

**PLANNING BOARD**  
**BOROUGH OF WANAQUE**

**JULY 17, 2014**

**REGULAR MEETING**

Meeting called to order by Vice Chairman Graceffo with a salute to the flag at 7:10 P.M.

**READING:** Open Public Meeting Announcement

This is the Regular Meeting of the Wanaque Planning Board and adequate notice has been given and it has been duly advertised by the placement of a notice in the Suburban Trends and the Herald News on June 25, 2014 and a notice thereof has been posted on the bulletin board in the Municipal Building in the Borough of Wanaque and a copy thereof has been on file with the Borough Clerk.

**ROLL CALL:** Chairman Gilbert Foulon, Vice Chairman Graceffo, Mayor Daniel Mahler, Councilman Dominick Cortellessa, Members Marc Demetriou, Kevin Platt, Mark Reuter, Eugene Verba and David Slater

**PRESENT:** Attorney Steven Veltri and Engineer Michael Cristaldi

**ABSENT:** Member Michael Ryan  
Member Marc Demetriou left at 8:30pm

**MINUTES:** from the June 19, 2014 Meeting

**MOTION TO APPROVE:** made by Vice Chairman Graceffo, seconded by Member Reuter. Voting yes were Vice Chairman Graceffo, Mayor Mahler, Councilman Cortellessa, Members Demetriou, Platt, Reuter and Slater. Chairman Foulon and Member Verba abstained.

**COMMUNICATIONS REPORT:** None

**ENGINEER'S REPORT:** No new applications

**ORDINANCE #11-0-14 (RESOLUTION #118-0-14)**  
**AN ORDINANCE AMENDING THE REDEVELOPMENT PLAN ESTABLISHED IN**  
**ORDINANCE NUMBER 5-0-14 CREATING THE FOURTH AVENUE RESIDENTIAL**  
**OVERLAY ZONE (FAR) CONSISTENT WITH THE FOURTH AVENUE**

**REDEVELOPMENT PLAN SO AS TO PROVIDE HEREIN THE TAKING THROUGH THE USE OF EMINENT DOMAIN CONDEMNATION THE PROPERTY AT BLOCK 435 LOT 5.01, WHICH IS WHOLLY UNPRODUCTIVE, VACANT AND HAS A CONFUSED TITLE OF OWNERSHIP WITH A SIGNIFICANT DELINQUENT TAX BALANCE**

Attorney Veltri swore in Bob Benecke, who is appearing on behalf of the Council of the Borough of Wanaque.

Attorney Veltri swore in Kenneth Albert, who is the Planner for the Planning Board of the Borough of Wanaque.

Mr. Benecke, referenced a July 7, 2014 Memorandum which all Members received and which explained the necessity of the Ordinance in question. The reason we are actually here and from a statutory perspective, is that the Council adopted a Resolution, which asked the Planning Board to declare Block 435, Lot 5.01 as an area in need of redevelopment subject to condemnation. It is vacant parcel of property attached to Block 435, Lot 5. That parcel of property is scheduled to be used in the site plan that you are considering tonight. The parcel had previously been designated in October 2008 by this Board and by the Mayor & Council as an area in need of redevelopment. That was part of the Ringwood Avenue Study of 2008. In September of 2013, the redevelopment statutes were changed for the better where properties have to be identified early on as either subject to condemnation or not subject to condemnation. In Wanaque, all of the properties that are in a redevelopment area are not subject to condemnation. In the Redevelopment Plan Ordinances both Ordinance 11-0-14 and 05-0-14, Lot 5.01, was scheduled for condemnation to *in rem foreclosure*. *In rem foreclosure* means serious delinquent back taxes. There is a clouded title, through an estate for this property that has been hanging out for about 30 years. We cannot locate the property owner or the description to effectuate properly the *in rem foreclosure* possible because of the way that the estate has been structured and the number of persons within the family that have been deceased. Therefore, to have this property adequately placed into the Site Plan and included in the Redevelopment Plan, we need to go one extra step into the courts and ask the courts for permission to take this property by eminent domain for redevelopment purposes. The statute that was changed last year requires the Council and the Planning Board to designate this property as an area in need of redevelopment subject to condemnation. The reason that the Governing Body adopted the Resolution a month ago and you weren't able to hear this matter earlier than tonight, is because two sets of notices had to be provided to the property owners in question and any lien holders. We have had the notices published, the proper notice placed on the bulletin board in Borough Hall, and all interested parties can come forward and place into the record an objection as to that.

We are asking the Board tonight to agree with the Resolution of the Governing Body to find this parcel of property an area in need of redevelopment for condemnation purposes and move that forward so that Ordinance 11-0-14 would then be included in the Redevelopment Plan and that would be then adopted by the Governing Body. All this does is place the property into the area in need of redevelopment but for condemnation

purposes. There is already a section in the Ordinance that stipulates that this would be subject to condemnation due to the *in rem foreclosure*.

The Redevelopment Plan is embedded in Ordinance 5-0-14 and I want to review that with the Board. This Ordinance establishes which is called “an overlay zone”. The Redevelopment Plan that was adopted by the Governing Body originally back in 2009 (5-0-09) envisioned the underlying zone to be maintained at that time because there was some thought that a third party would come in and clean up the contaminated property and turn it into a consistent use. Here we have a redeveloper across the street on Fourth Avenue that has developed a property and has come forth with a plan. We did an overlay extension of this “candle factory zone”. The Ordinance, in two places, stipulates that the Planning Board can adopt a Site Plan, which Site Plan has to be subject to the Redevelopment Plan, not to the general ordinances. The first issue is that in Section 2B of the Ordinance, at paragraph d: “all bulk regulations as stipulated in revised general ordinances and provides reference inclusive, including all sub-paragraphs of the bulk standards of the revised general ordinances are included in the overlay zone and shall be followed; however, the Wanaque Planning Board may grant deviations thereto.” There is a distinction in Municipal Land Use Law, i.e., the C and D variance rules. The language in the statute actually goes back between deviations and variances with variances being given higher preference than deviations. To follow a Redevelopment Plan is deviations alone. In the documents before the Board, there are a couple of deviations that are being required. These are not variances in the strictest sense of C and D variances under Municipal Land Use Law, but rather in the Plan. You are taking a deviation from the Plan, and they are minor deviations. On another point on this is in Section 2D of the Ordinance, “the Wanaque Planning Board may grant extensive deviations and broadly implement deviations (variances) to bulk regulations and other zone standards....but not use.” The reason I bring this up is that Lot 5.01 is critical to these standards and critical that the Planning Board realize that, is agreeable with the Site Plan, we need to have that property included. We will include it by taking the Deed through condemnation purposes, either *in rem foreclosure* or condemnation and the deviations that you grant are not variances, they are deviations from document 5-0-14. I think this a very critical point.

