?

All: Yes.

Linda Rogers: Okay. Do you want to state your name and make a presentation please?

Clifford Wilcox: I am the project manager and I represent McBride and Zeigler and the engineering company that prepared the plan before you. In addition to that, our client, Mr. D'Angelos is here also to make a statement of what he proposes for the building and the type of use. The plan before you as stated by your professionals is on the corner of Rt. 16 and Union Street. The site consists of about a half and acre with the exception of the pump station that your engineer identified. With respect to...there's just a few items between your engineer and the planner that we'd like to address. Everything else with regards to landscaping, storm water management...all will be prepared at the next level of the preliminary submission. At this level, we just prepared a concept of what we intended to do from a layout standpoint and all the design criteria's would follow. However, we will me your design and subdivision requirements with regard to all those items. The building that the applicant is proposing will consist of 5,700 s.f., and I believe

he's proposing office use. It is not intended for commercial or industrial use at all. Based on the 5,700 s.f. and your parking requirements, it requires 19 parking stalls, and we've provided for that and it meets that requirement. With respect to the front setback lines, it's an interesting point. I checked the correspondence, and the correspondence goes back about 2 years. I saw that there was correspondence between our office and a gentleman that used to work for the Town named Eric Evans. I'm not sure what his capacity was with the Town, but there was evidence that our office had discussion with him as to where we wanted to develop the front setback versus the side setback and at that time, around 2005 or early 2006, it was determined that the concept was more appropriate for our proposal to Rt. 16 as a side yard at 15' setback and Union street at a 30' setback. And I think that was developed and I'm making assumptions here because it's not very clear in the letter that because of the direction of the proposed building fronting on Union Street that that was determined to be the front yard setback. I can only assume that; I'm not quite sure. However, if you read your ordinance, it says on a corner lot one street would have to be a side street and one would be a frontage and so therefore again, I think the board, or someone, has to determine if we're right or if we're wrong. I'm not quite sure. With respect to parking locations, we are aware now just recently that the parking directly off of Union Street, and I'll point to it, is within the building setback line and apparently when the layout was developed some time ago, the office may not have been aware of it, I'm not quite sure how that happened, but in any event, to make this particular site work the parking has to be, or needs to be 10' back from the right of way line as it is presently shown as opposed to the 30'. If we put the parking, and we've done an analysis and evaluation on this directly behind the 30' setback, if I may point, it puts the parking beginning at this point here where it ends at this point here where it pushes the building back and everything else. That would create somewhat of a hardship on our client with respect to losing in the neighborhood of about 1,300 s.f. in which equates to about a quarter of the entire square footage of the proposed building. That loss in today's market for office use would be hard to take because the square footage is based on certain square footage of so many offices that make the site work and that would be a hardship on us. We'd therefore would look to the zoning/planning Commission for some relief on that criteria. We would like to keep the parking 10' off the right of way line as it is presently shown and therefore that would allow this configuration to remain as it is. We understand we may lose some building square footage but if we could stay in the neighborhood of the 5,000 s.f. we could make this proposal work. If we get down in the area of 4,000 s.f., it's just not going to be economically feasible for an office type use we are proposing. In addition to that, I'm sure everyone is aware of this, there's an existing structure that appears to be a residential house on the corner and it's about 2-3' off the right of way, so it's almost encroaching. There's also a wooden barn or garage that is over to the southerly side of the property which abuts to a residential zone which obviously is going to be removed. There's also a, it looks to appear to me, and I didn't measure it, a good 8' stockade fence that separates these residential use to our property. To the east is an insurance company, I believe everyone knows that gentleman, I think it's, I forget his name now, Gordy. So we are consistent with our use along Rt. 16, however the (unintelligible) land off of Union is a residential use. I might add also, just for the record, that the residential house is about 8' off the property line. They also have a large garage of storage area, whichever they use it for, which is about 2' off the

property line and then the insurance company is about 8-10' off the property line, so everything around there is within around a 10' offset from off all the property lines. And we are also proposing 10' offset for our building. I'd like to also say for the record, and when we made this submission, we were in communication with/or attempting to make communication with DelDot. DelDot did not get back to us until early this week. I take that back, they got back to us Friday. We had them go out to the site and evaluate this intersection and they came and your engineer is quite right in his review. They are suggesting not to have an entrance onto Rt. 16 for the obvious reason that your engineer brought up. Therefore, that limits us to the proposed access off of Union Street and therefore the proposed parking would be dead-ended in the area where we show it going back out to Rt. 16. So I just wanted to point that out to you that we have been in communication with DelDot. They also did bring up the point about the sidewalk and the curb, so you are absolutely right sir. That's pretty much what I have to say. I'd like to turn this over to the applicant if it's okay with you and let him explain to you what he proposes for his building and you can down here that we have an elevation also that we didn't have at the time when we made the submission so I apologize for that.

Ernie D'Angelos: I'm from Rehoboth Beach. The proposed building, again when we went a couple years back, we had done a general design for the building originally and one of the comments was that they wanted to make it more aesthetically pleasing to the surrounding neighborhoods in the area...we had kind of a general look to the building. We went back and we redesigned the building. It's taken us a couple of years to get back to this stage. There's been some inquiries on the property for different businesses have looked at it and we were going back and forth but this is kind of really the way we wanted to go from the start and we want to continue, so we look forward to presenting this conceptual to you and see what comments you have to make. Thank you.

Linda Rogers: Okay, questions for the applicant.

Ted Kanakos: What about garbage removal, dumpsters, things like this for the...on the property, how is this going to be handled?

Ernie D'Angelos: Customarily on your commercial/industrial uses you use or provide a dumpster and I understand that. Being an office, your waste is limited to just paper, primarily, and that could be picked up by your garbage collection/waste collection and generally that'll be just bagged. You're not going to have a big, massive need for a trash enclosure like you would for commercial or industrial. Now, I am not familiar with your Town and how waste is picked up so what I am proposing is general in office space use, but I am not sure how your Town handles that, so I will work with whatever the Town wants us to do.

Ted Kanakos: This is more of a question for the engineers. Do we need a sidewalk on (unintelligible)?

Bob Kerr: There is an existing sidewalk along Union Street.

Ted Kanakos: That would stay? And is that within the 10' buffer?

Bob Kerr: The sidewalk is actually outside the property line. It is within the street right of way.

Bill Brierly: The thing, frame, building that is right at the corner of Union and Rt. 16, what is going to become of that building or what is that building going to be used for?

Ernie D'Angelos: That building will be demolished.

Bill Brierly: Okay.

Ernie D'Angelos: Along with the shed that is located to the south.

Clifford Wilcox: All structures on the site will be removed.

