

MINUTES

JUNE 18, 2013

BOARD OF ADJUSTMENT

LONG HILL TOWNSHIP

CALL TO ORDER AND STATEMENT OF COMPLIANCE

The Vice-Chairman, Mrs. Raimer, called the meeting to order at 8:00 P.M.

She then read the following statement:

Adequate notice of this meeting has been provided by posting a copy of the public meeting dates on the municipal bulletin board, by sending a copy to the Courier News and Echoes Sentinel and by filing a copy with the Municipal Clerk, all in December, 2012.

PLEDGE OF ALLEGIANCE

ROLL CALL

On a call of the roll the following were present:

Sandi Raimer, Vice Chairman
Jerry Aroneo, Member (arrived at 8:05 PM)
John Fagnoli, Member
Maureen Malloy, Member
Felix Ruiz, Member

Richard Keegan, 2nd Alternate

Barry Hoffman, Bd. Attorney
Thomas Lemanowicz, Bd. Engineer
Kevin O'Brien, Twp. Planner
Dawn Wolfe, Planning & Zoning Administrator

Excused: E. Thomas Behr, Chairman
Edwin F. Gerecht, Jr., Member

Dawn Wolfe, Planning & Zoning Administrator

Recused: Michael Pesce, 1st Alternate

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ANNOUNCEMENT

Mrs. Raimer announced that Mr. Aroneo is expected to arrive and that there is an expectation that the Board will adjourn for an executive session at some point during this hearing.

RESOLUTION OF MEMORIALIZATION

SEAN DIAMOND & LAUREN MAZUR

100 Lackawanna Blvd.
Block 11105, Lot 36

#13-01Z

Bulk Variances

The Board of Adjustment memorialized the annexed Resolution of Approval for Sean Diamond & Lauren Mazur (App. No. 13-01Z), as written, on motion by Mr. Keegan and seconded by Mrs. Raimer.

A roll call vote was taken. Those in favor: Mr. Keegan and Mrs. Raimer. Those opposed: None.

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GH @ LONG HILL

1100 Valley Rd.
Block 11301, Lots 1, 2, & 3

#12-06Z

Use Variance

Present: John P. Inglesino, Esq., attorney for the applicant
James Luke and John Moorzitz, principals of the applicant
Wayne Corsey, licensed professional engineer
Lee Klein, project traffic engineer
Arthur Bernard, licensed professional planner

Lucille Grozinski, certified shorthand reporter

Proof of service was submitted.

Mrs. Raimer said that it has been a while since the Board has heard an application of this complexity and noted that many members of the public were present who may have something to say. She reviewed the public participation process that was established by the Board.

Mr. Hoffman noted that Mr. Aroneo arrived at 8:05 P.M.

Mr. Aroneo then made a motion to adjourn to executive session which was seconded by Mr. Raimer. The Board of Adjustment returned to public session approximately 10 minutes later.

Mrs. Raimer explained that questions will be asked directly of the witnesses following his testimony.

In response to Mrs. Arline Bleecker, 74 Knoll Ct., Mrs. Raimer explained that this hearing will be discontinued at 11:00 PM unless a motion is made by the members present to continue the meeting to a later specified time and it would be continued to another date. Given the complexity of the matter, she said that it is quite likely that it *will* be continued to another date.

Mr. O'Brien and Mr. Lemanowicz were sworn.

Mr. John Inglesino, attorney for the applicant, introduced himself. He said that his client, GH @ Long Hill, LLC, is the contract purchaser of the subject property which is Block 11301, Lots 1, 2 & 33 on the Tax Map of Long Hill Township, located on Valley and Morristown Roads. He said that the site is mostly undeveloped and consists of approximately 73 acres. A portion of the property is zoned O (office) and a portion is zoned C (conservation), hence their appearance before this Board to seek a use variance to permit residential use on the site. The project consists of 228 total housing units including 46 affordable housing units. As such, the project has a set-aside of affordable housing of just over 20%. During the course of the proceedings, he said that testimony will be presented by applicant's planner, Mr. Art Bernard, indicating that the project is an inherently beneficial use and, as such, the project satisfies the positive criteria of the d (use) variance that is sought. He said that the applicant has elected to proceed on a bifurcated basis pursuant to NJSA 40:55D-76b which means they envision two applications in two proceedings, both of which would be before the Board of Adjustment. The first proceeding is to request a use variance to permit multi-family housing in nonconforming zones. He said that the applicant has made submissions in this regard and the application has been deemed complete to proceed with its use variance request. He stressed that this proceeding is only to consider the use variance nature of the project and any additional variances that lend themselves to consideration by the Board with respect to this application.

Mr. Hoffman said that he and Mr. Inglesino don't quite see eye to eye on the nature of the bifurcation proceeding. He fully agreed that under the M.L.U.L., which governs the proceedings of this agency, the applicant has the right to elect to proceed in stages, as they have done here – to seek a use variance as part of the initial stage and, as part of the second phase of the application, for the Board to handle the site plan, as well as the bulk variances. He said that he reviewed and

found acceptable in form a hearing notice that says that, however the problem that he had is that he did not see exactly as a practical matter how one can bifurcate out from dealing, as part of the initial (use variance) phase, at least some of the bulk variances for the project. He said that Mr. O'Brien's report stated among other things that there is a requirement in the Ordinance that prohibits parking for facilities such as that proposed in the front yard and they show parking within the front yard. He said that he similarly said that there is a requirement in the Ordinance that there be a 75' conservation strip left undeveloped along the street frontage of the property and that, too, would be violated by the proposed plan by the applicant. For the Board to act on the use variance, he said that we don't deal in the abstract with just the concept of a use, we deal with *a plan* and the plan is one which shows a building (or buildings) with parking within those areas where not allowed. If this Board were to act favorably upon it, he said that we necessarily would *have* to be dealing as part of Phase I with the designated plan which shows these additional violations of the Ordinance. For that reason, he thought that they will have to broaden somewhat the scope of what necessarily and essentially would be dealt with as part of the initial phase of the proceeding.

Mrs. Raimer asked Mr. Inglesino if he was comfortable with the fact that there may be some tangential issues that are related to the bulk variances that might come up that need to be discussed in an effort to resolve matters on the use variance.

Mr. Inglesino said that he would appreciate the courtesy of being able to complete his opening statement in its entirety and, to the extent that there are any questions, dialogue, or issues raised in connection with the entirety of his opening statement, he would be happy to engage in those. Due to the nature of this application, he said that the applicant has *not* submitted detailed site plans since the law does not require such for a use variance. He said that, once the applicant's use variance is approved (assuming that it is), then the applicant would proceed to submit detailed site plans to the Board for site plan approval. He said that there might be questions from the Board and the public regarding the project which they will necessarily defer to the site plan phase of the proceedings which will come *after* approval for the use variance. He said that, as noted, the applicant seeks a use variance for this project and the project will also require additional variances. For example, as will be testified by their engineer, he said that they are seeking a height variance for the height of the building structures. He said that they believed that the Board should have sufficient information before it to vote on the height variance in connection with the use variance application, however, they will work with the Board and its professionals in that regard and, after due consideration and information that they will present in connection with the application, the Board feels that it needs *more* information regarding the height, then the applicant may agree to defer a determination on the height variance to the site plan application. Similarly, he said that there are ancillary c-variances that their professionals will identify that they do not believe that the Board will be in a position to grant at this time, but they are variances that they believe will be present in any subsequent site plan application. He said that they anticipate that many, if not all of those variances, would be deferred to the site plan application. He said that, to Mr. Hoffman's point regarding variances to which the Board feels that there is sufficient information to consider, the Board should certainly do that. He said he did not say or mean to suggest that variances for which there is sufficient information for the Board to act upon should not act. He emphasized that the law and Cox contemplates that in these types of applications, there will be variances that will be deferred to the site plan phase.

He said that, present this evening are James Luke and John Moorzitz, principals of the applicant, Wayne Corsey of Omland Engineering, project engineer, Lee Klein, project traffic engineer, and Art Bernard, project planner. He called his first witness, Mr. Wayne Corsey, project engineer.

Mr. Wayne Corsey, licensed professional engineer, reviewed his educational and professional background and was accepted as an expert. He presented and described the following colored display boards which were marked into evidence as follows:

- **EXHIBIT A-1** – Greenhill Development Community Aerial Plan by Omland Engineering Assoc., Inc., dated 06/18/13.

- **EXHIBIT A-2** - Greenhill Development Existing Conditions Aerial by Omland Engineering Assoc., Inc., dated 06/18/13.
- **EXHIBIT A-3** – Greenhill Development Site Plan Rendering by Omland Engineering Assoc., Inc., dated 06/18/13.

Mr. Corsey described the existing conditions on the site and surrounding area. Referring to **EXHIBIT A-1**, he said that the site is outlined with a white dashed line. The existing uses in the vicinity of the property include a multifamily residential complex to the north (right across the railroad tracks) and there is an additional multifamily complex to the east along Valley Rd. The downtown area is located to the west of the property and there is a mixed use of commercial and residential on the eastern side of the property. There are single family residences on the lower right corner (southeast) and there is a retail component across the street which is known as the Valley Mall. He also pointed out the municipal building and first aid squad next to it and the Gillette School located to the east. He said that there are also additional retail and commercial components along Valley Rd. to the west. Additionally, there is a N.J. train track along the rear which coincides with the rear property line and there is a PSE&G easement that bisects the top portion of the site. Currently the property is zoned for Office on the front portion and the Conservation on the rear portion of the site.

In response to Mr. Inglesino, Mr. Corsey said that, if the Office Zone were to be developed under the existing zoning, the property would yield approximately 135,000 S.F. of office space and associated parking.

Referring to **EXHIBIT A-2**, Mr. Corsey said that the property boundary is delineated by a dashed white line around the perimeter. The property has frontage on Morristown Rd. to the east and Valley Rd. to the south. He said that there are 3 lots as part of this application (Lots 1, 2 & 3) and there are an additional 2 lots along the frontage of Valley Rd. which are Lots 1.01 and 1.02 which are wrapped around by Lots 1, 2 & 3, however they are *not* part of this application. He said that the existing land coverage on the property is predominantly wetlands, wooded areas, and brush. There is an existing garage on Lot 3 close to the road on the western portion of the property. The lot has frontage on two streets (Morristown Rd. and Valley Rd.) on its entire frontage on its east side and has separate frontages on the Valley Rd. side. In addition to the wetlands coverage, there is also a flood plain associated with the project. There is a minor tributary to the Passaic River that bisects the central portion of the site and drains around the site which goes under Valley Rd. and connects with the Passaic River to the south. The site topography is such that there is a high point in the southwest corner of the site and the property drains to the wetland area to the northeast and also to the eastern portion wetland areas and drains to the tributary he described previously.

In response to Mr. Inglesino, Mr. Corsey described the site improvements as depicted on the submission made by the applicant. He referred to **EXHIBIT A-3** which is a colorized version of the proposed site plan to show the grass areas, impervious areas and the building areas. The building containing the 20 flats is shown to be located 50' from Valley Rd. and Morristown Rd. and the closest townhouse building to Morristown Rd. is about 583'. The closest townhouse building in the rear of the developed area is 1,400' from the rear property line.

In response to Mr. Ruiz, Mr. Corsey said that he did not know the distance to the tributary. He said that the closest townhouse building to Valley Rd. would be 55' (in the lower left hand corner). He said that this is a proposed use variance application and there are 228 multifamily residential units proposed, of which 46 are affordable housing units (around 20%). Of the 228 units, there are 208 townhouse units and 20 flats within the 21 proposed buildings on the site. The flats building are basically one story condominium units in a 3 story building in the southeast corner of the property. The townhouses encompass the southwest portion of the property. Within the townhouse units, there are 42 COAH units in the southwest portion of the property and they consist of one and two story units, as well two and three story regular units. He said that there are two access roads off of Valley Rd. for the townhouse portion and the two properties are separated because of the environmental constraints of the lot. The condominium building is in the southeast corner and accesses Morristown Rd. and Valley Rd. individually with two access

driveways. Additionally, he said that the townhouse community accesses Valley Rd. at two points on either side of Lots 1.01 & 1.02. He said that it is basically a horseshoe configuration for access and site circulation with additional access roads to get to all the units. There are driveways for all of the townhouse units and there is on street parking for additional guest parking and resident parking for the units. He said that 516 parking spaces are required per R.S.I.S. and they are proposing 570 parking spaces, including 166 garages, 166 driveway spaces, and 238 surface road parking spaces.