We are asking the Board for a voice vote.

Member Reuter wanted to confirm that we are taking the property and making it available to the developer. Mr. Benecke stated, yes through condemnation.

Member Demetriou questioned what are the back taxes that are owed? Mr. Benecke stated they are about \$38,000 plus interest plus.

Chairman Foulon questioned if the property has ever been offered for tax sale? Mr. Benecke stated yes, but it is a cloudy tax situation. There is a lienholder on it and it is really a difficult and it is because of this lien situation on the property that we have the ability to go into court with an *in rem foreclosure*.

Chairman Foulon wanted to confirm that you are asking the Board to give approval to the town to condemn this property, take it over by eminent domain to benefit a contractor. Mr. Benecke replied “yes”. Chairman Foulon does not believe he can vote for this

especially in light of the Connecticut case. Mr. Benecke stated the Connecticut case was a private home and, in my opinion, we are not allowed in New Jersey to condemn homeowner occupied structures because of Long Branch decisions. Even prior to that decision, this was carefully crafted due to the *Gallenthin v. Pennsauken* decision where if you have a property like this, that is so tainted with title issues and other issues that you just needed it to be placed into the Site Plan and Redevelopment Plan, you have a limited opportunity to do so under this *Gallenthin* decision. That is the only reason why we would even recommend it; otherwise we are left to our devices with *in rem foreclosure*. Chairman Foulon stated I am taking about my own personal feelings. I am totally against condemning property under eminent domain for the benefit of a contractor.

Councilman Cortellessa questioned if this property is required to develop the aluminum factory property? Mr. Benecke replied “yes, it is”. Without this property, it becomes really difficult to develop. Attorney Veltri stated it is part of the application. Mr. Benecke also stated it is part of the Redevelopment Plan currently, which means it is part of the Plan to gain control of the Deed and we need to do something more than *in rem foreclosure*. *In rem foreclosure* could actually cost us more money than this process. If we go on a two-prong process to acquire the Deed, then we have the chance of saving money and time. Councilman Cortellessa stated that, if we go forward with this, we are taking a piece of property that is not an attractive property for the Borough, it is contaminated and we are allowing a developer to clean it up and put it place some additional ratables that are appropriate for our community. Mr. Benecke stated “yes”. Chairman Foulon commented that, from what I have read, he is not going to clean it up. He is just going to build on top of it. Mr. Benecke replied that it is being cleaned up to the standard that is allowed to have the cap or the building to become the final remediation action, and we have been on this since 2008.

Attorney Veltri appreciates Mr. Benecke laying out what is going to happen, but we are here tonight, I think, to get a vote on whether this Board believes the property in question is in need of redevelopment. Mr. Benecke added, for condemnation purposes. Attorney Veltri agreed for condemnation purposes subject to the statute. You need this approval from both the Board and Governing Body and the Governing Body is going to go through the condemnation, not this Board. Mr. Benecke replied, “that is correct”.

Attorney Veltri stated to the Board Members that they need us to vote as a part and parcel of what they plan to do. It is not this Board that is condemning the property, it would be the Borough.

Member Demetriou also added that since there is back taxes owed on a piece of property that is contaminated and you are trying to reach the heirs, if I was one of the heirs that got a letter about having small piece of property with back taxes owned and contaminated, I am sure I would not respond.

Mr. Benecke stated Tom Carroll will go through the history of this property since I am not as familiar with the history in terms of two or three decades ago, but this has been a problem issue for at least 20 years.

Attorney Veltri also stated that we are doing this prior to voting on a preliminary site plan. What we are doing is clearing a major obstacle for the developer. If we do this and we don't like the Site Plan for whatever reason, where does this leave the Board? Mr. Benecke stated the Site Plan has to be applied to the Redevelopment Plan and Ken can explain the issues as to the as of right application to the Redevelopment Plan, but it leaves the Board in the position that the Mayor & Council Member on this Board, would take back to the Governing Body any issues raised by the Planning Board and they would be guided accordingly. Keep in mind that the Governing Body is not scheduled to vote on the Resolution/Ordinance until August. It gives us the opportunity to have that extra prong in court to take the property. We are taking it anyway through *in rem foreclosure*; this is a much cleaner and simpler way for us to take that property.

Attorney Veltri asked "what is the rush", that is my concern and why do we need to vote on it this month when we have a preliminary application pending before the Board tonight? Why do we want to vote on this before we even hear the application? Mr. Benecke replied because it is already part of the area in need of redevelopment in 2008. It is not anew and we are not studying this property new; it has already been established twice as an area in need of redevelopment and then re-established in March 10, 2014.

Attorney Veltri is questioning the timing especially on the night we are supposed to hear the application. My point is we are clearing a major issue for the developer before we hear an application. Mr. Benecke stated we are going to clear it anyway through *in rem foreclosure*. *In rem foreclosure* issue is more difficult for the Borough. It makes it easier for the Borough to effectuate the final result. Keep in mind that the condemnation of this parcel is authorized in the Redevelopment Plan as an *in rem foreclosure* in both 5-0-9 and 5-0-14 Ordinances.