Linda Rogers: I have a couple questions. Number 1, we absolutely have to determine which is going to be the frontage because in our ordinance we have setback requirements of when a commercial district adjoins a residential district you either have a 15' or 25' requirement whether it be determined as a rear yard or a side yard, and you have the building proposed to be 10' from the residential district. As far as I understand this property line is where it is or does it continue further into the second lot? So if someone could answer that...the actual depth of the commercial district, so to determine that?

Also, we've already discussed the parking space sizes so that really needs to be determined. Also, to determine the size of this building, how far you are going to sit off of Rt. 16. So that determination needs to be made by whoever makes it.

Bob Kerr: I'm not sure I can answer all of those but another question that popped into mind as you were going through the discussion that also adds to that same question. On Terrific Toys that we just looked at and most of the projects along Rt. 16, DelDot requires a dedication of additional right of way and if had so many discussions with them at this point, are they going to take an additional 5' as they did with the Terrific Toys site?

Clifford Wilcox: There was no discussion on additional right of way when we got the response back from DelDot. We spoke to a gentleman named John Fiori, I'm sure you know him Bob. Both he and his supervisor looked at and the only concerns they had was the elimination of our proposed entrance onto Rt. 16 and the construction of the sidewalk, as you brought up. They made no mention to the additional right of way, but that's not to say that when you go in for a formal they're not going to ask for it. I don't know if that is an oversight on their part or not, but they never brought it up.

Debbie Pfeil: It appears that the applicant was interpreting, if I'm not correct interject, that the front would be off of Union and the side would be off of Rt. 16. And I know that Mr. Kerr and I just discussed that the two applicants that you have before were both fronting on Rt. 16, or were laid out as the front yard on Rt. 16. We just looked at Terrific Toys and the other one, as far as their setbacks. The applicant would need to determine what they can fit on the lot but the planning Commission and as Mr. Kerr's stated in his comments, in the past, I believe on the application for Milton Park Center, the planning Commission determined Rt. 16 is the lot frontage. The Commission would need to discuss that because the applicant has some, depending on what the lot frontage is, some changes to make to the site and they're aware of that. They would have to comply with the requirements, cut down the building, whatever they need to do to comply with or receive variances. The other question that we had was that is a single story building correct?

Clifford Wilcox: Yes.

Debbie Pfeil: Okay. We just wanted to make sure. We have not seen the elevations.

Linda Rogers: And you will be able to determine the actual depth C-1 to determine whether or not the property that adjoins it is residential? And there's also a requirement about a screening between residential and commercial.

Clifford Wilcox: So the point that were trying to make is that we need some direction if you will, from the board to make this layout viable. Right now, it's up in the air because of these 3 or 4 issues we are talking about.

Bob Kerr: If I may, Linda. If Rt. 16 is the front yard, then you are correct that the setback along the R-1 would change. It may be that the Commission could work with the applicant. It is a small site, but one of my concerns is that the corner of the building is very close to the right of way of 16. You have the existing structures along 16 that do sit back a little bit more than certainly 15'. To say that Union Street is the front, but to move the corner of the building in further from 16 so it has a larger than minimum required setback would allow that the R-1 separation of 25' doesn't apply. There is an existing wood fence that essentially takes care of the shielding from residential and commercial neighborhoods. It's something that you might want to consider. I'm just trying to come up with some way that it works that would make the building a little bit smaller but not significantly.

Linda Rogers: Does anyone...Mike?

Michael Filicko: Am I correct to surmise that you are asking for the parking spaces to be 1' smaller than what is required?

Clifford Wilcox: No sir, we are prepared to give you your required 10' x 20' parking stalls. The design was 9' x 18'; that was a mistake on our part because we are used to it in all other areas are 9' x 18'. It was just a carry over on our part. It will work at 10' x 20' with no problem.

Michael Filicko: And you could fit the actual amount that are required if they are that size?

Clifford Wilcox: The amount is going to be required based on what we end up with square footage of the building. We are representing 5,700 s.f. and with 19 parking stalls which is the minimum requirement for that square footage. If the square footage is less than that, then obviously the required parking amount will reduce also, because it's one parking stall for every 300 s.f. of office space.

Michael Filicko: So you are not asking for any type of a variance.

Clifford Wilcox: We are not asking for relief on numbers of parking requirement, we're asking for relief on the location of the parking relative to Union Street; that's what we're asking for. Because presently your ordinance says you are not allowed to have parking within the building setback line which is between your right of way and, in this case Union Street, we were proposing a 30' setback. We've got it designed for 10', so you still have a 10' separation there to evaluate, not counting to edge of pavement on Union Street, so that's another almost 10', so your minimum was 20'. We would also landscape along there, because I know in your landscape requirements you talked about that for landscaping along the front and sides and what have you. We have no problem with providing that. We're just asking for the waive on the parking where it's location is.

Michael Filicko: Okay. So if we grant that location, would you be willing...? I mean if we grant the location of your parking spaces would you be willing to put in irrigation and show a detailed landscaping plan for us.

Clifford Wilcox: We'll give you a landscaping plan which is required in your ordinance anyway. With regards to irrigation, I would defer to our client as to whether he can provide it. I don't see a problem with it, but I'll let him answer that.

Ernie D'Angelos: As far as irrigation goes, when we first looked at this plan, one of the things was this is kind of a gateway to Milton. This is Union Street, you'd like to see something out front that is aesthetically pleasing all the way in. I am an owner of a garden center so I have the abilities to do stuff like that, so yeah, that would be...

Michael Filicko: So you are stating that you will put in irrigation?

Ernie D'Angelos: Yes.

Michael Filicko: Thank you.

Clifford Wilcox: If I may say for the record just to go beyond that, our client, the applicant, is really looking forward to this to have because this is an intersection that is the beginning of entering into your Town and he really wants, as you can see on the elevation, to put a nice looking building there that is representative of your Town and a nice sign that's like a welcome sign, if you will, to the Town of Milton. So we're really energetic and looking forward to doing something very impressive that would be in keeping with your Town.

Michael Filicko: And that's exactly what we're looking for. And I appreciate the fact that you're willing to do that.

Linda Rogers: Mr. Steele?

Gene Steele: In reference to the setback off of 16, as Mr. Kerr stated, you'd have to come in a little bit on that building.

Clifford Wilcox: I believe Mr. Kerr is referring to if that increase from 15' to 30' if that was the frontage as opposed to the frontage that we're proposing off of Union. Am I right Mr. Kerr?

Bob Kerr: The Commission needs to decide which is the front yard and I really don't have a problem with either one being considered as the front yard. My concern is that the building is presently being shown 15' off the Rt. 16 right of way line. It's just awful close to that line. Most of the other buildings and houses, which most of the houses along, or buildings along there were former houses that are now being used commercially, they do sit back more than 15' from the property line. And most of those were built before the zoning ordinance. Some of those were built before that was the Town, or before it was annexed into Town, I'm trying to say, and it's just because it is at the major intersection in Town, having it too close to the road, I think, detracts from the overall appearance of the building.