Mr. Inglesino said he understood that the site plan has not yet been prepared but, in the work he had done thus far, he asked Mr. Corsey if he could testify and conclude that a residential development of the type that is being shown can be designed in accordance with R.S.I.S. requirements.

Mr. Corsey replied, "Yes". He said that, since this is a residential development, the R.S.I.S. govern the development standards for the project and the plan before the Board has utilized the R.S.I.S. to develop street widths, street configurations, and such. He said that, since the project is in the Office and Conservation Districts, there is no density parameter; however, the proposed development is 3.15 dwelling units per acre. The closest density that he saw in reviewing the Township Ordinance is allowable for multifamily of 6-7 units per acre, therefore this proposed project is less dense when compared to other multifamily zones in the municipality. As part of the proposed development, they allocated two areas for stormwater management basins which Mr. Lemanowicz alluded to were within a flood plain area. The intent of the stormwater management basins is to provide stormwater reductions in conformance with the NJDEP standards and the Township standards with regard to water quality, quantity, recharge, and low impact development. He was confident that those standards can be met based upon the design work that he had done thus far. Additionally, he said that they are going to have sanitary sewer, water, electric, gas and cable which will be supplied to the development from Valley Rd. and, based upon information they reviewed, there is adequate capacity in the sewer and water systems to facilitate the development.

In response to Mr. Inglesino, Mr. Corsey confirmed that his testimony was that there is adequate capacity with respect to sewer gallonage to accommodate the project and that sewer is available at the site. He also said that there is sufficient water to support the project and there is water available at the site. He said that the Township has its own sewerage treatment plant and collection system and the water system is provided by N.J. American Water, which is a regional water supply, and they have plenty of gallonage to provide.

Mr. Corsey said that there are wetlands on the rear portion of the site and there is also a flood plain that trickles down onto a portion of the site. He said that predominantly the northwest portion of the property is encumbered by wetlands and flood plain, so basically their development footprint skirts the outskirts of those allocated areas. He said that their detention basins get surrounded by the wetlands and are within a flood plain area, however the NJDEP has jurisdiction over all flood plain and wetland applications and they will make an application to them and conform with all their regulations in order for the project to comply. Additionally, he said that the site is in the Passaic River watershed, which means that there is "zero" net fill allowed for the project which means that they cannot place any additional fill without compensating elsewhere on their site to do that and that is what they will do.

In response to Mr. Inglesino, Mr. Corsey agreed that there are 4 variances for the project that he identified. He said that the variances that are part of the application are a multifamily use in an Office/Conservation Zone, which is a prohibited use.

Mr. Inglesino said that that is the use variance that the applicant is requesting the Board to take action upon as part of this application proceeding.

Mr. Corsey agreed. Additionally, they have a building height in the Office Zone where 2 stories/35' is allowed and they are proposing 3 stories/50'. He said that the next variance would be for the building height in a Conservation Zone where 2 ½ stories/35' is allowed and they are proposing 3 stories/50'. He said that another variance is for principal parking in a critical zone

which was triggered because they are proposing to have parking within the flood plain which is considered a critical zone per the Township Ordinance. Additionally, he said that they have some steep slopes greater than 15% in a development area that will be encroached upon as part of the proposed development. He said that although on the Application for Development and plans they submitted there was a variance requested for impervious coverage of non-critical zones, they re-examined that calculation and found that they are at 59.1% as opposed to 77.8% that was previously reported, so that variance was a carry over and is not needed as part of this application.

In response to Mr. Inglesino, Mr. Corsey explained that this project has gone through multiple iterations with the Township and the previous application had included Lots 1.01 and 1.02 and that number reflected the total area of development, including those lots which are now not part of the application and that is why the calculation has been updated. He confirmed that that variance is *not* required.

Mr. Corsey said that, as he had mentioned before, there are two building types. There is a stacked townhouse unit, which is basically two units (a one floor/second floor, and then a second floor/third floor unit). They will be all of the units on the left hand side (or southwest portion of the site). The other component would be what they are calling flats, or one story condominiums, in the south/west corner off of Morristown Rd. He said that it is a proposed three story building and each of the twenty units in the building would all have one story living space with multiple bedroom mix. The townhouses would be proposed three story buildings with integrated stacked units where they share a lower floor or intermediate floor and they have garages and driveways. The one floor unit is the only one and is in the lower right hand corner. It contains twenty units, four of which will be affordable units and 16 will be market rate units.

In response to Mrs. Malloy, Mr. Corsey said that they have not developed a detail of the footprint yet, but the affordable units will be dispersed throughout the buildings.

Mr. O'Brien said that the site plan does not show that currently.

Mr. Inglesino said that Mr. Corsey's testimony is that it is contemplated that the affordable units will *not* be concentrated in one building but that they will be dispersed in various buildings throughout the project.

Mr. Corsey agreed.

Mr. Inglesino said that they will work with the Board and its professionals in terms of the location of the affordable units. He felt that the important point for tonight's purposes is that it is contemplated that the affordable units will be integrated into the project as opposed to being placed in a separate building and that is what is being proposed. He invited and welcomed discussion and deliberation with the Board before any final determinations are made.

Addressing Mr. Inglesino, Mrs. Raimer said that, unlike what was done before, she wanted to extend him the courtesy of allowing him to complete his direct examination of Mr. Corsey before the Board members ask their questions.

Mr. Inglesino thanked Mrs. Raimer and said that he was almost done with Mr. Corsey.

Mr. Corsey said that the last component of the building that he wanted to discuss is the building height for which they are seeking a variance. He said that the proposed flat building has a height of 40' and the proposed townhouse buildings have a height of 43', however they are asking for a 50' height. The Township Ordinance measures height from the lowest exterior grade to the highest peak of the roof, so that gives you the latitude of no variable grades surrounding the property. The high point of the site is located in the central portion – the southwest portion and the grade tapers off towards the wetlands and the front of the property. He said that they anticipate that, when they do the grading of these units in the back, they will have some drop off in the front of the property from the front of the building on the driveway side to the rear portion of the building on the backside, therefore they anticipate some exposed foundation and are

asking for an additional 7' for a variable from front to back and, in transitioning, not to provide retaining walls and things of that nature.

Mr. Inglesino asked Mr. Corsey to describe outside agency permits and approvals that will be required, or at least those he was aware of now in connection with the site plan.

Mr. Corsey replied that the Morris County Planning Board has issued a review memo of the project dated April 2, 2013.

In response to Mr. Inglesino, Mr. O'Brien confirmed that the Board has received a copy of that letter.

Mr. Hoffman added that it is part of the file and, therefore, did not need to be marked into evidence.

Mr. Inglesino asked Mr. Corsey to summarize the Morris County Planning Department letter.

Mr. Corsey replied that the County basically summarized most of the testimony we have gone through so far here tonight. Additionally, he said that they have a recommendation for adding sidewalks along the frontage of Valley Rd. to provide pedestrian access to the retail uses across the street, the municipal building, and the downtown/surrounding areas.

Mr. Inglesino asked Mr. Corsey to summarize what the County had to say about the plan and about the concept of multifamily residential at this particular location.

Mr. Corsey replied that the County said that the project is located in close proximity to mass transit options, as well as retail, residential, and public recreation and that the future residents of this project are more than likely to patronize the local businesses located on Valley Rd. which will benefit the health of the local economy.

In response to Mr. Inglesino, Mr. Corsey said that, in his experience as an engineer, he considered the County review memo to be a favorable letter with respect to this application.

Mr. Aroneo said that Mr. Inglesino had said the County Planning Department which may be different from the County Planning Board.

Mr. Corsey clarified that it is the County Planning Board.

Mr. Inglesino said that was a very good point. He asked who the letter is signed by.

Mr. Aroneo replied that his copy is signed by the County Planning Board.

Mr. Corsey added that Christine Marion is the Planning Director.

Mr. Hoffman added, "On behalf of the County Planning Board".

Mr. Inglesino said that Christine Marion is a County employee and she is the Planning Director for the County and works for the Planning Department and, in essence, is the administrative person and planner for the County Planning Board.

Mr. Aroneo replied that it was not necessarily from the administration, it is from the body of County residents who comprise the Morris County Planning Board.

Addressing Mr. Corsey, Mr. Inglesino said that this is typically a review letter that would actually be authored by Christine Marion in her capacity as the Planning Director and asked if that was correct.

Mr. Corsey replied that it was.

Mr. Inglesino said that, typically, the Planning Board would strongly consider her recommendations as to whether or not the County Planning Board would approve or deny an application.

Mr. Corsey agreed.

Mr. Aroneo said that that answered his question.

Mr. Inglesino said that he thought the testimony is that the matter has not yet been determined by the County Planning Board because there is no application that is pending before the County Planning Board because that would be a site plan which the applicant is not submitting, so that this would, in essence, be a professional review letter in order to put it into Zoning Board parlance. He welcomed comment from Mr. Hoffman that this letter should be viewed as a planning review letter.

Mr. Hoffman agreed and said that it is, in fact, titled an “Advisory Review” on behalf of the County Planning Board through its agent, the County Planning Director.

Mr. Inglesino added that there has been no action by the (County) Planning Board.

Mr. Corsey said that additional approvals that would be required would be the Morris County Soil Conservation District. He said that, as he mentioned before, they are in a flood hazard area, so a Flood Hazard Permit would likely be required for the placement of fill in the flood plain and the stormwater management.

In response to Mr. Inglesino, Mr. Corsey agreed that his office has processed Flood Hazard Permits in the past with the NJDEP. He also agreed that his office has been successful in obtaining such Flood Hazard Permits. He acknowledged that, although he could not speak for the NJDEP, in his professional experience he had no reason to believe that a Flood Hazard Permit would not be processed and approved by the NJDEP in connection with this project. He added that, additionally, they have wetlands surround the site and it is likely that a General Wetlands Permit would be required.

Also in response to Mr. Inglesino, Mr. Corsey said that the NJDEP has a list of standard permits that they issue for projects for the different types of developments. He said that this one would be because of a potential stormwater outfall in the proposed stormwater management basin into a wetland area which would generate the requirement for a General Wetlands Permit. He said that an Individual Wetlands Permit would be more difficult and cumbersome to approve, similar to a Zoning Board application, he said that it would require multiple proofs and testimony of professionals and various analyses to justify the permit. He said that this project would necessitate the need for a General Wetlands Permit and his office has processed and obtained approval for numerous General Wetlands Permits. He said that the last two permits he envisioned would be a Sewer Extension Permit (for the extension of the sewer into the site) and that permit is generated by the gallonage that would be generated which is about 50,000 gallons per day. Additionally, he said that they will require a Water Permit. He said that, similar to the Sewer Permit, they will be extending the water from Valley Rd. into the development and that will require a NJDEP Permit called a Water Extension Permit for the extension of a water main over 1,500’.

Again, in response to Mr. Inglesino, Mr. Corsey agreed that he had already testified that there is adequate capacity for both water and sewer on the site. He also agreed that his office has processed numerous water and sewer permit applications before the NJDEP and, in his professional experience, he did not see any reason why water and sewer permits would not be issued by the NJDEP in connection with this project.

Mr. Inglesino said thanked Mrs. Raimer and said that he had no further questions for Mr. Corsey and invited questions from the Board, its professionals, and the public.

Mrs. Raimer said that she wished to proceed with Board questions, followed by questions from its professionals, and then open the meeting to the public for questions of Mr. Corsey.

Mrs. Raimer asked Mr. Corsey if he had had an opportunity to review Mr. Lemanowicz's report dated June 17, 2013.

Mr. Corsey replied that he had.

Mr. Inglesino said that it struck him that a number of questions may be answered if he went through Mr. Lemanowicz's report.

Mrs. Raimer asked Mr. Corsey to run through his responses to Mr. Lemanowicz's report.

In response to Mr. Inglesino, Mr. Corsey said that he was prepared to go through Mr. Lemanowicz's review letter and respond to the various points that were raised. He agreed that there were no questions on the first page – it was a recitation of the items that were reviewed. On Pg. 2 under "General Comments", he felt that most of his comments were general statements of fact in reviewing the application and there was nothing for him to respond to. He agreed that the real comments begin under "Technical Comments".