Attorney Veltri stated that may all be true, but the timing is suspicious from my point of view in terms of what it leaves my Board with.

Ken Albert commented that typically the declaration of an area in need of redevelopment is established first and, in this case, it has been for many years. The Borough made a decision about this neighborhood quite some time ago and it is now carried out a real meaningful change from an industrial area to a residential area with the candle factory and now you have the momentum to really move across the street and effect a meaningful change in terms of creating a neighborhood. In doing that, the first step is declaring it an area in need of redevelopment, and I don't think that is an issue for anybody here and it is established in law and fact in prior occasions. What has happened is there is a change in law. Ordinarily, the Board would not have to make any further declaration having to do with foreclosure or condemnation since that would be left for the Council and, in fact, it is still a matter for the Council. But it requires you, as part of the process, to now open the door and it is really a much more transparent process.

Attorney Veltri questioned why do we have to vote on it before hearing the application?

Mr. Albert commented that he thinks typically this order is the order of redevelopment.

Attorney Veltri stated not the pending application. We have already had a hearing on this application; this is the second hearing and in the middle we are now being asked to consider this. We have not heard the entire application.

Mr. Benecke stated the answer is "yes". One year ago, the Council could have just adopted this Ordinance. Attorney Veltri agreed and stated we wouldn't be in this position now.

Mr. Benecke stated the law changed to allow a transparent application and transparent designation of subject condemnation. That transparency is what we are here for tonight. The *in rem foreclosure* is going to be a more arduous and potentially costly process. Attorney Veltri stated no one is disputing that or questioning that. My point is that we are in the middle of an application and before we have heard the rest of it and being asked to vote on it, we are being asked to do this. Why can't we do it after the application is heard and voted in? Mr. Benecke stated because the Governing Body introduced the Ordinance and the timing of it is such that, prior to its August meeting, the Governing Body, under the statute, has actually directed the Planning Board to consider this matter.

Vice Chairman Graceffo questioned what if the Board does not accept this Resolution this evening? Mr. Benecke stated may we'll just try to have additional costs and some declaratory judgment action in the courts and take that route, which we would rather not do. We would rather not pay lawyers to go through extra exercises in court. This is a clouded title and the *in rem foreclosure* process requires one or two title companies to go after every heir with the name Futterman in a sixteen state area and we also have a lienholder. It is a real difficult process.

Attorney Veltri stated what you are saying is the Board has to vote on it tonight because the Council wants to move on it in August. What if we didn't vote on it tonight and voted on it in September and they moved on it in October? What would be the problem with that? Mr. Benecke stated we would delay the court filings by three months and the project could potentially be delayed by three or four months.

Councilman Cortellessa asked Attorney Veltri what difference does it make if we vote on it before or after the review of the application. I am trying to think about this simplistically; we have a piece of property that we would like to get developed. We have some issues with the condemnation and title of that particular piece, but overall if we can get that property squared away, regardless of who the developer is, it is a positive for the community. Why is the step process giving you a concern?

Attorney Veltri stated because that piece of property is part of the pending application that we are in the middle of a hearing on where I believe we have some board members that have some issues with and to me, I don't understand why we are dealing with this issue prior to completing that application and voting on a preliminary site plan. I believe it is part of some of the issues that some members of this Board may have. If I am mistaken, that is fine; vote on it. Normally we complete an application and this would be a condition subject to and then we can work it out prior to the final. That is not what is being presented tonight. This is a preliminary application and I don't the development is going to be delayed if we wait to vote.

Councilman Cortellessa stated that there is a piece of property that we want to make sure that we can develop and there is an element of it, which is a smaller piece, that we need to foreclosure on to make sure that the entire piece of property that we want to use for development is available. Attorney Veltri stated except that you have a specific application in front of you tonight, for this property. You are looking at it generally and that makes sense generally, what I am seeing is a specific application tonight, with specific issues that have been raised, this being one of them, and now we are being asked to vote on this before we complete the application. That is all I am saying. I am not arguing not to do it, or to do

it, but I don't want people to say, when we get to the vote on the application, why did we do that before we voted on the application.

Mr. Benecke questioned isn't that a rhetorical issue? We are here because the Governing Body took one action on an area in need of redevelopment that has already been created. Attorney Veltri stated they could have foreclosed on the property earlier and differently *in rem* two years. Mr. Benecke stated potentially. It was stopped because the legal costs were so great at that time because the costs exceeded the amount of taxes that would have been collected.

Attorney Veltri stated I almost sound like I am an opponent to it, I am raising the point of timing and that is all I am raising. If the Board wants to vote on it this way that is fine, but clearly they have to understand we are in the middle of an application and this piece is part of that application.

Mayor Mahler questioned that the U.S. Aluminum owners started the process at the cost of a fortune in legal fees. Mr. Benecke stated yes. The title work alone exceeded the cost and the value of the tax title lien to be foreclosed upon.

Mayor Mahler also commented that we are not considering here someone's home. This is an undersized piece of property with a tainted title and I believe the gentleman involved died over 50 years ago (1961), and we have similar properties from this guy in the bird sanctuary area. There are little lots that Mr. Futterman owns there that we have acquired over the years and there are other properties still up there with tainted title. It has been a problem for a long time. I believe he purchased these properties in the 40's. What we are trying to do is expediently take title to this property. If the Board doesn't like the developer's plan and turns the project down, and another redeveloper comes through and wants to redevelop the project, this piece is in there for that redeveloper. What we are looking to do is efficiently take this property that is vacant and undersized, no one can build on it, we don't know who owns it, there is questionable title and there are back taxes. Chairman Foulon asked why can't we hear the preliminary site plan first? Member Slater stated the site plan has to include that piece of property in order for it to work. Chairman Foulon stated they can make that assumption that it will be there as part of their site plan. If we like the site plan, then we can vote on this. If we don't like the site plan, well then there is no sense in doing it. Member Slater stated we can make it subject to, or we can make it a complete package. The property in and of itself is useless. We are going to spend more money on legal fees than we can ever hope to recover from the sale of the piece of property. We can take a derelict piece of property, add this little unused, useless lot to it and are we going to give the developer a gift of sorts, sure, but we is the benefit to the town. Everything is above board since we are right here in the public. Chairman Foulon stated you are correct, but you are also giving up any negotiating tool that you might have with the developer. Member Slater stated that his history across the street speaks for itself and he did everything we asked of him and did better. Chairman Foulon stated this is a totally different site plan and I think we should see the site plan first.