Clifford Wilcox: I concur with what you're saying, Mr. Kerr. With regards to your comment, all other lots along Rt. 16 are frontage, because they are not corner lots like we are. So they're subject to either the 30' or 20', whatever was required at the time.

However, we being a corner lot says in the ordinance, that on a corner lot you have one frontage and one side yard. So the question becomes which is the side yard at this point?

Bob Kerr: Correct, and what I'm saying that trying to help you out as much as possible is if Rt. 16 is the front yard, then the setback between the R-1 that you are presently showing 10', becomes 25'. So by keeping Union Street as the front yard, but agreeing to set the building back a little bit further doesn't cost you as much. Otherwise you would have to set the corner of the building 30' off of Rt. 16 and then 25' of what becomes the back property line, which does significantly reduce the side of the building.

Clifford Wilcox: What would be your proposal? To provide 30' off of Rt. 16 or some number less than that that would be some compromise?

Bob Kerr: Some number greater than 15' and as great as 30'; someplace between 15' and 30', it's these peoples decision.

Clifford Wilcox: If we could work some compromise to that, and I'm just, I know where you can't make a decision on that tonight, it's just a conceptual, but again we're going to need some guidance on this before we can come back with preliminary submissions. If

we could come up just as a scenario, if we all agreed on let's say 20', just to throw a number out, we're presently proposing 15', but if we gave you 20' off of Rt. 16, and we could get relief on the parking issue off of Union Street, I think then we could make that work. Or some number that your engineer can accept. That's what I'd like to entertain that is what I'm...where I'd like to go.

Debbie Pfeil: If I could make a clarification. If the front yard was off of Union Street, you would have a 30' front yard setback; you would have 15' off of Rt. 16; you would have 10' from the commercial zoned property; but the stickler here is next to the residential property, it is 15'. Therefore, you would need to shave some of the square footage off of your building because you have 10' on your plan now. It would need to be 15' and then you would meet all of the requirements.

Clifford Wilcox: Okay. So the answer is 15' off the residential side, give you something greater than the 15' off of Rt. 16, and are we keeping 30' off of Union or are we reducing that?

Debbie Pfeil: 30' is the setback but the planning Commission does have the power to be able to waive the parking within the front yard setback. But your structure would comply - 15' off the residential side; you would need to adjust that 5 more feet.

Clifford Wilcox: Right. I don't know what that all equates to in square footage, but it's probably going to come out around 7 or 800 s.f. I would imagine, I'm not sure.

Bob Kerr: Part of that would depend on whether you shift the width of the building with the length of the building exactly how you go about subtracting to make it fit.

Clifford Wilcox: I understand. Can we be...when would we be defined as to what we're using for the setback off of Rt. 16 or are we saying we are going to use the 30' off of 16? I'm not sure what you are telling me.

Bob Kerr: If the Commission would choose to do so tonight, I think they could give you an indication of their feelings so that you could proceed with a preliminary plan that meets those conditions.

Clifford Wilcox: We would love to do that, or the Commission could talk to the professionals and then write us a letter letting us know what their decision is, but we would like to move on ahead as quickly as possible.

Linda Rogers: Mr. Steele, did you have any more questions or comments?

Gene Steele: Well, the question was answered between Mr. Kerr.

Linda Rogers: Ms. Frey?

Louise Frey: No comments.

Linda Rogers: Ms. Weeks.

Virginia Weeks: Yes. Excuse me, I'd like to know how many units in that are you looking at? I can't really see the floor plan; it's kind of small.

Clifford Wilcox: It was set up that it would...

Virginia Weeks: How many businesses?

Clifford Wilcox: 5 businesses.

Virginia Weeks: 5 businesses, so that would be 10 parking...okay. How married are you to a one-story building?

Clifford Wilcox: Well, the parking constraints was the issue. We did look at the possibility of doing 2 stories but then again...

Virginia Weeks: Smaller footprint but higher...and that would satisfy all the setbacks. It's surrounded by...it's got 2-story buildings all around it. And if you...and that way,

I'd personally I would like to see this fronted on to 16 because everything else, including the new buildings going in across the street are fronted onto 16. The commercial building across the street, A Walk Through Time, which does happen to be 1-story, is also fronted onto 16. And as much as we talked about the traffic on Rt. 16, which is heavy, it moves, whereas on Union Street, that is frequently backed up past your building when the light is red. And people coming in to make that left hand turn in there, I see that as really problematic if that is going to be the only entrance...if we're not having an entrance on 16. So I really want to see this fronted on 16 to be in conformity with the other, and I just wanted to know how married are you to a building so long rather than going up a story.

Clifford Wilcox: If I may respond to that. We looked into the 2-story issue and I believe in the building code there were some restrictions and you had to allow for handicap accessibility to that second floor. It became a costly issue for such a small building. That's one reason. We did look at that at one point. We never made a submission to the Town with a second floor but we did do a concept with one end of the building if I may show you. Originally, we had proposed a second story lot on this wing and that created a problem because now you have to provide an elevator and there's all kinds of code issues with regards to building. And for such a small building, it just couldn't pay for itself. We're not talking about a big complex, so I think that's the reason why we're not proposing that; that would stop us from doing that.

Virginia Weeks: But that doesn't mean that you couldn't reconfigure the building into a different shape to keep the same square footage and...

Clifford Wilcox: Well, you are absolutely right and we haven't taken that step because I didn't second guess the Commission what, you know.

Virginia Weeks: And still satisfy the setbacks.

Clifford Wilcox: We would have to look at that after tonights meeting to see if we can do that; I'm sure if we can because we have so much restrictions on this width on Rt. 16. It's a very small lot and when you start putting in all your setbacks and restrictions there isn't a whole lot of property left to build on and still meet the parking requirements. It gets a little touchy.

Virginia Weeks: As is, you don't meet the parking requirements and for us to give you a waiver for the parking on Union Street perhaps.

Clifford Wilcox: Well the only relief we're asking for is the location. Not the amount of parking.

Virginia Weeks: Right, and when you come back with your preliminary, one of the things that worries me is that the landscaping along Union Street needs to be really clever. If you are going to use that at your front yard, you're looking at residential areas over there so you're not going to want to screen that heavily, and yet you're facing homes.