In order to make things more efficient, Mrs. Raimer asked Mr. Corsey to defer any items on traffic analysis until the end because the traffic analysis is not something that the Board Engineer has had the benefit of time to review and, to the extent in which he has, it is not as complete as it could be.

Mr. Hoffman had a procedural question of Mr. Inglesino. He asked if it was the applicant's intention to, whenever it is dealt with, have traffic issues addressed by Mr. Corsey or by some third party traffic expert.

Mr. Inglesino replied that he had intended to indicate in his opening comments that they have a traffic expert present, Mr. Lee Klein, who will be providing traffic testimony. In terms of the sequence of the applicant's experts, he said that he intended to provide engineering testimony first, traffic testimony second, and then have planning testimony third.

In response to Mr. Hoffman, Mr. Inglesino agreed that any issues involving traffic would be dealt with by a separate traffic consultant. He felt that Mrs. Raimer's point is well taken to the extent that Mr. Lemanowicz's report identifies traffic issues and we should make a note to hold those issues for his next witness.

Mrs. Raimer said that she then wished to proceed to Pg. 3 of Mr. Lemanowicz's report. She explained to the public that the Board has the benefit of two professionals which are engaged by the Board (an engineer and planner) and the Board Engineer has provided us with his insight into the project and some points and discussion items which Mr. Corsey will now respond to in turn. She suggested that Mr. Corsey start with Item #2 on Pg. 3 regarding the preliminary grading.

Mr. Corsey said that an abbreviated version of the comment is that the Board Engineer is asking for preliminary grading associated with the project to validate the proposed building height. He said that, as Mr. Inglesino alluded to previously, this is a use variance application and that level of detail is something that they provide at the site plan phase of the development. Based upon the information that was provided in terms of building height and the latitude which he mentioned before about building height being 42' and the requested height of 50', he said that that builds them in a buffer to adjust to any grading on the site to comply with the Township Ordinance, because of the way it is written. He repeated the Township's definition of building height and how it is measured. He said that the current zoning for the property is 35' and they are proposing a building height of 42' and the building definition states a flat grade outside. He said that they anticipate with the grading of the proposed project that they will have a sloping grade from the front to the back of the property to tie into the existing grades, so in doing so they built in a 7' factor to adjust for an average grade around the building to facilitate that.

Mr. Inglesino said that, from the front of the building from Valley Rd., there may in fact be a 35' height from that grade but, if you are looking at the building from the rear, because height is measured from the lowest point to the highest point, that may be 42', 46', or 50', thus necessitating the need for the variance.

Mr. Corsey agreed.

Mr. Aroneo said that the way he understood it is that the applicant is asking for a variance because the building is exceeding the height limit, not because of the way the Ordinance is drafted. He said that, if the Ordinance was drafted where it was the average, you would still run into the same problem, as he understood it.

Mr. Corsey replied that what happens is, the way it is written....

Mr. Inglesino said that he felt that Mr. Aroneo's question is, if it was averaged, in other words if the Ordinance was written differently than it is today, would we still need a variance or maybe you don't have enough information to know at this point.

Mr. Aroneo asked Mr. Corsey if he hadn't said that the front of the building was 35'.

Mr. Corsey replied that it is not. He said that the building height from the first (lowest) floor to the peak of the roof is for the townhouse units (on the left hand side of the site) is 43'.

Mr. Aroneo said that that is still exceeding the height limit.

Mr. Corsey agreed.

Mr. Aroneo said that, either way, the average can't be *lower* than the lowest point in the average, so it is not because of the way the Ordinance is drafted, it is because the building height exceeds the height ordinance in *every* regard. He said that he wanted to clarify that.

Mr. Corsey replied that Mr. Aroneo is correct and his explanation of it is that the reason they are asking for 50', as opposed to 43', is that 43' exceeds the 35' allowable. He said that they are asking for 50' to account for that average grade. He said that if you have 40' that means that all the grades around the building would have to be flat with a garage and, because of the topography of the site, they have to undulate the grade....

Mr. Aroneo replied that the lowest point of the roof still exceeds the height ordinance, so the average discussion is irrelevant because you would still need a variance for your lowest point.

Mr. Corsey agreed that they will exceed it regardless and that is why they are asking for the variance.

Mr. Lemanowicz said that the reason that he brought up the grading and the height issue is because the applicant is requesting a variance for height and this use is associated with multistory buildings and he thought that the Board needs to understand the visual mass of these buildings with respect to the use. He said that there is a lot of grading to be done on the property and his concern was, for instance, if the building was at the high spot along the western boundary and a retaining wall was immediately downhill of that, all facing Valley Rd., now, in addition to having a 50' building, you may have a 10' retaining wall, so that entire structure now looks like it is 60' high. It is a different aesthetic and he said that that was what he was trying to.....

Mr. Aroneo said that that scenario doesn't exist in the application though.

Mr. Lemanowicz replied that he did not know because he did not have the preliminary or conceptual grading to know what that aesthetic is going to be from Valley Rd.

Mr. Inglesino replied that they understand and he felt that was a fair comment. He said that they certainly understand that, given the nature of this application, that it may be difficult and you may

not feel that you have enough information on the basis of what has been submitted thus far to grant a height variance and that is the kind of feedback that they are looking at so that they can respond to that in an appropriate kind of way. He said that he appreciated Mr. Lemanowicz's comment in that regard.

Mr. Corsey added that it is anticipated that the front of the buildings (on the garage side) will be roughly in that 43' height and the exceeding grades will be in the back of the property where they will try to tie into the wetlands area where the grade drops off. He agreed that the high point of the property is in the central southwest portion and the property drops off.

Mr. Aroneo asked for the change in grade from the center point to the end point of the rear building.

Mr. Corsey estimated it to be about 30' of grade drop off from the high point to the rear. He said that the height of the building is going to be dictated by the road grade in front of them so that they can control the height of the buildings in the front yard. He said that it is the back yard where you are tying into the existing grade where you have that drop off which would be along the back perimeter adjacent to the wetlands. He said that they would only anticipate the front yards, as Mr. Lemanowicz was alluding to being this monumentous building of 60+' with retaining walls. He said that it is anticipated that the fronts of the buildings will be in the 43' range and the rear will be a little bit higher because of the tying into the existing grade.

Mr. Lemanowicz said that, as you are coming down the left road to the bottom 4 units, those are stepping down the hill, so you will see the high side of those.

Mr. Corsey agreed that you would see the back side of those couple of units there, but he added that they are set back far enough off of Valley Rd. He noted that the first building is set back 55' off of Valley Rd. and (another) building is probably 150', etc., so it steps up the hill in the topography of the land. He pointed out one part which will block a viewscape and said that another unit will probably be about 200+' from Valley road.

Referring to Item 3a, Mr. Corsey said that it talks about grading and steep slopes. He said that the steep slope portion of the site is located in the southwest corner of the property and deferred to the same comment for Item 2.

Mr. Lemanowicz said that Item 3a wasn't going so much to the building as the impact environmentally. He said that the whole Comment No. 3 is about environmental impact.

Speaking to Mr. Corsey, Mrs. Raimer said that Mr. Lemanowicz made a suggestion as to what could be noted and quantified in the last sentence, so as you are preparing your list of what you could be providing to help with the decision making process, in addition to the preliminary grading, you want to take note of these items, as well.

Mr. Inglesino said that he thought that, to the extent that the variances remain, the comment is well taken. He also noted for the record that the application has been deemed complete from a submission standpoint and he wanted everyone to be cognizant of that where additional requests for information are sought.

Referring to Item 3b, Mr. Corsey said that Mr. Lemanowicz said that the proposed use would lend itself to larger expanses of law and professionally landscaped areas than would be expected with a non-residential use which raises a concern regarding the use of fertilizers and pesticides that would be required to main the landscaping. He said that he would say that that would be no different than a property owner maintaining their lawn with pesticides. He said that he did not know that that would be a huge impact, additionally as part of the stormwater management requirements of the Township and the NJDEP, they will provide water quality and stormwater reductions, recharge, and those components to offset some of those impacts, as well.

Mr. Hoffman asked if the applicant is amenable to providing an Environmental Impact Statement that would address these and other issues of an environmental nature.

Mr. Inglesino replied that there were extensive completeness meetings between the applicant and its professionals and the Board's professionals. He said that, Environmental Impact Statements, are typically a checklist item and they are a completeness issue. He said that there is not within the Township's Ordinance or checklist the requirement for an Environmental Impact Statement with respect to a use variance. He said that the application has been deemed complete, so he did not think that it is a question of the applicant being unwilling as much as he would question the appropriateness of the request at this particular point in time given the fact that a completeness determination has been made and they have been schedule for....

Mr. Hoffman interrupted and said that under Sec. 10.1 (or thereabouts) in the M.L.U.L. it *does* specifically state that, although an application is deemed complete in terms of it containing the listed items on a checklist, the Board is at liberty nevertheless to request additional information on behalf of the applicant. He said that the completeness gives you the right to go ahead and start the hearing process but, as part of the hearing, he felt that the Board is entitled to ask for other documentation that the it feels is germane, and he so advised the Board.

In defense of the completeness process, Mr. Lemanowicz said that that was a waiver requested and the Completeness Review Committee (CRC) decided get the waiver, come here so that the Board can hear the explanation, and let them decide rather that have the CRC insist upon it and maybe the Board accept your explanation that it is a site plan and has nothing to do with this. He said that it was a decision made to err on the side of not causing that extra work to be done until the Board was sure that they wanted that information, however he said he understood the potential.

Mr. Inglesino said that they will certainly take it under consideration but, again, in connection with a site plan application that is one thing which he understood, but with the nature of this application he thought it was another. He said that they certainly hear the issue and will take it under advisement and consideration and report back.

Mr. O'Brien referred to Pgs. 4 & 5 of his report which lists the waivers requested by Mr. Donatelli in his letter of April 18, 2013. He said that those waivers can only be granted by the Board in a vote, so it is up to the Board to allow those waivers to proceed or not.

Mrs. Raimer said that that is a matter for the Board to determine if it feels that it needs it, but in an effort to get through the wealth of information before it, she felt that we should proceed. She asked Mr. O'Brien to help keep a running list of those potential items that the Board *may* request or not necessarily request.

Mr. Corsey referred to Item 3c which states that the density of the development requires a detention basin. He said that, as he stated previously, the stormwater management project is going to be governed by the Township requirements and the NJDEP Stormwater Management Ordinance and they will comply with both of those. He said that any adjustments based on wetlands, impacts, or flood hazard will be addressed during the permitting process with the NJDEP and the Township's submission of that required report.

Mr. Lemanowicz said that Mr. Corsey had mentioned that he would satisfy the stormwater management requirements. If floodwaters have backed up into the basin, he asked how that would work if part of the storage is gone now because of either ground water or flood waters coming up from the wetlands?

Mr. Corsey replied that there are design parameters that the NJDEP accepts and you have to take losses for those numbers – you can't take credit for that number. He said that one thing they have also investigated as part of this development is that, in addition to the two surface basins before you, they are anticipating possible underground detention systems within the road system and upgrading of the flood hazard areas.

Referring to Item 3d, Mr. Corsey said that it talks about stormwater management and this project is considered a major development based on the disturbance of one acre of land and the increase of impervious of .5 acres, therefore, they have to comply with the Stormwater Management

Ordinances of the Township and the NJDEP. He said that they will also comply with groundwater recharge, water quality, quantity, and low impact development where applicable.

Referring to Item 3e, Mr. Corsey said that it talks about parking for the (flat) apartment building in the southwest corner. He said that currently the parking lot is shown within a flood plain area and it is anticipated that the parking lot will be graded to be above the flood plain elevation. To offset that increase in net fill, he said that they will excavate flood volume elsewhere on the site.

With regard to Item 3f, he said that it talks about stormwater management and, as he just alluded to, they are proposing, even though it is separated from the majority of the development, the isolated pocket of 20 units would have an underground detention basin to offset any stormwater management in compliance with the Township regulations. He added that, at the end of Item 3, was a comment about the Environmental Impact Statement which he believed he addressed.

Referring to Item 4, he said that it likewise goes to stormwater management basins in a flood hazard area and they will comply with the NJDEP regulations. As it is in a flood hazard area, he said that it will require compliance in order for the NJDEP to approve it.