Vice Chairman Graceffo agrees with Councilman Cortellessa in saying that we know where we want to go with this particular area. However, it doesn't look appropriate in its presentation. It appears like we are accommodating the developer in order to get this piece developed and that does make, I think, certain Board Members feel uncomfortable.

However, in the end, whether this project is turned down or not, we probably do want to have control of that piece of property. In that prospective, I think we should just move ahead on it. As far as the site plan that is being discussed tonight, we are looking at it from the prospective that for this project to be complete that property must be in the domain of the community first. As I mentioned last month, there should be some negotiations in the transfer of that property to the developer. From my prospective right now, they are really two separate things; it just looks inappropriately in terms of the timing right now.

Chairman Foulon stated a good point made and yes, if we can hold that piece of property in the Borough's ownership and use it as a negotiating point with the developer, then I have no problem with it either.

Mr. Benecke stated the site plan will be subject to execution of a Redevelopment Agreement, and the condition in the Redevelopment Plan is that any site plan approval is conditioned upon a Redevelopment Agreement being executed by the Council so they hold that together with sewer connection fees and various other things and both the Applicant, the Mayor and Tom Carroll can go through those issues. Before the Redevelopment Agreement can be placed together we need to have the final site plan to have the Board's blessing and to get any feedback from all parties. If this matter was a "garden variety" *in rem foreclosure* or there was a third party lienholder that had been paying subsequent taxes, this issue would never have come up. We would have either exercised our right in court or had the third party lienholder transfer the property back to the town in some form of fashion and then we would have title/ownership. We cannot do this here. This is not a declaration to place the property into the mix since the Board and the Council have already authorized it as an area in need of redevelopment subject to *in rem foreclosure*. We are just doing an extra step for the Board to assist us by not allowing us to exceed the amount of taxes that we are going to get by having excessive legal costs and try to do this two-prong approach to get the title quicker.

Chairman Foulon expects the developer to pay the excess costs. Mr. Benecke agreed. Keep in mind in a Redevelopment Plan and redevelopment designation we can't have that negotiation until the Redevelopment Agreement is set. This is why we would like this to be moved in a more judicious pace.

Mayor Mahler wanted to confirm that the town is taking title to the property not the developer.

Ken Albert commented that you don't lose any leverage. You are in the same position you would be in any other redevelopment area. The Governing Body will ultimately make the decision. If the developer presents a site plan to your liking, they have invested quite a bit and I believe you have more leverage, not less, because the town owns the property and the developer can't go forward without that.

**MOTION THAT LOT 5.01, BLOCK 435 IS A PROPERTY THAT SATISFIES  
CONDITIONS TO QUALIFY AS AN AREA IN NEED OF REDEVELOPMENT  
SUBJECT TO CONDEMNATION AS DEFINED BY P.L. 213 CHAPTER 159;**

made by Member Slater, seconded by Vice Chairman Graceffo. Voting yes were Vice Chairman Graceffo, Mayor Mahler, Councilman Cortellesa, Members Demetriou, Platt, Reuter, Verba and Slater. Chairman Foulon abstained.

**APPLICATION #PB2014-01 “Greentree At Wanaque, II, LLC” Block 435, Lots 5 & 5.01**

**Property Address: 86 Fourth Avenue**

**Application For Preliminary Site Plan Approval**

**Authorized Agent: Douglas Harris, Esq.**

Douglas Harris, Esq. turned the application over to the Board’s Planner before we continue with our testimony on behalf of the applicant.

Ken Albert summarized that the application before the Board is for 84 units on property that is declared as an area in need of redevelopment on 4.74 acre site. The Board’s Engineer has prepared a lengthy review of the original plans, not the plans you see today, that really covered quite a bit. In reviewing both sets of plans, the applicant has accommodated almost all of the Engineer’s comments and his critique. The plans also appear largely in conformance with the appropriate Ordinance and the Overlay Zone and also seem to be going in the direction that the town has historically wanted this neighborhood changed to go through. Since I approach this matter from only a planning standpoint, I have four concerns that I think can be accommodated rather easily and would have some impact on both the neighborhood, and particularly the adjoining properties to the south.

As you know there are six single-family units on the southern border and this development is a multi-family structure and there are two rather large buildings that are facing them. As such, I think we really have to look together at the protection, visual and other impacts, that such juxtaposition has. In this case, they have extensive landscaping on that southern border and they have done it with a real mixture of deciduous trees and evergreen trees and shrubs and I make to you a very strong recommendation that there really needs to be a continuous row of evergreen plantings for that entire length. Because, if you accept what was presented to you, you are going to have a real winter time landscape that is going to be devoid of the necessary screening. I think that elevation is important. I am not suggesting a straight row of trees. I think you have to alternate between spruce and fir trees and white pines, but something very, very powerful could be created there. We are not talking about a great investment; it is very just a meaningful change.

Along these lines, I am also suggesting to change the planting height. Minimum planting height is 6’ and I think, without substantial disruption, that planting height can be boosted up to 8’ so that initially the screening is in place. I remind you that there is a retaining wall and the project itself is at a higher elevation so with 8’ and the retaining wall you are really getting some meaningful visual screening for that project.

This is my first recommendation and is contained in my letter of July 17, 2014 and I have shared it with the developer and the developer’s planner.