Clifford Wilcox: Well, whether the building faces Rt. 16 or Union Street, we're still going to do a sizeable amount of landscaping all the way around, on both frontages. It doesn't matter. Still going to do it. Let me go one step further, because the applicant and myself talked about this tonight. There were two scenarios and one of them was brought up by your planner and that was the possibility of bringing the building forward and having parking to the rear. The problem with that scenario is then you have two fronts. You can't have this building not have a front with the front exposure so you got to have

architecturally something that looks like a front, but really it's only going to be used to the rear. So you end up with two fronts. That's the first problem. You end up with the same situation similar if we do the facing on the Rt. 16. You have front doors here that won't become really active because you have parking to the rear that comes in from the rear. So, when you have a corner lot from aesthetic standpoint, it makes more sense to put the building back so you have a true front and not double frontage, if you know what I mean. It gets a...and we didn't want to create a building that is going to be confusing, if you will, at that major intersection that's coming into your Town, because that sets up the whole avenue for people. If that doesn't look good, it just sends a bad tone coming into Town.

Virginia Weeks: Are you going to have a berm around Union Street, along Union Street?

Clifford Wilcox: Along the frontage you mean? Is it a landscape berm? It can be.

Again, these are design criteria and issues.

Virginia Weeks: It's something that I'd like you to at least consider.

Clifford Wilcox: Oh, yeah. We've done it all so you end up with a nice rolling hill affect, mini hill.

Virginia Weeks: Well, I'm thinking of the residential units around there. Thank you.

Linda Rogers: Ms. Edwards?

Bernice Edwards: No.

Virginia Weeks: I'm sorry, I have one more question. What is the building constructed of? What is the outside?

Clifford Wilcox: The lower part is brick and then you have the...

Virginia Weeks: Is it hardy board, is it vinyl?

Clifford Wilcox: It's vinyl.

Virginia Weeks: Thank you.

Linda Rogers: Does anyone else have any questions that have not been addressed?

Michael Filicko: Linda, did we make the determination as to whether or not the front...?

Linda Rogers: No, not yet. So, what would be your pleasure of which road do you want to be the frontage? Do you want it to be Rt. 16 or do you want it to be Union Street? We have to give them that determination before they can move forward. We need a motion.

Michael Filicko: Linda, I'm sorry. It's my impression that if it is 16, you gentlemen will have a problem meeting all of our requirements, is that correct? If 16 is the front?

Clifford Wilcox: It's hard for me to say without doing a conceptual layout first. It's hard for me to just blanketly say it would create a problem. Let just simply say it's more desirable on the concept that we're presenting than it would be to have the building face just directly on Rt. 16. That's the only way I can say it, because it, it limits my parking, my rear parking area, from that from what I am proposing. This gives me more parking than if I go to the rear and come off of Union. It just washes it. To give you an answer as to what affect it has, I can't without doing a concept.

Michael Filicko: That's honest. I'm just trying to understand.

Ted Kanakos: Excuse me. You prefer to have a front, your front yard on Union? What would you like?

Clifford Wilcox: We can live with it, if the board so inclined to make Rt. 16 the front setback, we can live with that. But to live with that, we'd need the relief for the parking off of Union Street.

Linda Rogers: Well, can I ask a question of somebody for us to clarify? If we make Rt. 16 the front, then you would have to stay 30' off of Rt. 16 and because of the requirement that it adjoins a residential; they would have to stay 25' from the residential lot in the rear?

Bob Kerr: Correct.

Clifford Wilcox: That's not what I understood. I thought if we made...

Linda Rogers: Well, wait a minute...

Clifford Wilcox: Okay, I'm sorry.

Bob Kerr: No, 25', Item 4.

Linda Rogers: 25, when a residential adjoins a commercial. I just want to make sure we know which setbacks are going to be where.

Bob Kerr: I think Debbie and have worked it out hopefully. What they are presently showing on the drawing they submitted is a front yard on Union Street, 30' wide. On Rt. 16 they're showing it as a side yard, 15'. On the east property line they're showing 10' and along the southern property line adjacent to the R-1, they're showing 10'. That's what's shown on the drawing now, going clockwise again from Union it's, 30', 15', 10' and 10'. If, according to the ordinance, if Union Street is the front yard, it would be 30'. Rt. 16 would be 15'. The east line would be 10' and the southern line would be 25'. 25, a side yard is 25'. If Rt. 16, so going around one more time, as if Union Street was the front, it would be 30', 15', 10', 25'. If Rt. 16 is the front yard, it would be 30' on 16, 10' on the east property line, 15' on the southern property line adjacent to the residential, and 15' on Union Street. I think that probably works out best for the applicant to have the front yard on 16' which would be 30' and then against the residential is the least restrictive of 15' and then you're essentially only encroaching 5' into the side yard of Union Street with the parking, so just a little bit of the parking goes that way. And if, and the Commission has in the past allowed people to park in that area, if that works for everybody, that might be the best way to proceed. Just to throw one more confusing thing in there, right where that little pumping station is, the building setback actually moves further into the property, but the Town worked with the former owner to purchase that property, because the Town needed to move the pumping station that used to be in the street right of way; it used to be right on the center line of Union Street, so to penalize the former property owner, and now this property owner because of helping the Town out to get a pumping station site, as far as the building setback just kind of continues along their...it probably actually needs to be shown, but if it's only parking it doesn't really impact the building. Is that clear or do I need to confuse you more.

Clifford Wilcox: If I may go through this that way I understand it, Bob. Keep the parking where it is here, 10' off the right of way. Go to 30' here; 10' here; 15' offset here.

Bill Brierly: 25'.

Linda Rogers: 25'.

Bob Kerr: No. If 16 is the 30', then that goes to 15'; that would be my recommendation that might be the best way to proceed.

Clifford Wilcox: That's the best scenario out of all of it.

Bob Kerr: I believe that gives you the most remaining land to work with.

Clifford Wilcox: I just figured real rough between knocking off the building here and here, we'd be losing about 800 s.f. thereabouts. Maybe a little bit more, but in that vicinity.

Bob Kerr: Well, if you made it 900, you could lose 3 parking spaces; it gives you even more grass.

Clifford Wilcox: Exactly, so see it's a win-win situation. That would be the best scenario on our behalf.

Linda Rogers: So do all the Commissioners understand what just transpired about determining what streets going to be the front. 16 gives them the most optimum use of the property, correct? By making 16 the frontage? Yes? Okay, so we need to put that in the form of a motion please.

Virginia Weeks: I move that the front of the building, the front of the lot be along Rt. 16.

Linda Rogers: Okay, we have a motion to determine the property frontage be along Rt. 16, do I have a second?

Bernice Edwards: Second

Linda Rogers: We have a motion and a second.

Ted Kanakos: Yes

Bob Kerr: If I may comment whether the motion be amended so that they have some understanding that they will be allowed to use the side yard on Union Street for parking so that we don't have to re-discuss that next time, if that, either as a separate motion or amend the existing motion.

Linda Rogers: Let's do the frontage as a motion and then we'll do the parking and any other issues we need to deal with.

Bob Kerr: Fine.

Linda Rogers: So we have a motion and a second, all in favor? Roll Call.