Mr. Corsey said that Item 5 talks about parking for the proposed units. He said that the parking is based upon the RSIS and what they have done as part of their calculation is that they have considered the market rate units as townhouses, which is the 2.3, and the affordable units as the garden apartment, which is 2.1 and that is how they derived their 570 parking spaces.

Mr. Lemanowicz asked if affordable townhouses were proposed.

Mr. Corsey replied that the COAH units within the townhouses, there is a flat on the first floor, and then there is a two-story COAH unit – there are basically six COAH units within the center portion of these buildings, the lower floor being a one story unit and the units on the second and third levels are two story units, but they are considering them all as garden apartments.

Mr. Lemanowicz said that we did not get any floor plans or any tabulation of what all this was and, by looking at the information we had, it looked like the numbers didn't match. He said that he was expecting to see parking for 208 townhouses and parking for 20 garden apartments and that is where the confusion came about.

To pick up the point, Mr. Inglesino said that Mr. Corsey's testimony is that on **EXHIBIT A-3**, to the left hand side when you start from Valley Rd. and work back seven buildings, in each of those seven buildings there will be six affordable housing units in each of those seven buildings.

Mr. Corsey agreed and said that there are ten units total for the building and six of them will be affordable units.

Mr. Lemanowicz replied that there is no differential between the affordable units and market units for parking. He asked if it was a townhouse or a garden apartment. He said that that is the differentiation and why he couldn't see. He said that he thought that the only garden apartment was the single building by itself. He said that, once we get the unit types and counts straightened out, that may all explain that but, based upon what he had, it looked like the count was off.

Mr. Corsey said that, where 516 is required, they are proposing 570, so they are providing more than adequate parking to address any of those issues.

Mr. Inglesino asked Mr. Corsey if it was his testimony that the affordable units within those seven buildings described would be flats.

Mr. Corsey replied that he considered those as garden apartments because they are one story, integrated, whereas the townhouse units have garages and contain two stories.

Mr. Lemanowicz suggested ending the discussion by requesting that a table of what is what be provided. He said that he was not really interested as far as parking goes (whether they are affordable or market), just what are they?

Mr. Inglesino replied that they would provide a table.

Mr. Corsey said that Item 6 regards the 570 parking spaces, where 516 are required. He said that, as he stated before, they do not have a variance for lot coverage of noncritical areas because they are under the 70%, so there is no impact to that requirement.

He said that Item 7 talks about internal setbacks to roadways, parking, and the like. He said that, as Mr. Inglesino alluded to before, many of these issues can be ferreted out during the site plan aspect – there would potentially be bulk variances that they would have which they could alter to facilitate compliance with these items. He said that it is a detail item that they will address during the site plan phase.

Mr. Inglesino felt that the comment was that the table was found to be in conflict with the plan.

Mr. Lemanowicz agreed that the plans don't match.

Mr. Inglesino said that they will amend the plans or the tables as need be to rectify that.

With regard to Item 8, Mr. Corsey said that it refers to the Americans with Disabilities Act. He said that they currently do not show any ADA accessible parking spaces and that is something that, at this point in time, they have more than enough coverage to provide for those and it was anticipated to address those during the site plan documents. In response to Mr. Inglesino, he said that ADA parking is *required* as part of the site plan.

Mr. Lemanowicz said that that will fall in with some of the other comments later about the impervious cover.

Mr. Inglesino said that the applicant will certainly agree to provide handicapped parking as a condition of approval in connection with any future site plan submission.

Mr. Corey said that Item 9 refers to the Requested Variances on Sheet 2 where there is a reference to retail. As he explained previously, he said that some of the variances carried over from their previous (initial) application and there is no retail as part of the present application – it is only multifamily residential, so they will revise that.

He said that Item 10 alludes to the coverage in a noncritical area where they propose 46 on the Zoning Chart and they requested a variance for 77.8. He said that that number has been adjusted and it is actually 59.1, as he previously stated, so no variance is required.

Mr. Corsey said that there is an existing sanitary sewer that crosses a corner of the property right underneath the proposed flat building and they are proposing to relocate that as part of the development. He said that that will be depicted on the site plan documents.

Mr. Lemanowicz asked if that had gone anywhere or is that just something that they plan to do?

Mr. Corsey replied that that is their plan at this point.

He said that, likewise, Item 12 talks about the fact that there is an additional drainage easement for Morris County that runs north to south between the two detention basins in the central portion of the site. He said that that is something they will look to relocate that pipe or make adjustments to the detention basins to facilitate the existing pipes.

He said that Item 13 regards sanitary sewer flows. He said that the proposed residential flow for the site would be 55,000 gallons per day and that is based on the NJDEP criteria for sewer from a

residential development. In response to Mr. Inglesino, he confirmed that there is sufficient gallonage to meet that capacity, to their knowledge.

As to Item 14 regarding the road width, he said that there are a couple of areas with a labeling of 25' and 24' and the road will be corrected to be a 24' wide road width throughout the development which is considered to be the RSIS.

Going back to Item 13, Mr. Lemanowicz said that Mr. Corsey had said earlier that the site would support 135,000 gallons of office. He asked what flow that would have?

Mr. Corsey replied that it would have roughly around 13,500 gallons per day, so it would be an increase.

He said that Item 15 talks about sidewalks throughout the development and refers to the fact that the driveways are 19' and 20', and per RSIS, the required length of a driveway is a minimum of 18' to facilitate a car. He said that Mr. Lemanowicz's comment refers to the fact that the proposed driveways are 19' and 20' and a residential sidewalk would require a width of 4' – 5', and so they would not be able to locate it adjacent to the roadway as their anticipated location is to provide sidewalks along the frontage of the site and the sidewalk into the site and provide sidewalk access throughout the development to get to these public spaces – not necessarily along the roadways but in the internal courtyard areas and green space of the site.

Mr. Lemanowicz said that the comment linked with the bullet points to which Mr. Bernard will speak later, but it was dealing with the walkable downtown but, if you are not going to walk out the front door onto a sidewalk and walk down to the walkable downtown, that was kind of the issue.

Mr. Corsey said that they will try and provide sidewalks throughout the development which is a level of detail that they will address at the site plan phase.

Mr. Inglesino said that the thought that the point Mr. Lemanowicz is looking for is pedestrian connectivity from one's door to the sidewalk on the site.

Mr. Lemanowicz agreed. He said that it goes back to the impervious cover area because now we've got sidewalks that we don't have and it will start getting into quite a list of items that we would anticipate seeing that we don't see. Although he did not know if it would bring it all the way back over 70% again, but said that it certainly seemed to be a considerable amount of impervious cover that we are still missing.

Mr. Inglesino said that they certainly understood and would agree to a condition of approval that a subsequent site plan would have to provide for safe pedestrian connectivity.

Mr. Aroneo asked Mr. Hoffman if the Board can set conditions of approval that are subject to site plan approval. He asked if the Board can say that this use is conditional?

Mr. Hoffman said that the Board can impose reasonable conditions based upon its engineer's review of what he finds missing from the plan.

Mr. Aroneo said that they are talking about impervious coverage calculations and that sort of thing. He asked, if the Board agreed to the use, and that can't be done because there is not enough lot coverage or something like that (hypothetically) and they can't squeeze this use into that area, what happens then?

Mr. Hoffman replied that they would then need a bulk variance. He said that, obviously, they are going to have to revise their coverage calculations.

Mr. Aroneo said that every bulk variance that they need may not be listed at this point and there may be other bulk variances that are the result of the approval of the use.

Mr. Hoffman said that it seemed to him that *some* of the bulk variances, although noticed for treatment in some fashion during Phase II, necessarily have to be granted, at least if not the hard numbers, at least the concept. He said that you can't have parking in the front yard shown on the plan and say that we will deal with and a site plan by taking it out.

Mr. Aroneo said, so that is granting tacit approval of all those things that are a part of the bulk that are in the picture...

Mr. Hoffman said that, if we grant approval to a plan and the plan shows a building in the front yard and the Ordinance does not allow buildings in the front yard setback, or no parking in the front yard setback, he felt that it necessarily has to be taken up *now*.

With regard to the issue of impervious cover, Mr. Lemanowicz said that he was trying to deal with the density of the development and what is going to happen because of that. Because if the Board is considering a use variance and the density of the nonconforming use is such that it creates an impervious cover variance, then that is something the Board should take into account when they are thinking about the use.

Mr. Aroneo said that that is why he was trying to do but he still did not know if he understood it. He said that, by granting a use variance, we may also be granting a bulk variance because there is no other way to build it and we granted the use of the property.

Mr. Hoffman said that he felt that a reasonable argument could be made to that affect. He said that the other related question on sidewalks that he had was, is it intended that the applicant, in addition to providing for internal circulation through a sidewalk network inside the development, that the applicant will be providing a sidewalk along the frontage of the property?

Mr. Inglesino said that he did not think that the testimony was that there would be sidewalks in the internal part of the project to the extent that perhaps Mr. Hoffman's question may imply. He thought that the testimony was that there would be safe pedestrian connectivity within the site to a network of sidewalks and that connectivity could be established in a variety of ways that they would have to address as part of a site plan application. He thought that the concept was that you want pedestrian connectivity sort of in line with the review letter from Ms. Marion from the County so that residents would be able to take advantage of a walkable downtown and realize the benefits of that. He said that they certainly understand that point and understand that they would have to address that point in connection with a subsequent site plan submission. He said that he thought that one of the things that would undoubtedly be part of an ongoing dialogue is that, first of all, their request is for a use variance and the form that that takes he felt will depend upon the testimony, evidence, and the record in terms of what the Board is comfortable in doing. He said that he did not disagree at the moment with counsel in saying, well when you have a parking area in a front yard that may be something that you have to address now, but when you are talking....

Mr. Hoffman interrupted and said that you either have it or you don't have it.

Mr. Inglesino replied, "Well, right", but in terms of a height variance you may say...the grading well we want to see what the massing looks like and you may say that you have enough information to grant the height variance and you may say that you don't have enough to grant you the height variance now, you are going to have to supply us with more information and you can do that at the time of site plan approval. He felt that there are those kinds of issues that are going to continue to crop up and he felt they need to address them, think about them, and address them going forward, but he felt those issues are ancillary to the main issue which is whether or not the use of multifamily housing is a use that is appropriate and conducive to the site and whether we are making the case for that.

Mr. Hoffman replied, "Yes and no", in his view, in the sense that it is all related. That is to say the impact of this number of townhouse and apartment type units may be different which is the critical issue as far as usage is concerned. He said that the impact may be somewhat different if it's closer to or further from the road – the distance that it is set back, if it is buffered by parking within the area or if it is left undisturbed, so we will just sort of leave it at that.

Mr. Aroneo said that it was his understanding, after this further discussion, is that it is now *all* on the table, so anything that we need, we are keeping a running list, so that we as Board members throughout this presentation find there is something that there is something that we need to address at a later point, should we then ask our Administrator or Planner to keep a list for the end of the application to say that these are the things that we need to have addressed, or how does that get handled?

Mr. Hoffman replied that, when it gets to the point of deliberation, if the Board members are not satisfied – if, hypothetically, a vote is taken to approve the usage and a member says that he or she has reservations as far as usage of a certain area for parking, that should be noted specifically so that we are not locked into the fact that it is shown on a certain plan as parking. If we are not yet dealing with that, he suggested keeping it in Mr. O'Brien's running list of issues so that we are free to deal with it still at the time of site plan and bulk variance.

Mrs. Raimer added, however, if the Board feels there is something that we need in order to make a deliberation with respect to the *use variance*, then it should be reflected before these people go home tonight.

Mr. Fargnoli said, we are assuming that we are making a decision on the use variance and asked why we are even talking about the site.

Mrs. Raimer replied that we are deferring discussion on the site plan to a future date.

Mr. Fargnoli asked why the Board is talking about some time down the road when there may be no time down the road.

Mrs. Raimer replied that there may be no time down the road but, if you needed to make your decision on the use variance, then it should be requested up front.

Mr. Fargnoli replied that that was fine.

Mr. Inglesino said that he felt it was appropriate and has been alluded to by Mr. Hoffman and talked out in Cox that it is appropriate to provide for some conditions on a use variance that *would* apply to site plan with respect to issues of the sort that we have been discussing that come up. He wanted to note that they certainly would not object to certain of those conditions.