The shrubs that they are planning to plant along Buildings 4 and 5 I think are perfect and I think those should be left in place.

The other issue concerns the bio-drainage basin. They have a basin in the northeast corner of the property that could be a real amenity or a real detriment. I think what differentiates

whether it is a very attractive part of the whole project, or not, is the plantings. They have done one of the best plant designs that I have seen. But with a detention basin, the key to it is whether in fact those plantings take. A good 20% of detention basins you lose the plantings from storm events and another 20% you lose them from lack of maintenance. I am recommending that you accept the plantings but that you retain jurisdiction for a two-year period through the Developer's Agreement by having the developer carry a bond and re-evaluate the issue at the end of the two-year period to make sure that those plantings are in place and if not, they are restored. We are talking about a combination of grasses and trees. This basin is on a corner of the property and is very visible and if it is done properly and maintained properly I think it enhances the project tremendously, particularly since you have a dense project and this basin takes away from the density from the street view and that's important.

The last two items are exterior architectural and exterior lighting.

The exterior architectural elevations show some interesting design elements, but the color selection should be presented to the Board, you should see it and be comfortable with it. I do notice that they have something new here so hopefully tonight you'll evaluate it. You have every right to do that. You have the power of land use law and one of the purposes of planning is a desirable, visual element and you, in fact, should evaluate that to your liking.

The last item concerns again the properties on the south. They have a lighting plan which does not show any lighting on the southern elevation, but I would include in any Developer's Agreement that no flood lighting should be allowed on that elevation - that is the southern elevation of Buildings 4 and 5. I believe an explicit reference would be a helpful reminder.

Those are my planning comments with this application.

Mr. Benecke questioned if it is appropriate to have the drainage basin within the setback? Mr. Albert believes the answer to that is always related to a specific design. I think we have to bring it back to this design and I think in this case it is ideal. You do not want a building or parking lot on that corner. I think it is an ideal design element in this particular case. It is fenced off, it has an interesting fencing that they have designed, and then it drops off. The landscaping is largely grasses and wetland species. The design is interesting and very well specified. I think the location within the setback is perfect.

Attorney Veltri questioned Mr. Albert if the Board needs to grant a deviation from the bulk requirements for this condition? Mr. Albert believes a variance is in order and if you want to use the word deviation that is fine. Attorney Veltri stated that is what is the word Bob used in his opening statement and that's what is in the Ordinance. Mr. Albert is recommending that a deviation should be granted. It is appropriate in this instance.

Member Reuter stated in the last hearing there was some concern from the public about the safety of the basin. Mr. Albert stated that the design of it is such that it will not have a great deal water in it for long periods of time. Aside from that, it is a legitimate concern. There are two schools of thought. There is a school of thought that doesn't fence in a basin

like this. They have chosen to fence it in. They did choose a rustic fencing and I think with that it is perfectly safe. It meets every standard related to pools and such worrisome elements with the fencing. I don't think it presents a safety element. It is going to be heavily landscaped and dry 90% of the time.

Chairman Foulon questioned Mr. Albert if he has any problems with the height issue? The Engineer's report did, but yours didn't. Mr. Albert stated he is not troubled by it but that is related not to the height *per se* but to the design. I see ways to actually eliminate those 3' and I think the design would suffer for it. From a planning stand point, I was not concerned with it. You do have the neighborhood to the south and that does impact on it. Again, I think the changes on the landscaping on the southern elevation will greatly reduce that bulk. I would be more concern with the bulk than the height, that is, the box I am looking at as opposed to those 3'. Again, in this case, they have reduced it through design by breaking up the elements and that helps and the other part is the landscaping changes.

Chairman Foulon, referring to the Ordinance, states that you, the Planner, is suppose to certify the height. Mr. Albert stated he is certifying that they need a deviation. I think the Ordinance wants that done when they meet the height requirements.

Attorney Veltri stated that that deviation has not been advertised for. Mr. Benecke stated all the deviations are set forth in the Redevelopment Plan and you are allowed under the Redevelopment Law to exercise that prerogative within the Redevelopment Plan. Attorney Veltri stated we have the prerogative to grant them but the public also needs to be notified of any deviations. Mr. Benecke stated that they do in the terms of the due diligence and the noticing requirements of the Redevelopment Plan itself. So the Redevelopment Plan, if it was silent on the issue of deviations/variances, then the answer is yes. However, it is not silent.

Attorney Veltri wanted to confirm that it is Mr. Benecke's position that if there is a height deviation required, that it does not have to be advertised for. Mr. Benecke stated "that is correct". No deviation needs to be advertised as long as it is specified in the Redevelopment Plan and it is specified in two areas. One is the bulk standards and the other is the generalities as to the use and that is to protect the Ordinance from being amended by the Board of Adjustment.

Attorney Veltri stated the first issue we talked to isn't specified in this Ordinance so that would need to be advertised? Mr. Benecke stated it is specified in the Ordinance because it is a bulk standard. The bulk standard is in paragraph 2B. Attorney Veltri stated he is looking at that paragraph but where is the bulk standard for the basin issue specified? Mr. Benecke stated that is not in the Ordinance nor is it in your regular Ordinances as well. Attorney Veltri commented that Mr. Albert indicated that is a deviation. Mr. Albert stated that is clearly an interpretation. Attorney Veltri stated that is your interpretation. Mr. Albert commented that it is actually the Board's interpretation. Attorney Veltri stated Mr. Albert is the Board's Planner and we are asking you is it a deviation? Mr. Albert stated the Ordinance does not speak to this type of structure. Attorney Veltri stated this is exactly what I just told Bob, that it isn't in the Ordinance and, if it isn't in the Ordinance, then it should be advertised. Mr. Benecke stated all bulk regulations are stipulated in the Ordinance are included in your allowance for deviation. All bulk regulations are