Ted Kanakos: Yes

Bill Brierly: Yes

Dean Sherman: Yes

Linda Rogers: Yes

Michael Filicko: Yes

Gene Steele: Yes

Louise Frey: Yes

Virginia Weeks: Yes

Bernice Edwards: Yes

Linda Rogers: Motion carried. The frontage of this property will be Rt. 16. The side will be Union Street. No conceptual purposes – what other motions do we need to make or any comments we need to make other than parking and the side yard?

Bill Brierly: I make the motion that parking be allowed along Union Street.

Linda Rogers: We have a motion to allow parking along Union Street, is there a second to that?

Dean Sherman: Second.

Virginia Weeks: Excuse me. Within the setbacks?

Linda Rogers: Within the setbacks. Okay, we have a motion to allow to parking within the side-yard setback along Union Street. Is there a second to that motion?

Dean Sherman: Second.

Linda Rogers: All in favor?

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

Linda Rogers: Is there any other comment? Any things you want to tell them? Anything you want them to work on before they bring this back to us again as a preliminary?

Virginia Weeks: I have one thing please. I'd like the clarification of they're going to handle the trash, even though it's going to be (unintelligible), I assume that it's going to be stored outside somewhere, that these offices, some of them kind of tiny, and they're not going to keep...are they going to keep the trash in their office?

Clifford Wilcox: It will work no different than our office, which is an engineering office and we're talking a professional office, like an insurance company what have you, and ours is stored just in plastic bags in our office until the day of pick-up, then we put it out to curbside. I can only assume that that will work the same way, but I will have to defer to someone in your Town or your professionals to find out exactly how that's going to work.

Virginia Weeks: I just would like that that's part of the site plan and that, because if the day comes where this becomes a restaurant or something, it's going to need a trash receptacle and I don't want the site plan to say they didn't need one.

Clifford Wilcox: If this was the use from what we're proposing goes to a restaurant, then yes, a trash enclosure will have to be...

Virginia Weeks: Because they don't have to come back to us for that.

Clifford Wilcox: They will as long as they, if they change the use from what we're getting approved on, they will, oh absolutely. See, you're giving me approval on a specific use. If that use changes, it changes the whole character of the approval.

Ted Kanakos: Excuse me, I'm getting some nods yes and no. Is that in fact true, what he just said?

Clifford Wilcox: That has always been my understanding of planning in any Town.

When you give an approval, you're not getting it just on the concept, you're getting it also on the intended use of that approval.

Ted Kanakos: So they would have to come back for a conditional or special use?

Clifford Wilcox: So if our client sold this property, and it changed the use, then they'd have to come back and get approval, because they changed the use from your approval.

And I'd defer to your professionals, but that's always been my understanding.

Virginia Weeks: I'd like a ruling for...

Linda Rogers: They would come back for a site plan review.

Clifford Wilcox: For just the use, and a review, yes, because it would change the characteristics.

Linda Rogers: Because your parking requirements and everything would change.

Clifford Wilcox: Sure, absolutely.

Virginia Weeks: No, just the parking...

Bob Kerr: Just for the record. That is correct that if there's a change in use of the building or the site, then you do have come back for...it may not take an actual site plan, but it does take an action by the Commission to approve a use and we have had that in the past.

Clifford Wilcox: Yes, because if the use change and the person goes to get a building permit, and your inspector or your code official sees that the use changed from the approved, he can't issue the permit. So you have a fail-safe system there built in.

Virginia Weeks: Even though it's an approved use, Bob?

Linda Rogers: The requirements for different uses are the same, so you have to have a site plan review. If this changes to a restaurant, your parking requirement will be different, fire marshal requirements will be different than it would be for a professional office.

Clifford Wilcox: Correct.

Virginia Weeks: And if it became commercial?

Linda Rogers: It is commercial.

Bob Kerr: It is zoned commercial.

Virginia Weeks: No, if it became stores? The parking would also be different.

Linda Rogers: Retail stores.

Virginia Weeks: It will be 1 for 200 sf. Okay, thank you.

Linda Rogers: Okay?

Clifford Wilcox: Can I ask one question please, Madame Chairman?

Linda Rogers: Yes

Clifford Wilcox: I want to make sure that I'm not locked in to having this building face on Rt. 16...

Linda Rogers: No, you just have to comply with the setbacks.

Clifford Wilcox: I'm just complying with the setbacks. I can still hold the building the way it is? Okay, I just want to make sure on that.

Bob Kerr: That would be my understanding. You had an earlier question about trash. For residential in Milton, trash receptacles are provided. For retail commercial, each store has to handle their own trash, so setting a trash bag out at the curb is not something that happens. There's either a receptacle for the residential units, or you would have to have a, either, someplaces each business has to make trash arrangements for pick-up or a central that would be provided for the whole office, and that's the concern that if it becomes a central pick-up that there's some way of dealing or handling that.

Clifford Wilcox: Who would be the appropriate person to work with on that, Bob?

Bob Kerr: Anybody but me. Robin can you answer any part of that; I can't remember whether the Town does pick up trash for an office.

Robin Davis: Not commercial. We don't do any commercial buildings.

Bob Kerr: No commercial.

Robin Davis: I'm looking at the flower shop across the street. They have their own. They have contracted with their own. I think it's Blue Hen.

Clifford Wilcox: Well, I figured it would.

Bob Kerr: It could be the same one as the Town uses, it's just that you would contract directly with them.

Clifford Wilcox: Okay.

Robin Davis: They use the small type dumpsters, like the residential dumpsters.

Clifford Wilcox: I understand. We'll work that out. Okay.

Linda Rogers: Okay, we need to entertain a motion for the applicant to proceed with a preliminary site plan drawing to be resubmitted for review.

Dean Sherman: I make a motion that we approve the conceptual plan as presented.

Linda Rogers: With all the changes that we're recommended?

Dean Sherman: With everything we've discussed here this evening.

Linda Rogers: Okay, we have a motion, is there a second.

Ted Kanakos: I second.

Linda Rogers: Okay, we have a motion and a second, all in favor?

Ted Kanakos: Yes

Bill Brierly: Yes

Dean Sherman: Yes

Linda Rogers: Yes

Michael Filicko: Yes

Gene Steele: Yes

Louise Frey: Yes

Virginia Weeks: Yes

Bernice Edwards: Yes

Linda Rogers: Motion carried.

Clifford Wilcox: Thank you very much ladies and gentlemen. I'm sorry we took up so much time of your valuable planning.

Linda Rogers: We need to take a break for a few minutes, if we could please, before we go on with the next item on the agenda.

Session Break from 9:42 p.m to 9:56 p.m.