In response to Mrs. Raimer, Mr. Corsey referred to Items 16-19 and said that they all refer to what Mr. Lemanowicz calls increased coverage of the noncritical areas. He said that, as he stated before, they have currently 59.1% and they are allowed 70%, so any changes to the site to facilitate the comments Mr. Lemanowicz has made in Items 16, 17 & 18, they believe can still be addressed within the 70% threshold provided.

Mr. Aroneo replied, but if we couldn't at site plan, then we could request a variance at that time.

Mr. Corsey agreed. With regard to Item 20, he said that they are deeming the proposed two driveways for the proposed townhouse development as residential access. He said that the road width would be 24' with on-street parking.

Mr. Inglesino asked Mr. Corsey to address Item 19.

Mr. Corsey replied that Item 19 was the same thing. It was adding additional impervious coverage for the dumpster.

He said that Item 20 concerned the cartway width.

With regard to Item 21, he said that there is no access driveway shown to the detention basin which is located in the northeastern portion of the property. He said that he anticipated that maintenance access would be a pervious surface being grass pavers or just grass, depending on

the grade slope. He said that they are not anticipating any additional impervious required to facilitate maintenance of that structure.

For Mr. Corsey's information, Mr. O'Brien said that any grass pavers are given *proportional* credit for perviousness and imperviousness, so it may or may not count.

Regarding Item 22, Mr. Corsey said that it talks about increasing impervious coverage as we discussed in many of the comments above and their stormwater management will be the proposed surface basins that you see before you and potentially some additional underground detention systems to facilitate any increases in changes in impervious surface. He again noted that they will have to comply with the Township and NJDEP Stormwater Ordinances and those items will be addressed at that time.

Mr. Lemanowicz said that the intent of his comment was to say that once we get all these items that are not in the plan in the plan, noting that from an aesthetic standpoint, it may change and appear more cluttered because we are now fitting all this stuff in that is not shown.

Mrs. Raimer said that she would like to turn this portion of the meeting over to the Board members, its professionals, and members of the public to ask questions.

Members of the Board requested a brief recess.

X X X X R E C E S S X X X X

Mrs. Raimer called for questions from the Board members.

Relating to stormwater, Mrs. Malloy asked Mr. Corsey if he had any backup to prove what he believed to be appropriate capacity for our existing Township for what exists right now for this project.

Mr. Corsey replied that the Township Stormwater Ordinance requires that you generate a flow for the existing site undeveloped which is currently what it looks like and then you generate a flow for the site under the proposed conditions. He said that you must provide flow reductions and so you have a pre versus post analysis that you have to do and you have to reduce, based on your Stormwater Management Ordinance, for 2-Year, 10-Year, and 100-Year Storms. For a 2-Year Storm, he said that you have to reduce your outflow rate by 50%; for a 10-Year Storm it is 75%; and for a 100-Year Storm it is 80%. He said that that means that basically, when this project is developed, your stormwater flow rates from their detention basin in the developed area will be a reduction from what exists today.

Mrs. Malloy asked Mr. Corsey if he felt what we have now is appropriate. She said that earlier in the evening he had said that we have enough capacity to tie in for sewer and water. She said that during the last 7 or so years we have had a 100 Year Flood about every single year. She asked Mr. Corsey where he believed that we definitely have that capacity in place, especially for that particular area which floods every single time.

Mr. Corsey replied that he felt that Mrs. Malloy was mixing two things.

Mr. Inglesino asked Mrs. Malloy if her question was looking for assurance that the applicant will be able to comply with the Township Ordinance?

Mrs. Malloy said that Mr. Corsey made a statement earlier to that effect and she was just wondering on what basis he made it.

Mr. Corsey replied that there are two components to Mrs. Malloy's question and maybe she was crossing them. He said that when he spoke about the capacity, he said that he was talking about the Township sanitary sewer system and the sanitary sewer will be collected by the proposed infrastructure within the development and will go to the Township sewerage treatment plant. He

said that when he was talking about capacity, he was referring to sewer flow (waste) coming from the development. He said that when he was talking about stormwater management, he was talking about the stormwater runoff generated from the site and the proposed condition. He said that this development and the proposed detention basins store the water. He said that, currently, all the water from the property sheet flows into the tributary to the Passaic River and potentially floods that area. Under the proposed development, he said that they will collect the developed area and the back land area will continue to sheet flow overland into the drainage ditches and the Passaic River. He said that the stormwater management basins will collect the water and store it and it will be a time released impact, so it will delay the release of stormwater over a period of time, as opposed to it currently going straight to the system. He said that that is where the reductions come in, based upon the peak factors for the development.

Mr.s. Malloy said that she was mainly thinking about the apartment complex that is facing between Valley & Morristown Roads because that is exactly where it floods and it becomes impassable.

For clarification, referring to the sanitary sewer capacity, Mr. Lemanowicz asked Mr. Corsey when he said that the Township has enough capacity, is that in the conveyance, the treatment, or both?

Mr. Corsey replied that it is based on the data available from the Township Website in terms of available capacity in the treatment plant.

Mr. Lemanowicz asked Mr. Corsey if he was aware that the Township is under a sewer moratorium right now.

Mr. Corsey replied, “No, I did not know that there is...a ban”.

Mr. Lemanowicz advised him that it might be worth checking into.

Mr. Corsey replied that he knew there were issues with I and I – infiltration of the system which is causing the problem.

Mr. Aroneo said that the Township has been under a self-imposed sewer ban since the year 2000 and he thought that the Morris County Planning Director that wrote the report has referenced the 2005 (and other) applications for senior housing in her letter that a sewer moratorium was in effect at that time. He said that, also, the prior Morris County Planning Director, who was Frank Pinto, who preceded Ms. Marion, told him that that property is not even in what we call the sewer service area. He said that it was his understanding that there is no actual plan by the Township to put sewers in that Zone in the Township. While on the topic of sewers, he said that he wished to consolidate things and mentioned the capacity issue. He said that we have talked about that at other times in the Township and the Township currently *does* exceed its allowable capacity at various peak times. Noting that Mr. Corsey had referred to the Township Website, he said that he was not familiar with the capacity numbers on the Website and asked exactly what they say – do they say the peak flows?

Mr. Corsey replied that it says that you are at a 90,000 gallon capacity for the treatment plan and you are operating at 85%.

Mr. Hoffman said that it would seem to be vital that the applicant ascertain, whether it be first or second, that there be adequate sewerage capacity.

Mr. Ruiz said that he had a lot of questions, but due to time constraints and the amount of public that is present, he deferred his questions until later on.

Mr. Fagnoli asked Mr. Corsey if he could name any other developments like the one which his proposed and where they are located.

Mr. Corsey said that he would defer to his client and said that there are multiple multi-family developments.

Mr. O'Brien asked Mr. Corsey if his client will be testifying.

Mr. Corsey replied, "No".

Mr. O'Brien asked if the question could be answered then.

After further discussion, Mr. Fagnoli restated his question and asked Mr. Corsey if he was familiar with developments such as that which is proposed.

Mr. Corsey replied, "Yes", and said that there are multiple projects and he has done in Morris Plains, Rockaway Township, Tinton Falls and Morristown.

Mr. Inglesino felt that it was fair to say that Omland Engineering is among the most active of engineering firms in Morris Co. with respect to various developments including, but not limited to, multifamily developments over the past dozen years or so.

Mr. Corsey agreed.

In response to Mr. Fagnoli, Mr. Inglesino agreed that the proposal is similar to other projects and he felt that you can take judicial notice of the fact that Omland Engineering has been the engineer on countless numbers of multifamily projects in Morris Co. and throughout various parts of New Jersey.

Mr. Fagnoli asked if the sites have been similar to this as to the environmental issues and steep slopes.

Mr. Corsey replied that today every project has constraints and all of the good lands aren't available anymore.

Mr. O'Brien said that he thought Mr. Fagnoli's intent though was to identify those other projects for comparison purposes. He asked Mr. Corsey to provide a memo including the names and addresses of the projects.

Mr. Corsey agreed to do so.

Mr. Aroneo read the opening paragraph of the Overall Master Plan Goals contained in the Township Master Plan which states "Long Hill Township is a rural and low density community characterized by large tracts of open space, attractive single family residential neighborhoods, tree lined streets and a general absence of large nonresidential land uses. Its commercial development is anchored by the Valley Road business district and four neighborhood business districts. Overall, the Township is one of the least dense and most scenic municipalities in Morris County". He additionally quoted the following statement: "It is the expressed purpose of this Master Plan to preserve and enhance these unique characteristics of the Township through the following overall Master Plan goals.

- To conserve and enhance the essential rural and residential character of Long Hill Township in order to best provide for the health, safety and general welfare of all Township residents.
- To maintain the Township's identity as a fundamentally low density residential community and insure that future development is compatible with, and sensitive to, existing residential areas and established neighborhoods.
- To prohibit additional multifamily residential development in the Township unless so required by the New Jersey Council On Affordable Housing.
- To discourage further expansion of the sewerage treatment plant.
- To discourage major sewer line extensions unless needed to reach areas of significant septic dysfunction.

- To maintain the rural character and relatively low density residential development pattern of the Township, additional development of multifamily residential properties beyond that shown in the Land Use Plan is prohibited”.

Addressing Mr. Corsey, Mr. Aroneo said that he had mentioned that this is an inherently beneficial use to the Township. Other than satisfying the affordable housing goal mentioned in the County Planner’s letter (which he said is not required at this time since we have no affordable housing goals in this town at this time), he asked how he could reconcile this plan, so far from what he had heard, with the goals of our Master Plan?

Mr. Inglesino said that he was directing Mr. Corsey not to answer that question. He said that, first of all, he did not testify that the project is an inherently beneficial use.

Mr. Hoffman said that that was the attorney’s statement.

Mr. Inglesino said that he indicated that you would be hearing testimony later in these proceedings from his client’s planner, Mr. Bernard, who would provide that testimony. He said that the Master Plan issues raised by Mr. Aroneo will be addressed by a different witness (the applicant’s planner rather than its engineer).

Mr. Hoffman agreed that these go well beyond engineering testimony and are not within the purview of this witness.

Mr. Aroneo said that he would withdraw the question at this time and had no technical questions for Mr. Corsey.

With regard to the flats building, Mr. Keegan said that Mr. Corsey had testified earlier of the need to elevate the parking lot due to it being in the flood plain. He asked if he was talking about a *significant* amount of elevation and where (approximately) would the fill be taken away from.

Mr. Corsey said that he had not gone to that level of detail to see exactly where they will gather the additional fill. He said that it is basically a cut and fill balance. At this point, he said that the area that would be most notable is along the eastern access road to the town’s complex there is an area of land and (this) portion that is in a flood plain that we could potentially offset any fill placed over in the corner for the flat building.

Mr. Keegan asked Mr. Corsey, by elevating the parking lot, do you exacerbate the flood conditions on Morristown Rd.?

Mr. Corsey replied that, because he did not go to that level of detail to analyze the grading, he could not answer the question.

Mr. Inglesino asked Mr. Corsey, isn’t it by law that you are not able to exacerbate the flood conditions and that in order to comply with local and State NJDEP stormwater runoff regulations, you cannot worsen an off-site condition?

Mr. Corsey replied, “That’s correct”.

Mr. Inglesino said, to Mr. Keegan’s point, they certainly noted the issue of the flooding in that area and will do some homework to see if they might even be able to improve upon that situation.

Mr. Aroneo asked, when you say “improve on the flooding in that area” are you talking about the Madison Ave. flooding, or the flooding on the property itself?

Mr. Inglesino replied that he thought the point was made that there is flooding on Morristown Rd.

Mr. Corsey said that it is opposite the proposed driveway to the flat building.

Mr. Inglesino said that there was an indication that water from the subject property causes that flooding. He said that what he was saying was that they will go back and take a look and, while he could not make any promises, they will take a look to see whether or not the development of this property would offer an opportunity to mitigate and improve that existing condition so that the flooding would not continue to occur, at least not to the extent that it does now.

Mr. Aroneo said, for instance, building a stormwater storage area in the lower end of the property, or something like that.

Mr. Inglesino replied, “Yes, we will take a look at it”.

Mr. Keegan said that Mr. Corsey had referenced potentially, in addition to the detention basins, some type of underground water retention system. He asked where the water would ultimately discharge?