stipulated in the Ordinance on “page 4, Section 2B.d-all bulk regulations as stipulated in §114-7.1 C.(5)-c through h, inclusive”. Attorney Veltri questions where is that standard written in the bulk ordinances for the detention basin? Mr. Benecke “however, the Wanaque Planning Board may grant deviations thereto.” A detention basin isn’t. Attorney Veltri stated it is a setback issue, but that isn’t specified in terms of how we measure the setback. That’s the issue isn’t it? Mr. Albert stated one issue is what is the detention basin? Is it a structure or is a part of the landscape amenity. If so, you may not even need a deviation. I wasn’t turning it around on you but I think I am perfectly comfortable saying that there is no setback associated with a detention basin. The reason why I am hesitant is detention basins can be designed in a variety of ways. They can be a concrete structure around the side that clearly you would not want within the setback. In this case, this meets the contours of the lands, fenced with a very rustic fence, it has gabions inside, dropped down landscape. Quite frankly, in this case, and I don’t want to make a universal statement, but in this case, I don’t think it is a structure that demands a setback requirement.

Attorney Veltri questioned Mr. Albert that, in your opinion, for that setback issue, with this detention basin, is it a deviation or is in compliance with the Ordinance? Mr. Albert answered I think in this case it is in compliance.

Attorney Veltri, so in your opinion, this is not a deviation and that would close that issue that there wouldn’t be a necessity to advertise? Mr. Albert answered in my opinion yes, but ultimately it is the Board’s decision.

Attorney Veltri wanted to confirm with Mr. Albert that he believes there is a deviation on the height issue. Mr. Albert answered yes, I do.

Attorney Veltri stated Mr. Benecke is telling us that that doesn’t need to be advertised because that is set forth in the bulk schedule. Mr. Benecke stated that is correct and that was done in a duly notice distributed to all 200’ property owners, advertised and sent to property owners, sent to U.S. Aluminum, sent to Greentree; that has all been set forth in a duly advertised Redevelopment Plan. I will add that the premise is that the land use cannot be adjusted by the Board of Adjustment, so we can’t turn that on its head and bar the Board of Adjustment from adjusting a variance on a land use issue and not have the bulk standard, if it is allowed, to be deviated from by the Planning Board. Again, the two deviations are within the C Variance classification.

Attorney Harris, commenting on the two deviations, stated that the second deviation is the impervious coverage and can we address that with Mr. Albert while he is still here.

Mr. Albert stated there was approximately 64% impervious coverage in the original plans that was brought down to 61.2% at this time. We have a 60% limit. I never want to say 1.2% is de minimis and I don’t believe it is. I think if you go over impervious coverage limit it is of importance. As I look at this plan, part of what the issue of impervious coverage is related to is green space, landscaping and they have actually done an unusual job on the north side (I have already commented fully on the south side landscaping). They really have taken all of the pervious coverage and produced a sensible and comprehensive landscaping plan that I think minimizes the impact of that 1.2% overage. So from my standpoint as a Planner, I do not think that part is meaningful but, again, that decision is ultimately the Board’s and you can insist that they bring it down or you can leave it along.

My sense of it is I would not alter the plan for that reason, but again it is the Board's decision.

Engineer Cristaldi questioned how much can you exceed the bulk requirements? Mr. Benecke stated there is no limit, but typically what would happen is, if it became egregious or if the Redevelopment Plan was outdated, you send it back to the Governing Body with a recommendation from the Planning Board to amend the Redevelopment Plan and that would be done in sequence without the necessity of returning the Redevelopment Plan to the Governing Body. For example, if the 60% were to become 80%, the Planning Board would say time out, Mayor refer this back to the Governing Body for an amendment to the Redevelopment Plan, as opposed to dealing with the deviation. These again are C classifications and the reason we do this is because there were runaway Boards of Adjustment in the early 2000 that were starting to adjust the Governing Body's Redevelopment Plans, especially in the urban areas. The way to correct that is ensure any Governing Body adopts a provision to allow for deviations from bulk standards but prevent uses from being modified without the Governing Body's direct approval. You can put in a Redevelopment Plan where if there is a D Variance threshold required that that would be returned to the Governing Body as well and the Planning Board wouldn't be able to consider those, but we didn't do that here. In the Redevelopment Law, if you look at C and you look at D they actually use the word deviation, but it is variance first and then deviations since deviations from the bulk standards subparagraph c, and here what we do is call them deviations but we put in lower case or parenthesis the word "variances" so that the public when it is noticed knows what it is. Any deviations from uses are barred. Attorney Veltri perceives the danger as being that a developer could come in, under Bob's theory, not comply with any of the bulk requirements, every bulk requirement could be out of joint with what is in the Ordinance, and the public would never have notice of that. Mr. Benecke stated that they would because the Redevelopment Plan is specifically noticed to all property owners in the 200' area and it is also advertised and given out. Attorney Veltri questioned how would they know when a developer comes in and doesn't comply with any of those bulk requirements? Mr. Benecke stated because here you've re-noticed them that we have this site plan that is being considered keeping in mind that the Planning Board, in the case of the 60% versus 80%, the Planning Board could deny that. Attorney Veltri stated I am not talking about the Planning Board, I am talking about the public who would never be noticed of the deviations for the specific development. Mr. Benecke stated correct, except as to the site plan issue. This is cured by having the effective date in the sunsets of the Redevelopment Plan Ordinance. There are actually two sunsets in the Redevelopment Plan Ordinance. One is that the property owner must bring in a Redevelopment Plan and, if my memory serves me correct, the Site Plan under the Redevelopment Plan by December 31, 2015 for the Overlay Zone to be effective. That is one, and number two is the entire Redevelopment Plan has a sunset provision on it. It is thirty years from now but, unlike the revised General Ordinances which don't provide for a specific site plan to be filed within a certain period of time. This does under that Ordinance that has been distributed and noticed. That is the theory. The public gets their notice in the Redevelopment Plan process.