Linda Rogers: The next item on our agenda, we're going to go back up to the following:

The applicant, Key Ventures LLC, is requesting a zoning amendment for R-3/LPD (General and Multi-Family Residential Use District/Large Parcel Development District) located on Sam Lucas Road, Milton, Delaware. The property is zoned R-1 (Single-Family Residential Use District) and is further identified by Sussex County Tax Map and Parcel # 2-35-21.00-44.00.

Linda Rogers: Mr. Brady has a comment to make in reference to do advertising.

John Brady: Good evening members of the Commission and members of the public. The issue that came up was there proper public notice in the referral from Council. This was listed originally on the June 4, 2007 Agenda of Council. There was no quorum that night; we were short one Council member. It was rolled over to June 7, 2007. The public notices started appearing in the Delaware State news on June 5th, 2007, having been submitted on June 1st, 2007. Fifteen days from June 5, 2007 is tonight, the 19th. However, if you look at all the code sections together, and in latin we call, inperi material, you have to try to read all sections congruent with each other. The referral should have occurred before the public notice took place and Madame Chair, it's my recommendation that the public hearing be continued and that the notices go back out for the next meeting of P & Z. You have a option to have an additional meeting between

now and then as long as there is, well under the old plan they still have the option to specially consider that. But I am concerned that when you read this together, that there could be an issue that there was not 15 days of notice from the referral to P & Z, but only a 11, and if we don't follow the zoning ordinance in accordance with the ordinance, that could make an issue in a court challenge, and my recommendation is to not intentionally cause an issue for a court challenge.

Linda Rogers: Mr. Brady, prior to your arrival, we held a public hearing of which we made a motion and second to close the public hearing. Do we need to rescind that motion and start all over again, or what's our standing?

John Brady: You don't have to start all over again. What we do is that I would set it and have an additional public hearing and have, because this clearly was not the applicant's mistake, I'd have the notices sent out for the next public hearing at the Town, the Town to send those notices out and that it would be published in the newspaper that the public hearing will accept comment and that the matter be heard on that night. And again, if it had been referred on June 4th, it would have had the 15 days. But it was not referred to June 7th, and because it wasn't referred to June 7th, I'm concerned that the 15 days are not met in Sec. 14.3 of the zoning code. And out of the abundance of caution, I recommend that we do do it with the 15 days; that we have proper notice of at least 15 days and since this was not the fault of the applicant, but because we did not have a quorum, that the cost for the notification be absorbed by the Town. And the next meeting I'm told you have is the 17th of July.

Linda Rogers: So we need to entertain a motion to continue this public hearing until our next regularly scheduled meeting which will be on July 17th? Is that what we...

John Brady: And that the notices for that to the people within 200' and the public hearing notices in the newspapers of general circulation in Sussex County be paid for by the Town for the error in the process.

Linda Rogers: Will someone like to make that motion?

Virginia Weeks: Madame Chairman, I just have a question if I may? I agree with the tabling and everything. What I want to know is when is the closing time for applications for next months meeting, under the new system? What is the closing date?

Debbie Pfeil: Right now your current process is 21 days prior to the next meeting; that is why we have asked that it be on the regular July meeting. So 21 days prior to that is the cut-off until the July 2nd consideration by the Council on the new proposed ordinance.

Virginia Weeks: What I'm wondering is that I hate to see this hardship on this applicant. He's been here numerable times. I'm wondering if we shouldn't, if the agenda for July looks heavy already, if we should not just go ahead and just hold a special meeting early.

Debbie Pfeil: We're recommending you not call a special meeting because we have to have 15 days, as Mr. Brady said, prior notice in the legal paper. We also have to send letters out to surrounding property owners, therefore you staff needs adequate time to fulfill the FOIA and zoning code regulations. And right now, we do not have a full agenda.

Virginia Weeks: If we don't have a full agenda that's fine; that's why I asked.

Debbie Pfeil: Not at this time. The due date has not come about.

Virginia Weeks: Thank you.

Linda Rogers: Do we have a motion, please?

Virginia Weeks: I make a motion that we table the Key Venture application until the next regularly scheduled meeting at which time we will hold another public hearing.

Linda Rogers: We have a motion to continue this public hearing until our regular meeting in July of which time it will be re-advertised and notices re-sent. Is there a second?

Dean Sherman: Second.

Linda Rogers: We have a motion and a second, all in favor?

Ted Kanakos: Yes

Bill Brierly: Yes

Dean Sherman: Yes

Linda Rogers: Yes

Michael Filicko: Yes

Gene Steele: Yes

Louise Frey: I am going to be recusing myself from this application.

Virginia Weeks: Yes

Bernice Edwards: Yes

Linda Rogers: Motion carried and again our apologies to the applicant that you had to sit through all of this and have to come back yet another night.

Marian Jones: Unintelligible.

Linda Rogers: We will be taking more. No, it's into the record.

John Brady: If someone spoke tonight, they don't have to speak again. That's in the record. That testimony was not voided. The public hearing is being continued to a second date in order to make sure all the notice requirements are met.

Marian Jones: Unintelligible.

John Brady: Yes. July 17th, 2007, 7 p.m., either here or at the...it's going to be here in the Milton Theatre.

Linda Rogers: Okay, the next item on our agenda is the final site plan for Holly Lake Villas:

The applicant, Paul A. Robino, is requesting final site plan approval for 44 unit multi-family condominium development located on Lavinia Street, Milton, Delaware. The property is zoned R-3 (General and Multi-Family Residential Use District) and is further identified by Sussex County Tax Map and Parcel # 2-35-14.00-84.00.

Linda Rogers: Mr. Brady, will you ask a question that Ms. Weeks asked prior to your arrival in reference to for not having information, she feels we need to review this?

John Brady: Okay, I had two questions called to me on my cell phone on the way here I didn't have that one, so...

Virginia Weeks: May I restate it then, please. My concern, Mr. Brady, that this site plan has come in for final review, and unfortunately, I gather, I didn't anyway, I tried to get them off the website and they're not on the website, but the minutes from April 2006, when preliminary site approval was given were not on the website. I really don't remember what we asked for; it's not in our packet. The configuration of the buildings has changed. It was 22 buildings of duplexes; now we have, some was I believe up to 6 units in them; we have 2 new people on the board who were not here for the preliminary site review, therefore, basically they should, their vote is questionable. I don't believe

Mrs. Frey was available that evening and the zoning ordinance allows under 6.1.8 that if more than one year has elapsed between the time the P & Z Commission report on the preliminary site plan and the submission by the applicant of the final site plan application, and if the P & Z Commission finds that conditions have changed significantly in the interim, it make require re-submission of the preliminary site plan for further review. And I am just asking that that occur so we can have a full board vote, and that the 3 members who were not present in last April would be able to participate in this. Thank you.