Mr. Corsey replied that, in addition to the surface basins which are in the southeast portion of the site, they could potentially have underground stormwater management pipes which would consist of either high density polyethylene or concrete pipe that would be placed underneath the parking lots, roadways, and maybe even under the grass areas within an upland area. He said that potentially they would do one select stormwater discharge for the development, so they might possibly combine the 3 or 4 of them depending on the number they allocate and it would be one concerted stormwater discharge or possibly 2.

In response to Mrs. Raimier, Mr. O’Brien said that he would defer questions to Mr. Lemanowicz.

Mr. Lemanowicz said that his report had already been reviewed and he had nothing further of this witness.

Mr. Hoffman stated that he would hold up at this point on any questions.

The meeting was opened to the public for questions of Mr. Corsey.

Mr. Samuel Bleecker, 74 Knoll Ct., addressed Mr. Hoffman and said that he had a concern with the bifurcation of this application. He did not understand the purpose of bifurcation of an application and asked him to explain the rationale and what the benefit is to the community.

Mr. Hoffman explained that the statute affords the applicant the option of potentially saving a lot of money and expense. He said that, hypothetically, if the basic use will not “fly”, rather than to spend thousands and thousands of dollars in detailed site plan and engineering, they have the right to come in and only seek approval for the usage and, if that is granted, they will come back at a later date and seek detailed site plan and any bulk variances associated with it. He said that where he was having some difficulty is that, in his view, in some instances you can’t fully separate the use from the bulk variances – it is not as clear cut and clean as that and somehow we will have to wiggle that around to make clear that if the Board deals with the usage and gives approval for it, we make it very specific but we are not yet dealing with such and such so that our hands are not tied by a future subsequent phase.

Mrs. Arline Bleecker asked Mr. Corsey what he meant when he said that the applicant was applying for the “easy” General Wetlands Permit rather than another type of permit that is more difficult to obtain.

Mr. Corsey replied that the NJDEP has a list of General Permits which are typical permits for developments, whether they be residential or commercial. For example, he said that stormwater discharges to a wetlands area and utility crossings in a wetland area are types of General Permits and they are typical permits for a development and the proofs are very straight forward and it is easy to address them. He said that they are not easy to get but they are easier than getting Individual Permits which involve a lot more complicated proofs, justifications, and documentation.

Mrs. Bleecker asked if the purpose of either of these to preserve the wetland?

Mr. Corsey replied, “Yes, it is”. He said that that the reason for a permit, in general, is to preserve the wetlands and to make sure that during the development process, you mitigate any impacts you might have to the wetlands.

Mr. Landon McDonald, 59 Norwood Dr., said that he has lived in his residence for 35 years and it is the closest house on his street to the Passaic River. He asked the town if he was safe in presuming that all of the houses/development met the all of the standards of the town in those 35 years over which time the river keeps getting closer and closer to his house in spite of the fact that all of the development has been done according to the rules?

Mr. Hoffman said that he thought that the question for the witness is, are you confident that this project will not worsen the drainage and stormwater effects upon (Mr. McDonald’s) property?

Mr. McDonald said that he was asking the town because Mr. Corsey is not aware of what has been done.....

Mr. Aroneo said that he did not think anyone in the room could answer that question because no one was present for every single application.

Mr. McDonald replied that that was “fair enough” but he was assuming that it was done according to the rules yet, in spite of that, with each storm the river rises a little bit higher and the 100 Year mark gets passed more frequently. He asked Mr. Corsey if his water capacity was unlimited so that whether you get a 1” rain storm in 24 hrs. or a 12” rain storm in 24 hrs., is it going to hold all of that water or is a large amount of that water going to go into the tributary, run into the Passaic River, and then run into his back yard? He asked if there was a limit as to how much his capacity is before it starts overflowing and visiting him in his backyard?

Mr. Corsey replied that the Township stormwater management regulations rule the 2, 10, and 100 Year Storm events. He said that their basins will be designed to comply with the outflows permissible under those regulations. He said that they will have to provide flow reductions for those design storms, so for the maximum storm event, their basins will be designed for a 100 Year design storm.

Mr. McDonald asked why he should be reassured when the water has come above the 100 Year mark at least twice in less than a decade?

Mr. Corsey replied that he could not answer that question. He said that he could only tell Mr. McDonald that there are parameters with which the Township has developed standards and their project will comply with those standards.

Mr. McDonald asked why the town notified him that he has to be careful about flushing his toilets when we have heavy storms like we have had? He asked Mr. Corsey how the existing sewer capacity which seems to be overburdened will be able to handle adding over 200 units with toilets, showers and sinks?

Mr. Corsey replied that they will have to work with the town to figure out the best way to facilitate sewerage for the proposed development. He said that he did know that one of the issues with the town is the infiltration of groundwater into the sanitary sewer system which impacts during storm events, but he did not have an exact answer as to how to remedy that at this point without having further discussions with the Township’s sewer officials and engineer.

Mr. McDonald suggested that the applicant give the Township a little financial help in upgrading its sanitary sewer processing system. He asked Mr. Corsey if he would be willing to do that?

Mr. Inglesino directed Mr. Corsey not to answer that question. He said that, in essence, it is a legal question and there are State statutes that directly address what is and what is not appropriate

to exact from an applicant with respect to impacts on Township systems, whether they be roads, sewer, etc. and he would defer to those statutes.

Mr. McDonald said that he recently did renovations to his house and had to jump through a lot of hoops to keep to the 35' limitation on height. He asked what the purpose of the 35' height limitation is, why he had to keep within those 35', and why the applicant is proposing something that is 45% greater than the 35' limitation.

Mr. Hoffman replied that he did not believe that Mr. Corsey can respond. As to the purpose, he said that maybe Mr. Lemanowicz or Mr. O'Brien could respond.

Mr. Lemanowicz said that the 35' height limitation is for the Zone. Addressing Mr. McDonald, he said that if he had chosen to exceed that height (as the applicant is), he would be before the Board of Adjustment also. He said that he could have chosen to go to 40', but he would have been required to notice for the hearing and testify exactly as they are doing.

Mr. McDonald said that that did not answer his question. He asked what the basic purpose is – is it aesthetic? He asked why it is 35' and why not 100'?

Mr. Lemanowicz replied that it is generally aesthetic – visible mass.

Mr. McDonald said that, in other words, as he was driving to the Shop-Rite he would have to look at something that is 40%+ higher than most people would have to do in building a house.

Mr. Hoffman replied, "Yes, if the variance that has been requested should be granted". He said that they have a right to seek a variance.

Mr. McDonald replied that he understood that but that it infringes upon his aesthetic appreciation of looking at what is behind the buildings. He said that he had no further questions.

Addressing the public, Mrs. Raimer explained that if anyone had additional questions for future witnesses brought by the applicant she would encourage them to return each time and not to think of this as their only opportunity to ask questions.

Mr. James Kraft of Boca Roton, Fl., said that he was the previous applicant for the subject property. He asked Mr. Hoffman, procedurally, why this application for an apartment complex is in front of the Zoning Board (as opposed to the Planning Board) by way of the nature of the proposed "alleged" inherently beneficial use? He asked if that has to be established prior (at the start) of the application, or is that part of the proof?

Mr. Hoffman replied that the application is before this Board very simply because the usage is not permitted in either the O (Office) Zone or C (Conservation) Zone.

Mr. Kraft pointed to a drawing which he said is not a site plan but an example of what is going to be proposed and asked if it is based on a 50' setback or a 150' setback from wetlands?

Mr. Corsey replied that the associated wetlands buffer is 50'. He said that there is a Letter of Interpretation (LOI) that was issued by the NJDEP for this project which states a 50' buffer requirement.

Mr. Kraft asked if the LOI was a matter of public record and if he could get a copy of it.

Mr. Inglesino asked Mr. Corsey if the LOI was submitted with the application.

Mr. Corsey replied that he did not know. He said that he knew it was issued by the NJDEP, so it is a public document.

Mr. Kraft asked if the LOI was on record in the Township.

Mr. O'Brien replied, "Yes" and said that anything in the file is on record here.

Mr. Chris Ratti, said that he owned the building at 275 Morristown Rd. He asked Mr. Corsey how many locations he has dealt with that have flooded five times within the last ten years, two of which were to the point where many on the street could only reach their properties via canoe.

Mr. Inglesino said that he respectfully objected to the question. He said that Mr. Corsey has been qualified as an expert in the area of civil engineering which encompasses compliance with NJDEP stormwater management regulations and he would object to any questions that seek additional qualifications in terms of his experience.

Mr. Ratti said that Mr. Corsey brought it up that he has made applications in the past in flood areas and, by doing so, he was trying to expand on whether he really has experience for the area the applicant is trying to develop because, if he hasn't, then it is an issue of needing to do a little bit more homework into that area. He said that if he hasn't had the experience of an area as flood prone as this, more homework needs to be done before he should be finished testifying. He said that he was not saying that he is not qualified, he was saying that there is an experience level. He said that he (himself) is an engineer and, as an engineer, you need to have the experience.

Mr. Hoffman felt that, in fairness to both the witness and the questioner, while not taking away from the witnesses' expertise, it goes to the weight to be accorded his testimony. If he has extensive experience in dealing with flood hazard areas and development in them that is one thing he felt is implied and it is another thing if he encountered that once or twice in his career. Without belaboring the point, he felt it was a fair question so long as we are clear and you acknowledge, and you have, that he is a well qualified expert.

Mr. Corsey said that he has done multiple projects for flood hazard permitting in flood zones and said that he has actually worked for the Dam Safety Section of the NJDEP for 2 years, so he thought that he has had enough experience in working in these flood prone areas to design a development of this stature.

Mr. Ratti asked, "And the definition of flood prone would be a place that has been under water say five times in ten years?"

Mr. Corsey replied, "Yes".

Mr. Spiro Koutsogiannis, 566 Long Hill Rd., said that he is the owner of the property adjacent to the subject property. He said that during his recent application that he completed in front of this Board (for the construction of a new Walgreen's pharmacy), he was told, in writing in his LOI and in environmental reports, that a 150' buffer is required and his property is "high and dry". He said that he was also required to install a fence (around his detention basin and retaining walls) so that no one can even walk on them. He asked Mr. Corsey what he knew (that he did not know) that the applicant could have a 50' buffer and he was required to have a 150' buffer.

Mr. Corsey replied that the NJDEP has regulations for different types of wetlands. He said that they classify wetlands into isolated wetlands and individual wetlands. He said that he did not get the LOI for this property and so he did not know what determined the 50' buffer, he just knew that that was what was given to their property. He said that he did not know where Mr. Koutsogiannis' property is located.

Mr. Koutsogiannis' pointed out his property (adjacent to the west).

Mr. Aroneo interrupted and said that this is the second time that this has been questioned. He asked that the LOI be added to our Checklist and have the Board Engineer investigate all the riparian buffers, setbacks from wetlands, and everything else that has been discussed and provide his interpretation of that. He requested the building setbacks or area of disturbance from wetlands, riparian buffers, and anything else that is a NJDEP regulation in that regard.

Mr. Inglesino said that he did not think there is any discrepancy and he did not feel that anybody has provided testimony or any evidence whatsoever earlier to suggest that there should be a 150' setback on this property. He said that the testimony from Mr. Corsey is that there is a valid LOI issued by the NJDEP. He did not recall whether that letter was submitted as part of the applicant's package.

Mr. O'Brien replied that it is dated September 20, 2011.

Mr. Lemanowicz said that that letter is *not* the LOI, it is an *extension* of the LOI. He said that the September 20, 2011 letter does not mention the buffer, it simply says that the LOI (which does mention the buffer) is extended in time.

Mr. Corsey agreed that it is a re-issue of the LOI.

Mr. Inglesino asked Mr. Lemanowicz if he was indicating that the LOI for which the extension was issued is *not* part of the record?

Mr. Lemanowicz said that he was looking for it but did not see it here.

Mr. Inglesino said that they will submit that letter to supplement the record so that you have that. He said that he did not believe that there is anything more that you would need in order to be able to substantiate the witnesses' testimony with respect to wetlands on the property.

Mr. Lemanowicz agreed that the LOI should be all inclusive.

Mr. Inglesino repeated that they will supplement the record and provide the LOI which will be a part of the record and available for public review.