Engineer Cristaldi, if you exceeded the height by more than 10%, you can 't get a Use Variance? Mr. Benecke stated if it became a Use Variance, then it is disallowed. Attorney Veltri stated we couldn't even grant that variance. Mr. Benecke added neither can the Board of Adjustment. You have to send that back to the Council to adopt a new Redevelopment Plan Amendment, or a new Redevelopment Plan *per se*.

Chairman Foulon : Is there anyone in the public wishing to come and ask our Planner, Ken Albert, any questions, please step forward now and state your name and address:

Dave DaSilva, 108 Monroe Street, Haskell

Mr. DaSilva questioned how often are these types of Redevelopment Plans put together where basically all the authority of the Planning Board is stripped away from the bulk deviations/variations? Mr. Albert stated I have been involved in well over 100 Redevelopment Plans and the majority of them are, in fact, done in a similar manner where the Planning Board has an opportunity to make recommendations at certain points, but those recommendations aren't guaranteed to be put into any Ordinance. Ultimately, the Governing Body has to make a determination of what they think the site look like, it is returned to the Planning Board. The Planning Board retains site plan approval, which is an excellent control, but you made a statement that is actually accurate, that is, the Planning Board doesn't have complete control over any Redevelopment Plan. The bulk of that falls on the Governing Body and it is for good reason. You can't just do it on a planning basis. Redevelopments are such a complex thing involving financial interests, changing neighborhoods, and in this case we have one of the most seriously deteriorating elements. There is no question that this should be redevelopment zone. It is just a question of what can be built. Unfortunately, when you have an industrial site that is contaminated and hard to redevelop, you have to make certain tradeoffs. You can't just have single-family homes there.

Mr. DaSilva stated it just seems odd to me that the job of the Planning Board and, in some cases the Board of Adjustment, is to look at the Municipal Land Use Law, look at the Local Ordinances and make decisions on what is appropriate for that community. I must have missed this because I believe I would have said something, but it seems odd to take that power away from the place where it usually is in reference to bulk variances. Mr. Albert stated this Board (maybe not all present members) has gone through two Master Plans with this as an integral part of redevelopment and, in my opinion, there was very little doubt that we're dealing with multi-family housing. When you deal with bulk standards I agree with you, I think this Board has to weigh in and it did, but ultimately it is collaborative effort, it is not you as a resident, it is not them as a Board, it is not the Governing Body alone.

Mr. DaSilva questioned at what point would the Redevelopment Plan be trumped by the Local Ordinance or the Municipal Land Use Law when it is created like this? If the developer came in and wanted to put in a 25 story building there, or put things that would normally be applied to the bulk variances, when does the power go back to the Board? Mr. Albert believes a Planning Board, especially a Board like this which has a great deal of

strength, would stop something that is onerous very early on in the process when the plan and/or ordinance came for recommendations.

Attorney Veltri stated I look at it a different way and I understand what you are saying and you are right, but we still have the power to grant or deny deviations. We don't have to grant any deviations from the bulk schedule that we have. This issue that I was alluding to is why aren't you guys noticed about it. Mr. DaSilva stated exactly and that is my point where most of the time if there is a bulk variance requested, the notice to the residents and newspapers lists every item and the amount it exceeds by. To say to me that in 2009 and the beginning of 2014 I got something about a redevelopment issue is silly. I understand what the law is, but to say that the residents should have known that because it says deviations could be granted for bulk variances, that the common residents could understand what that means. Mr. Benecke agree with you if it weren't for the fact that the site plan is also requested and noticed to the property owners and, if they are so egregious, the Planning Board can deny them as the protector of the public. Here is the point, in that section that I read before, we actually used the bulk regulations in the Ordinances. We didn't create something new. We are actually using the codified Ordinances for this Overlay Zone. We didn't create in the Redevelopment Plan a brand new zone for this developer. We actually used existing standards and that is the important distinction here from just a pure Municipal Land Use Law issue. Ken said it – we have a Master Plan that identified redevelopment of this property. Ground field issues also came up and again we had that noticed and then we have the notice of not one, but two, three, four notices to the public as to this property over five years, but two were this year, and you were at the one hearing. We were able to get to this point so that we have a clear distinct site plan with only two minor C variations, one of which is de minimis, in my opinion 1.2%, and the less than 10% to 3', I think Ken is right, if you reduce the height of the buildings it actually is a better design.

Mr. DaSilva, in reference to the front and rear yard setback and the side yard setback that are in the Redevelopment Plan, the 5' and 10' referencing vegetation and those kind of things, you don't think that the vegetation, etc. in that detention basin would be covered by, what is mentioned in the Redevelopment Plan, with the setbacks? Mr. Albert believes the overall design of that detention basin, with the plantings, is going to give the appearance of a greater setback, not a less setback. If I were driving by the site every day, that is what I would want on that corner. I think it lessens the visual impact tremendously. I do have one qualification, and I think I made it very clear, that vegetation has to take, be maintained and do what it is supposed to do and sometimes it doesn't. I think this Board can take care of that issue.

Mr. DaSilva asked if you think this Board should look aside what is in the Redevelopment Plan in reference to the setbacks because it looks okay? Mr. Albert stated no Ordinance defines every single circumstance. Here is a detention basin that actually looks like a landscaped area/green space, and I don't see how any kind of setback makes any sense for this.

Chairman Foulon asked if anyone else had any questions for Mr. Albert and no one appeared. We will now continue with the applicant's presentation.