John Brady: Okay, to try and answer your questions, in seriatim, that means the order you asked them. Number 1, boards change. It is not a requirement that the people who voted on a preliminary site plan vote on the final site plan and there is no requirement in the zoning ordinance because that would void a lot of things when you have the natural progression and change-over, so that issue is not an issue. The facts that you would need and the questions from the Town planner, Town engineer and Town attorney would have to make you comfortable of whether or not there is significant change under 6.1.8 or no significant change. I was not here for the previous discussion on that tonight, but if there hasn't been any discussion on that tonight, I did read the notes from the Town engineer in reviewing the project. I am going through a second review of the declaration of condominium ownership and everything I see in this when I reviewed it last week, the only question I had was what was the final LLC corporate name because that would have to be on the final version, because it has Robino blank, and I'm certain that the condition that I would recommend is that the final draft of the LLC agreement because, I look at two things: I look at does the boiler plate language and boiler plate language in an LLC is all the different paragraphs that are standard from one condominium unit ownership agreement to another. The boiler plate language meets the legal test under Delaware law. The only thing is it has draft a final version should have the correct corporate name and I don't know which of the LLC's this is going to be of the Robino group and that would be in the final version submitted and that could be a condition of the final site plan approval. The issue, and I'm not, I don't know if the Town engineer has given his report yet, I did get a copy of it electronically earlier this week. My recollection of that, and he's here to comment on that, was that he found there was no significant changes from the preliminary site plan to the final site plan. If that is the evidence before you, then you can do your approval tonight under 6.1.8. Have I answered all your questions?

Virginia Weeks: No. Sorry. I believe that I was advised not to vote when I hadn't attended a December meeting about Shipbuilders until I had listened to the tape or read the minutes.

John Brady: Correct. And the reason you were advised to do that was because issues that were going to that approval were discussed at a previous meeting. The separation that we have in our code, and why when I came on board as your Town Solicitor that you could not do preliminary site plan and final site plan approval the same night was the code as I read required two separate meetings and two separate bodies of evidence. Here tonight you have the body of evidence being presented for the final site plan application. You do not need to rely on the preliminary site plan application if the evidence presented to you shows that there were no significant changes. So that is why you would not. The difference on the Shipbuilders was we had 3 public hearings, July, December and May,

and a member voting on that issue had to listen and read the minutes from all three in order to be able to vote.

Linda Rogers: Are we clear that we can move forward with this review for final site plan?

Ted Kanakos: I have one question. Now Mrs. Weeks said there is a significant change. Can we clarify if there was or wasn't? Another words, if you go from 4 units to 6 units, is this considered, maybe the Town engineer, what is considered a significant change? The total number of units regardless of how they're put together? Or...

Bob Kerr: If I may, and maybe Roger Gross from the applicant who's here, can also testify, but there was a significant change if you recall as part of the annexation agreement there was a drawing submitted. It showed a different number of units than what came in as a preliminary site plan. So there was an annexation agreement with a drawing attached as an exhibit similar to a master plan. It was showing what they wanted to do and hit had a certain number of units. Between that time and the time they submitted a preliminary site plan, they had done the engineering necessary to determine where some of the wetlands were and other site constraints that decreased the number of units. Is that generally correct Roger?

Roger Gross: Good evening. I'm with Merestone Consultants. Merestone was responsible for putting together final site plan application. Basically the plan conforms to the annexation and preliminary site plan approval. It consists of 44 multi-family dwelling units on approximately 7.8 acres. The significant difference between this plan and the plan that proposed as part of the annexation and preliminary site plan approval is that we basically that the building units are identical to what we reported at those meetings. The only difference was that we took 19 duplex units and 1 multi-family 6 unit configuration and combined them into a few duplex units and a few triplex units, quad units and a couple of 6 unit configurations. What that did for us, it allowed us to consolidate some of the open space and made it a little bit more usable in regards to dealing with storm water management and green space on the site. When we originally prepared this plan and went through the annexation and site plan approvals, we didn't have any of the physical wetland lines or and of the topography. The site is very challenging. It has pretty significant slopes on the project, 15-25% and there is a wetlands line along Wagon's Pond. We felt, in order to deal with those physical constraints on the site, it would give us a better opportunity to deal with that by combining the units having less buildings because what happened with these slopes out here when we had 19 buildings of duplex type units, and the spaces between were virtually unusable. In order to accomplish grade with the slopes we were dealing with it was basically unusable space so by combining the units allowed for us to consolidate the open areas or the green space and deal with those physical constraints on the site.

Virginia Weeks: Did we approve signage?

Roger Gross: Actually, that was brought up early in the meeting I believe by you Ms. Weeks in regards to the completeness of the final site plan application. After reviewing 6.1.8 of the Town Code in regards to the final site plan requirements, we felt it was appropriate to meet informally with the Town. We met with Mr. Davis and Ms. Pfeil just to go over that; those checklist requirements so we could have a complete application. So we felt that we, at that time back in May, we submitted a fairly comprehensive final site plan application which included the final site plan itself has a sign detail in the upper left

hand corner. It also shows the sign location out at Lavinia Street and it also included, I believe you made a comment in regards to street lighting detail and part of that package also included a street lighting plan.

Virginia Weeks: And which kind of street lights are you using?

Roger Gross: If you go to the 3rd, I believe it's the 3rd sheet...

Paul Robino: The 3rd sheet will give you details on the bottom left corner, closest to Mrs. Edwards.

Roger Gross: Right under your arm.

Virginia Weeks: Okay, thank you.

Paul Robino: And at the bottom there it actually notes the manufacturer's name and not to interrupt Ms. Weeks, but at the top left corner of the cover sheet, closest to Mrs.

Edwards, is a detail of the sign.

Virginia Weeks: Thank you.

Roger Gross: Also, late last week we received comments from Mr. Kerr. We've either addressed any of his comments, I believe the attorney has the condominium documents and they're under review which I think consisted, there were about a third of your comments dealt with the condo documents, I believe. And then Mr. Robino has also contacted Delmarva and he has, he's engaging them as far as getting a contract to provide the site lighting for the project and there was one approval when we submitted back in May that we didn't quite have our hands on that I got at 4 pm this afternoon and if it pleases the Commission, I would like to deliver a copy of that. And that would be the DNEC sewer approval.

Linda Rogers: So can we just review Mr. Kerr's comments?

Bob Kerr: The first item is the construction drawings. They were submitted in February and all of our comments have been addressed with the exception of getting the sewer construction permit from DNREC. Item 2, the site plan submitted for review and final approval by the Commission meets the Towns zoning ordinance. Three, as the DNREC permit, which Mr. Gross just indicated, has been received. The second third on this list is about the condominium ownership should be reviewed by Mr. Brady and he has indicated that he has done so and is again reviewing it as we speak. Item 4 is again is an item on the annexation; it was a specific requirement in the annexation agreement and I just wanted Mr. Brady's comment on that that it satisfies that condition.

John Brady: It does.