Mr. Koutsogiannis said that, to his knowledge, the subject property had a 150' buffer requirement a few years back.

In response to Mrs. Raimer, Mr. Inglesino confirmed that he has represented that they will provide the underlying LOI to supplement the record.

Mrs. Raimer said that we are having trouble understanding why one property would have a requirement that is so significantly different than an adjacent property. She said that if there is any way to shed some light on why there would be different requirements for what seems like two properties that are aligned against the same wetlands, it would be helpful to the Board's understanding.

Mr. Lemanowicz said that he would see if there is anything apparent. He said that the determination of a buffer is at the discretion of the NJDEP. He said that he may have to contact them and discuss what the difference was, however he believed that the wetland on the property to the west borders the west of that property where the wetland on this property is to the north and the east and the trigger difference between the 50' and the 150' are not always painfully obvious. He said that he will try to get both the numbers and make sure they are different. If they are different, he said he will ask questions as to why the difference is there.

Mr. Joseph Cilino, Heritage Rd., said that he has lived in Millington for 33 years. He asked if the proposed detention basin is a collective for the runoff in the area to be constructed.

Mr. Corsey replied, "That is correct".

Mr. Cilino asked what the intake volume of that device is in gallons per hour or minute?

Mr. Corsey replied that currently they do not have that level of detail in sizing the exact runoff. He said that, basically, there is allocation for the location of the detention basin and, additionally, there may be additional structures underneath the parking lot, etc. that are underground to facilitate any volume generated from the development. He said that the discharge from the

basins would be into the wetland area – the tributary that runs along the north of the developed area.

Mr. Cilino asked how you would discharge water into an already saturated tributary and ground area?

Mr. Corsey replied that it depends upon the flood condition. He said that, during a 2 Year Storm, it is not likely that the area would flood.

Mr. Cilino asked about *any* flood condition. He said that when you have ground that is continually saturated, how does one discharge water into that ground and hope that it will be absorbed in that ground?

Mr. Corsey replied that what typically happens is if you discharge into a flood condition, being that what they would call “tail water” (which means that your discharge pipe is submerged), basically what would happen is that it is pressure thing where the basin would have to be higher than the flood elevation to push the water out to the discharge point, otherwise the basin would have to hold the flood volume, or stormwater runoff volume, until the flood volume downstream of it was dissipated and then it would eliminate out.

Mr. Cilino asked if the detention basin is going to be higher than the ground level.

Mr. Corsey replied that what he was saying was that the storage volume in the basin cannot be accounted for for anything below the flood elevation. So, if he had a basin that is at the flood elevation, obviously the basin can't store any water so he could not take credit for that storage, so he would facilitate that storage elsewhere.

Mr. Cilino replied that he was still not clear on what Mr. Corsey's vision was on how to do that. He said that that area is saturated at ground level. He said that, from what he was hearing him say, is that he would have to have a storage area higher than the water level in the ground.

Mr. Corsey replied, “Correct”.

Mr. Cilino said that that means that this basin has to be above ground.

Mr. Corsey replied, “Potentially, yes”.

Mr. Cilino asked for the size of the basin, potentially.

Mr. Corsey repeated that he had no done that analysis yet to tell the exact size of the basin, he could only say that the basin will be sized appropriately to facilitate the flow reductions based on the Stormwater Management Ordinance of the Township.

Mr. Cilino asked Mr. Corsey for his interpretation of the volume of the water in a storm that would be input to this device. He said that, in a storm, you've got a certain area that there is runoff. He asked how many gallons per hour or minute will running off and will need to be captured by the detention basin?

Mr. Corsey replied, “The proposed area of development will have to be collected and discharged into this basin”.

Mr. Cilino said that that was not what he asked. He asked how many gallons....

Mr. Corsey interrupted and said that he had previously indicated that he did not have that detail of design to tell the exact volume and that that information will be a part of the site plan application and reported then.

Mr. Cilino asked if it would be correct to say that all requirements related, necessary, and pointed out by the Township, County and State will be met, but he currently did not know how?

Mr. Corsey replied that there are guidelines and regulations in place by the Township and County that they are required to comply with otherwise they cannot do their proposed development. He said that the answer is that they will have to comply with those regulations if they want to build this development.

Mr. Cilino said that that was not the question. He said that the question is that you currently don't know how you are going to comply.

Mr. Corsey replied that they had done their due diligence but have not done finite design to know the exact numbers. He said that this is a use variance and when they go to the site plan phase, if the Board favors their application, then they will prepare those detailed designs and submit them to the Board for review at that time.

Mr. Cilino said that he felt confident that Mr. Corsey is a very qualified engineer and that he has good credentials. He also reminded the Board that the Army Corps of Engineers are supposedly our leaders and most knowledgeable people in flooding and their track record is probably 35%-40% accuracy and success.

Mrs. Raimer reminded Mr. Cilino that all comments will be reserved until the end of the proceedings and their others who have questions. She said that a motion will be needed to extend the meeting to a later cut-off time.

Mr. Hoffman requested a show of hands on how many people intend on asking questions of this witness.

Mrs. Raimer estimated that there are about a half dozen more.

Mr. Hoffman asked Mr. Inglesino if it was his intention to bring Mr. Corsey back at a subsequent hearing.

Mr. Inglesino replied, "Yes, most definitely he will be back at a subsequent hearing". He said that his thought was that there will obviously have to be a resubmission based upon some of the testimony, questions, and comments from the Board's professionals. He said that they will be discussing how they will address that, but Mr. Corsey will certainly be back.

Mr. Hoffman said that what he was hearing was that this is an evolving process. With that in mind, he said that the Board could invite further questioning.

Mr. Aroneo made a motion to extend the meeting for an additional 10 minutes.

Mr. O'Brien said that the Board will need 5 or 10 minutes to wrap this up in terms of a new date, things that will be due and things that the Board will want.

Mr. Fagnoli suggested a 20 minutes extension.

Mrs. Raimer suggested a compromise of a 15 minutes extension and, anyone who is not heard at that point, she would like to open the meeting to the public at the next hearing with the remaining questions from the public of Mr. Corsey.

Mr. John Bangs, 190 River Rd., said that he presumed that the proposed detention basins will be above the current grade.

Mr. Corsey replied, "That is what we talked about, yes".

Mr. Bangs said that the water level itself fluctuates tremendously and right now if you go back to the highest part of the property you will find that you are at least up to your ankles or knees in mud. He said that there will probably be numerous amounts of Olympic swimming pools and there will be a proper fence around it to keep kids out. He asked who would maintain the fence?

Mr. Corsey replied that it would be the Homeowner's Association for the development.

With regard to the A.D.A., Mr. Bangs noted that there are no sidewalks. He asked if people with wheelchairs would be pushed down the driveways with traffic and kids racing down them, as well as commuters trying to get to work in the morning.

Mr. Corsey said that what he had said was that they did not currently depict sidewalks on the plan – that is more of a detail oriented item that will be addressed during the site plan phase if the Board grants a favorable verdict on the application. He noted that the Board Engineer, Township Planner, and County had voiced that concern also.

Addressing Mr. Corsey, Mr. Bangs asked, having worked in the engineering field, don't you feel that you are trying to squeeze too much into too small a space?

Mr. Corsey replied that the application is before the Board because the applicant feels this is an appropriate use and density for the subject tract of land. He said that his client has asked him to generate these plans to support that and that is what he has done.

Mr. Bangs said that it looked like the scope of the actual project itself is just too big for the piece of land and what they are trying to fit in there is just too large.

Mrs. Raimer reminded Mr. Bangs that comments will be reserved until a later stage.

Mrs. Lois Infanger, 906 Valley Rd., said that she lives diagonally across the street and will be impacted two houses away from this project. She asked how the project will impact the electricity along Valley Rd.?

Mr. Corsey replied that there are existing above ground power lines along Valley Rd. and the proposed he believed that there is a Township ordinance that all utilities for the proposal will be underground via conduits, therefore he did not think it will have any adverse impacts to the infrastructure in any way.

Mrs. Infanger asked about the *amount* of electricity, its tie-in to the line that is currently there, the impact of what comes into the town, and the usage?

Mr. Corsey replied that they are all items that will be addressed with the electric service provider. He said that the capacity of their system is something that will be discussed and facilitated with them. He said that he did not dictate that, could not state any conditions of their facilities, and had no authority over them. He said that they tell us.

Mr. O'Brien asked Mr. Corsey if the applicant would get a letter of service from JCP&L that indicates that they have adequate capacity in order to service the proposed facility?

Mr. Corsey replied, "Yes" - for all of the utility companies. He said that they usually refrain from doing this until the site plan phase. He said that the town would issue them a letter containing all of the utility companies in town and they will submit what they call a "will serve" letter advising of the proposed development asking if they are the service provider in the area and if they have the facilities and capacities to facilitate the development and they will reply either "yes" or "no".

Mrs. Infanger noted that it has been raining for a week. She asked Mr. Corsey if he had taken a walk down Morrystown Rd. to have a look at how much water is lying around?

Mr. Corsey replied that, since it is a low lying area, he had not walked on the periphery of the site.

Mrs. Infanger replied that you don't have to walk in the woods, you can walk along or drive your car. She said that there is plenty of standing water there.

Mr. Corsey replied that that is why it is a wetland – because the soil conditions are poor.

Mrs. Infanger then asked what the impact of building on this land will have on the wetland area that will provide us with even more standing water?

Mr. Corsey replied that the only thing he could say is the proposed development will have to comply with the State and Township guidelines for the development. He said that he could not control things that they did not create.

Mrs. Infanger said that there is an easement through her back yard that goes perpendicular to Morristown Rd. for sewerage. She asked what the impact of the proposed project will be on the easement through her back yard? (She then pointed out her property).

Mr. Corsey replied that there should be no impact on Mrs. Infanger's property depending upon how alignment of the sewer system and where they are connecting in without reviewing the maps if the whole development will go through her property or not, although he did not believe that is the case.

Regarding sidewalks, Mrs. Infanger asked Mr. Corsey where he perceived pedestrians crossing Valley Rd. in order to use the Valley Mall. She noted that the only place to cross is at the traffic light which means they would have to come up Valley Rd. to the traffic light and then cross the road, or dart across an already busy street that will be increased by 200+ new automobiles.

Mr. Corsey replied that the proposed sidewalk through the development will have a frontage sidewalk along both portions...because there is a traffic light at this intersection as well as Plainfield Ave., he said that that would be the two points of crossing. He confirmed that there would be a sidewalk going in both directions.

Mr. Michael Smargiassi, Millington, said that during the testimony tonight there was some reference to differences or changes with a previous application. He asked if there was a previous application as he was only aware of a previous concept application.

Mr. Hoffman said that there was an application that was conditionally granted preliminary approval for a residential housing complex. He said that Mr. Kraft was in the audience earlier and he was a principal in that development. In response to Mr. Smargiassi, he said that it was at least 8 years ago.

Mr. Smargiassi said that he was familiar with a concept plan that was presented two years ago and he was trying to justify the references to previous applications.

Mr. O'Brien said that there was no previous application by this developer of this scale at this location. He said that there was another application made for this property and adjoining properties in years past but this application has nothing to do with the. He said that what you heard this evening in terms of prior application was that some of the engineering site plan work that has been done refers to a previous *concept plan* and they changed that plan recently from one type of development to another type of development and yet there plans still refer to that prior concept plan for development. He said that that is a question for the Board and we have asked them to clear that up.

Mr. Smargiassi asked Mr. Corsey if he was also an expert in traffic?

Mr. Corsey replied, "No".

Mr. Smargiassi asked if a witness will be presented to address traffic.

Mr. Hoffman said that they had previously replied "Yes" to that question.

Mr. Smargiassi said that the applicant's legal counsel had noted that this witness provided no specific testimony or evidence that this application is inherently beneficial. He asked if he was correct.

Mr. Inglesino replied that Mr. Corsey is not qualified to provide that testimony and, thus, did not do so.

Mr. Smargiassi replied that Mr. Corsey had noted just a minute ago that this is an appropriate use for this land. He asked Mr. Inglesino how he reconciled his opinion which he gave and yet he provided no testimony as to the proofs that are needed that this is an appropriate use?

Mr. Inglesino replied that all of Mr. Corsey comments were made and should be construed within the context of engineering testimony. He said that testimony with respect the appropriateness of the use from a planning perspective will be provided by the applicant's planner at another time.

In response to Mr. Tristan Formon, 59 Madison St., Mr. Corsey pointed out the Zone boundary lines.

With regard to the proposed detention basin, Mr. Formon asked if it could have been brought before the NJDEP before coming to the Board to give a more definitive answer as to whether or not it will work?

Mr. Corsey replied, "Yes", but typically in an application such as this, before you spend all your time and effort to go through the NJDEP, you want to make sure the town can approve it first. He said that you would be putting "the cart before the horse" if you go to the NJDEP first in some cases.

Mr. Formon replied that you might have put some folks mind at ease in the audience. He said that Mr. Corsey had mentioned that 50,000 gallons per day is the proposed additional sewerage gallonage and referenced 85% usage right now (of the treatment plant). He asked what that equates to in gallons?

Mr. Corsey replied that he did not know the exact number.

Mr. Formon asked him if he knew if the 50,000 gallons would put us over ? He asked what does the 85% usage that the sewer plant currently runs at equate to in thousands of gallons?

Mr. Corsey replied that he did not know the exact calculation right now. He said that he will have to coordinate with the Township to determine sewer capacities, sewer flows, and their proposed sewer design for this development.

Addressing Mr. Corsey, Mr. Inglesino asked if it is commonplace that outside agency approvals such as those from the NJDEP for the types of permits that would be required in connection with this project would be made *after* site plan approval.

Mr. Corsey replied that that is correct.

Mr. Sam Angelo, 82 Madison St., said that Mr. Corsey had indicated that the office use of 135,000 S.F. produces about 13,000 gallons of wastewater per day versus the 50,000 gallons per day that he was projecting, yet he did not know that there is a moratorium in place on expanding the sewer system and would get to that during the site plan phase. However, he asked if, in this instance, isn't it important to know and have that information so that the Board can comment on its usage/appropriateness for the 200 units?

Mr. Inglesino directed Mr. Corsey not to answer the question.

Mr. Hoffman said that it is up to the applicant to decide where they want to spend their money, going from one agency of government versus going to another agency of government.

Mr. Angelo said that he did not understand how you can bifurcate the issue of the ramifications of the project and how it is going to impact the area if you don't know that.

Mr. Hoffman said that he thought that was a fair comment because he had some reservations of his own on that issue, but he thought it was beyond a question for this witness.

Mr. Angelo said that all of Mr. Corsey's comments were designed to say that the water flow will go through the sewer lines and out into the wetlands, however the flooding occurs because the Passaic River actually backs up and we were trying to build a wall to prevent that but that didn't happen, so that backup actually washes back onto the properties, so it doesn't go the other way. He asked Mr. Corsey how he proposed on handling that backup onto the subject property.

Mr. Corsey said that the flood plain is delineated on the property based on the FIRM (flood insurance rate maps) and their development is based on the location of that line and is an upgrading of that line or, in some cases, they might do net fill and cut in places to provide the impact. He said that their development is not the cause of the flooding and he could not say that they could provide flood walls or anything else to mitigate that flooding when it wasn't caused by their development to begin with.

Mr. Angelo said that it will *exacerbate* the flooding.

Mr. Corsey replied that the whole intent of their design was so that it *doesn't* exacerbate the flooding.

In response to Mrs. Raimer, a motion was made to extend the meeting an additional 5 minutes.

Mr. Arthur Kurz, said that he is one of the property owners across the street. He asked, if the invert of the culvert underneath Morristown Rd. is at the same height as the invert of the culvert under Valley Rd. that that stream flows into and there is standing water in the area of Morristown Rd. which was described, if the ditch were cleaned out, would the property in question have the ability to be a detention basin to alleviate the flooding issue?

Mr. Corsey replied that he had not done a detailed study of the downstream flooding problems and any remedies for those issues because they are obviously a downgrading of the site, so he did not have an answer. If it does back up from the Passaic River to the site, then he said that the site currently serves as a flood storage volume, hence the flood storage area.

Mr. Kurz said that there is standing water now in the culvert underneath Morristown Rd. and, if that ditch were cleaned out, the water should flow to the same level as the culvert underneath Valley Rd. and, therefore, alleviate or have additional capacity to alleviate any flooding condition.

Mr. Corsey replied that the whole flooding condition is predicated by the Passaic River and the back water effect that it has on the ones.

Mr. Kurz replied that he understood, but said that it could be a more effective detention basin for not only the Passaic River but for the people who live in that area.

Mrs. Raimer asked if there were any further questions of Mr. Corsey. Seeing none, she said that this portion of the meeting is closed to the public.

Discussion followed regarding a subsequent hearing date. It was agreed to carry the application to the August 6, 2013 regularly scheduled meeting, with no further notice.

Mr. Inglesino said that his next witness will be applicant's traffic expert who will be available at that time, as well as Mr. Corsey.

Mr. Inglesino stated that he had just signed a consent to extension for the Board's decision through August 7, 2013. He added that if the application is not concluded on August 6th, he would grant a further extension.

With regard to the traffic report that was submitted, Mrs. Raimer said that there were some concerns about whether or not it was as comprehensive as it could be. She said that the Board Engineer needs to be able to respond adequately in advance of the August 6th hearing and in order to do so she would like Mr. Lemanowicz to clarify whether or not a revised traffic report is needed or not.

Mr. Lemanowicz said that the traffic report that was submitted originally was for a mixed use development and then there was an addendum to it when the project changed to pure residential. He said that that put the Board, Mr. O'Brien and himself in the position of having to reassemble the applicant's report, which they should not be doing. He said that the traffic report should be a stand alone traffic report referencing a previous hypothetical application and comparing what you are really doing to that one. He said that it adds a lot more confusion and potential for misunderstanding. He said that the traffic report should be a traffic report for this project.

Mr. Inglesino said that his client was present and has certainly heard the comment.

Mr. Keegan asked if it was possible to take into account the traffic report that was generated during the Parthenon application?

Mrs. Raimer replied, "No", and said that each application stands on its own.

Mr. Lemanowicz added that the methodology would probably be similar and he thought that the only change would possibly be that the intersection would be modeled with the signal which is currently under construction. He said that it may be advantageous to get that report because the field data won't reflect what hasn't been built yet. He said that that project was done by Atlantic Traffic.

Mrs. Raimer asked Mr. Lemanowicz if he would be in a position to evaluate the traffic report or if there was a specialized engineer in his firm.

Mr. Lemanowicz suggested that the Board use his firm's traffic expert which he would provide.

Mr. O'Brien noted that Mr. Inglesino has not submitted to providing a revised traffic report and said that he would take it under advisement with his client. He said that it is up to the Board as to whether it wants that information now or not.

Mr. Inglesino said that he was not in a position to make a representation like that on behalf of his client. He said that he was not saying that it is an unreasonable request, he was just saying that he was not authorized to make that representation.

Mr. O'Brien replied, "Since your client is in the room, can you find out"?

Mr. Inglesino replied that it is a partnership and he did not know that one person is in a position to.....

Mr. Lemanowicz replied that the meeting is not until August.

Mr. Inglesino said that he understood that the Board wanted some additional information on traffic and they will work with the Board to do that.

Mr. Hoffman said that the Board has expressed through Mr. Lemanowicz and its members a desire to see certain additional traffic input. If the applicant wants to comply with that request, that is great and we should have a date by when it should be submitted. If they choose not to go forward and produce it, they do so that their risk.

Mr. Lemanowicz said that the Board would need to have their submissions two weeks before the meeting date because the consultants typically get their reports

Mr. Aroneo said that he would prefer to have the report of the Board's expert sooner than the day before. He asked that a couple of extra days be built in to allow for the same.

Mrs. Raimer said that, in defense of the Board's professionals, while she respected that everyone cannot read everything the night before, it was never intended for anyone to receive anything the night before. She said that it is the Board's policy to receive all documentation 14 days in advance of the hearing date. She said that this is designed so that nobody receives anything at the last minute, however it is acceptable by statute to submit it in 10 days time before the hearing, although that is not consistent with policy.

Mr. Hoffman said that the Board has the right to ask for additional time.

Mrs. Raimer said that Mr. Lemanowicz has done his due diligence and made a good faith effort to get the Board a report within a very short period of time given the limits he was constrained under through no fault of ours.

Mr. Aroneo thanked Mrs. Raimer for pointing that out and said that he did not mean to imply that he waited until the night before to hit "send" on the e-mail. He said that what he was trying to say was that when he is telling the applicant how much time he needs to process that and return that information to the Board, build in enough time so that he can get it to the Board at least a few days before the meeting.

Mr. Hoffman felt that it is reasonable to ask that any supplemental traffic date be supplied no later than the 15th of July.

Mr. Lemanowicz requested that it be supplied 2 weeks before the meeting. He said that the Board's consultants get their reports to the Board 1 week before the meeting.

Mr. O'Brien replied that July 23rd would be our usual policy and, in fact, Mr. Donatelli was informed that we wanted all of our information 2 weeks prior to tonight and he did *not* provide us with the information that we requested. He said that we did not get the last of it until last Tuesday. He said that past practice has been to ask for 2 weeks but the earlier the better.

Mrs. Raimer advised Mr. Inglesino that he first needs to consult with his client to make sure that the supplemental documentation will be provided and, if so, she asked him to be mindful of the dates discussed so that everyone could be more prepared for a productive hearing by having the information further in advance.

Mr. Inglesino replied that he certainly would.

Mr. O'Brien said that the question remains as to whether or not the Board wishes to retain their own traffic expert. He said that right now there is no traffic study to report.

Mr. Hoffman said that perhaps that decision can be deferred until the Board sees any additional traffic study. He said that it may, hypothetically, resolve all issues of a traffic nature although it may raise more questions. He felt that it is premature to designate someone for that purpose since we do not currently have an adequate traffic study.

Mr. O'Brien replied that then the applicant and the Board run the risk that we come here on August 6th and perhaps there is a traffic report and perhaps there isn't. He said that perhaps we are dealing with what we have right now and, at the conclusion of that testimony, then the Board may say that it would like to retain its own expert which means that their traffic expert comes back, re-testifies, and our traffic expert then gives their opinion.

Mr. Hoffman replied that those things do happen.

Mr. O'Brien added, as long as everyone is aware of that. He then brought up the following items that were discussed:

- Revise the plans to show the impervious cover of noncritical areas since those numbers are incorrect right now.
- An environmental impact statement.
- Provide the location of all units and a table of residences such as bedroom counts and the subsequent parking calculations along with ADA calculations.
- Show sidewalks on revised plans.
- A list of similar multifamily developments.
- Mr. Lemanowicz to review the NJDEP letters and the NJDEP buffers and report back to the Board.
- Mr. Inglesino to provide the NJDEP documentation, including the original LOI, to the Board.

It was the consensus of the Board that all of the above items are to be provided.

Mr. Hoffman said that there may also be a legal issue to be addressed at some point during the hearing on whether or not the provision of affordable housing units to a municipality which has satisfied its COAH obligation still qualifies as inherently beneficial since the applicant apparently takes one approach on that subject and Mr. O'Brien's report suggests that it may not be quite as clear as all that. He thought that Mr. Inglesino having heard the issue (or potential issue) would be advised that if he wishes to submit a memorandum supportive of his interpretation of why this usage qualifies as inherently beneficial with those facts in mind. He did not think it needs to be directed by the Board but, ultimately, the applicant will proceed as it sees fit and if it feels that it has adequately addressed that subject through counsel or Mr. Bernard when he has his opportunity to testify, so be it and, if they feel that their legal point needs some buttressing, they can choose to do so.

In response to Mr. Inglesino, Mr. O'Brien said that he would prepare a memo containing the above list of items discussed and send it to him. He asked him if he wished to discuss any of those items with the Chair or the Board.

Mr. Inglesino replied that they have already been discussed and he had to confer with his client on most of them. He said that he did represent to the Board that they would provide a supplemental submission of the underlying original LOI. He said that he would confer with his client about all of the other issues.

A motion was made and seconded to extend the meeting until 11:35 PM.

Mr. Aroneo made a motion which was seconded by Mr. Ruiz that this application is carried to August 6, 2013 at 8:00 PM in the court room with no further notice and an announcement to that effect was made.

The meeting adjourned at 11:35 PM.

DAWN V. WOLFE
Planning & Zoning Administrator