Bob Kerr: And he just indicated to me that it does. Item 5, it's another annexation agreement required a petition, the applicant and Connectiv Power, now DP&L, or Delmarva Power now, for lighting. Typically that's done during construction but this annexation specifically required it at this point in time. I don't, Mr. Gross just indicated they're working on that but it hasn't been finalized. And then #6, it is recommended that the P & Z Commission receive and approve the construction drawings at the same time as approval is given for the site plan. Those drawings, I don't believe, were submitted to the Town as part of this package. Robin was going to contact them about bringing those sets this evening.

Roger Gross: If I may Bob. Yes, he contacted me this morning and I... Yes, Mr. Davis contacted our office this morning and indicated that it would be preferable if we attached our construction drawings with the site plan and I actually... I got that information today and I brought plans with me, 6 sets of complete plans. I didn't know if it was appropriate

to leave them here or bring them during the day tomorrow to get signatures, but I have the plans with me.

Bob Kerr: Those are all my comments.

Linda Rogers: Okay. Debbie?

Debbie Pfeil: I was not asked to review this application because it was in between preliminary and final and when discussed with the Town Manager, it was felt that there could be something else I might bring up from the past so therefore since it was in between submittals, the Town engineer had everything wrapped up for final, and I was not asked to make comments.

Linda Rogers: Okay. Alright. So, do we need anything else for a motion?

Virginia Weeks: One question please? You submitted architectural drawings of duplexes previously. Are they going to be the same? Is the height going to be the same? Are the heights of the buildings going...have they changed?

Roger Gross: No.

Virginia Weeks: I am not against this. I just want to make sure. We have had problems in the past with the plans not being...

Paul Robino: It's red, not green. Yes Mrs. Weeks.

Virginia Weeks: These are all going to look like the plans you originally submitted?

Paul Robino: Yes. We actually submitted with the application copies of those renderings and those are similar to what we submitted and shown you guys before.

Virginia Weeks: And it remains the same?"

Paul Robino: Yes.

Virginia Weeks: Thank you. And all of the green space is dedicated open space?

Paul Roboni: Correct.

Virginia Weeks: All that green is dedicated open space?

Paul Robino: Yes. It's actually about almost 60% of the site. It's like 3.88 acres of the total site of about 7 acres.

Virginia Weeks: Never to be developed?

Paul Robino: No. Because it's actually owned by 44 people in common.

Virginia Weeks: Thank you.

Paul Robino: If I could just answer your question that you asked earlier. And I'm not going to get into a legal debate, it was you Mrs. Weeks that in April of last year asked us to look at the entranceway and the trees and the foliage...

Virginia Weeks: And I'm grateful for you doing so.

Paul Robino: Okay. So as a result of that comment at that hearing of P & Z in April, we then went back and it was a decision whether to go to the Board of Adjustment or to Council. Went back to Council in July of last year and made application to them for the reduced roadway width, based on your comment. It was that date that we looked at which was really the approval date for the preliminary plan. Just as a Q & A.

Virginia Weeks: Another question I have is with this new housing configuration, what's happening, it's such a beautiful piece of property, I really don't know why you're not building ¾ of a million dollar homes up there. But, why, what's happening to all those trees?

Paul Robino: Well, a lot of them will come down, I will tell you that.

Virginia Weeks: I mean, I don't see any trees there.

Paul Robino: Well, we did a plan per se but Roger may be able to speak about it more than I am. He's got some pretty difficult steep slopes to contend with too.

Virginia Weeks: Absolutely.

Roger Gross: Yes, there are 15-25% slopes. In order to get these storm water, the buildings, the infrastructure in, there's a lot of grading, or earth moving, that has to take place, which means a good portion of the woods are coming down, except along the pond edge. We're preserving a lot of that by implementing a retaining wall. What that does is allows us to get back to grade without having to actually grade it out, which means we can save at least a corridor strip of trees along the pond. Also, I think it's important to recognize that we did go through that process because it is kind of a unique entrance with the trees the way they line the road coming in off of Lavinia Street. To go through that exercise of getting that Council approval to preserve that look which there will be some trees there, plus we did do a fairly significant landscape plan which is also part of the final site plan application, I believe it's sheet, it's either sheet 2 or 3, so we are going to basically reforest a good portion of the site with landscaping.

Virginia Weeks: Wait. I'm glad you brought that up. I noticed that most of your trees here are 5 to 6' heights. And the zoning ordinance requires that they be 7' after planting.

Roger Gross: Well, we'll look at that and we'll make that revision if required.

Virginia Weeks: And with the shrubs, also, they have to be I think 2' after planning.

Roger Gross: Okay.

Virginia Weeks: Thank you.

Louise Frey: I have a question, Madame Chair. The main road in that is not going to be a Town road, correct?

Roger Gross: Yes.

Louise Frey: It will be a Town road?

Roger Gross: Mrs. Frey, your question about the roadway. We've been asked to dedicate Holly Lane from Lavinia, through our property to a dead end, which would ultimately connect to the Workman property to the north here, so this is a dedicated right of way.

Louise Frey: So it is going to connect to the other property?

Roger Gross: It will dead ended on our property to a point and then if and when...

Louise Frey: But in the future they could build, and then they would be emptying out onto Lavinia Street, whatever they are going to build back there.

Roger Gross: They might, yes. And then everything else from that point of this dedicated right of way is private internally; it's handled by the condominium association.

Louise Frey: Thank you.

Linda Rogers: Any other questions?

Michael Filicko: Linda, I have a question for Mr. Brady. Mr. Brady, what is the status of the tree ordinance at this time.

John Brady: It is in the planning stages. There has been one that has been submitted for review and has not been introduced yet, so it can not be a requirement underneath the final site plan that you're being reviewed on tonight.

Michael Filicko: Thank you.

Linda Rogers: Any other questions? If not, would someone like to make a motion?

Gene Steele: I make a motion that we accept the final site plan for approval for Holly Lake Villas?

Ted Kanakos: I second it.

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

Ted Kanakos: Yes

Bill Brierly: Yes

Dean Sherman: Yes

Linda Rogers: Yes

Michael Filicko: Yes

Gene Steele: Yes

Louise Frey: Yes

Virginia Weeks: Yes

Bernice Edwards: Yes

Linda Rogers: We have a motion that's carried. Being no other items on the agenda, do we have anything else we need to discuss? If not I'll entertain a motion to adjourn.

Louise Frey: So moved.

Ted Kanakos: Second.

Michael Filicko: Paul, you have something to say?

Paul Robino: No, I would just like to thank everybody for their patience during this entire process. It's probably been 2+ years and the Town engineer and the Town Council and members of the planning Commission, Mr. Brady and Ms. Pfeil, since she's new here, so thank you all very much.

Motion to adjourn at 10:28 p.m.