**Douglas Harris, Esq. , the attorney for Greentree At Wanaque II, LLC**

**I want to address some of the points that were brought up at our last meeting. We have addressed some of the concerns we heard from both the Board and public:**

**The bio-retention basin, which has been discussed by the Board's Planner, we would like to supplement his discussion by referencing and showing a picture of a basin, which is located in Flemington. It is basically landscaped and green space and we agree with the Planner that the key to the basin working is the vegetation both taking and continuing to grow. We are more than happy to agree to your Planner's recommendation to bond the vegetation for a two year period to insure that the plantings have survived the initial construction period.**

**One of the other issues raised at the last meeting was just an understanding of how much water will be in this basin. Basically, what is the worst case scenario? Worst case scenario for planning testimony is basically described as the 100 year storm event. In a hundred year storm, this basin would be filled to less than 3' of water, about 2.7' of water for approximately three hours after that cataclysmic event. After that the water should begin to recede into the basin as it is designed. There is a layer of grass and below that there is a layer of clay and soils and beneath that is a layer of sand, so the water seeps through the grass into the clay/soil and then sand.**

**There is also the fencing around the basin to protect and impede anyone from going into the basin. They understand they are crossing a barrier to go into the basin which you are not supposed to do. The Association, through its Rules and By-Laws, will be maintaining the basin itself and property around it and making sure no one is to enter into the basin.**

**I think we have addressed most of the concerns that were raised by the Board at our last meeting regarding the basin.**

**The other discussion points were the two deviations from the Redevelopment Ordinance, which we have already touched upon. The first issue being impervious coverage issue, which was at 65.5% and we were able to reduce that to 61.2%.**

**With regard to the height of the buildings, our architect will testify as to the height of the buildings being at its top, which is 43' and above your 40' height limit.**

**Vice Chairman Graceffo questioned what did you actually do to reduce the impervious coverage to 61.2%? Attorney Harris stated he is not qualified to answer this question, but our engineer certainly is.**

**Attorney Veltri reminded the Engineer that he was sworn in at the last meeting and he is still testifying tonight under oath.**

**Engineer Kucera testified that in order to minimize the impervious surface coverage, three steps were taken. Step No. 1 and the major step was in between the individual driveways we introduced between 1-1/2' to 2-1/2' wide strip of land covered with gravel (permeable material). Step No. 2 was that the sidewalk on the Fourth Avenue side, which was originally on our property, was moved outside of the property. Step No. 3 was our mistake. We originally included in our measurement even the gabion wall which surrounds the**

basin, that is, those are baskets filled with stones-highly permeable surface. These three steps in total created about 4% decrease in overall impervious surface coverage.

Addressing the Board's Planner letter of July 17, 2014, Attorney Harris had previously stated that the applicant certainly does not have any objection to the two year bond for the plantings. Also, the application has no objection to the Landscape Modifications or the Planting Schedule (height changed from 6' to 8'). We also have no objection to the Exterior Lighting issue as raised and our architect will go through the Architectural Colors that we suggest, which coincide with the development across the street.

Attorney Harris would also like to address one of the concerns of the public, our neighbors to the south, which is the retention wall that is proposed. The wall originally ranged from 2' to 9' has been reduced so that now the maximum height of the wall is 7'. Referencing an exhibit board, the lots (6, 7, 8, 9, 10 & 11) are shown on this board, and referring to Lot 7 as an example, the wall for Lot 7 is about 2.6' in height and then there is a 6' fence behind that wall. What is shown on the board are the original plantings, but we will change them as requested by the Board's Planner.

One of the issues discussed was to step the wall so that when the wall was a little bigger we would have one wall, but the Board thought a step into the wall would serve to reduce the size and scope of the wall. We didn't think that worked best. We thought there were inherent issues with that type of construction. But now that we have reduced the wall, we don't need to step that wall back. The other issue was what to do with the landscaping. We proposed to put the landscaping on the property side of the wall. It would still be on our property, but would leave it to the neighbor to maintain the greenery because we wouldn't be able to go take care of them. We are still open to suggestions as to what type of fencing is to be used.

Councilman Cortellessa questioned why the trees aren't on the applicant's property? Attorney Harris stated that they are on our side. My point is that we can't get to them. Councilman Cortellessa questioned why don't you move them back so you can get to them and why don't you put them on that side of the wall? Attorney Harris stated, unless we are talking about really moving the wall back which then impacts the back of our buildings, we don't want to run the risk of trespassing onto the neighbors' property. We are talking about our landscapers going behind and doing the necessary work.

Councilman Cortellessa commented that you are putting the burden on the homeowner. Chairman Foulon questioned why don't you just move everything back?

Engineer Kucera believes there might be some misunderstandings. The majority of the landscaping, i.e. trees, shrubs, bushes, ground covers, are on the applicant's side between the fence and the building. The only vegetation proposed on the side of the wall open to the homeowners are some small plantings just to soften the impact of the wall itself. Very small, low growing plants that don't have to be trimmed, just watered if needed.

Councilman Cortellessa questioned what is the structure of the wall? Attorney Harris stated that the concept of the wall is from the E.P. Henry Catalog – the Diamond Pro Wall Design (the catalog was passed around). We think that is the appropriate and acceptable materials and look for that wall.

Attorney Veltri questioned if this information was in the plans? Engineer Kucera stated yes it is at sheet no. 13 or 14. A sample of what it is going to look like was shown. Engineer Cristaldi questioned if you were using a geo-grid for the wall. Engineer Kucera answered that we don't know at this point ye. It is a possibility but if the backfill is proper, it might not be necessary.

Vice Chairman Graceffo started a lengthy discussion regarding setbacks from buildings to property line and patios and balconies to property line. Looking at Building 4 and according to the plot plan, it shows the southern point which faces the rear of the property owners as only 36'.25" from the property line; whereas, the rear yard setback is suppose to be 40'.

Attorney Harris stated that it seems the answer, from what is being discussed, is the minimum setback from our building to the property line is 20' and we are at 36'.25", which is within the setback.

Vice Chairman Graceffo stated most of the distances to the property line are 20' but with some of the balconies or patios it is less than that. The actual buildings to the property lines are within the appropriate setback.

Engineer Kucera also commented that the protruding balconies and patios are permitted by the Ordinance in certain cases.

Attorney Harris, referring to Engineer Cristaldi's July 15, 2014 letter and his comments, stated that the plan calls for two refuse areas. There are five mailbox banks that are shown on the plan. The location of the electric transformers can't be determined yet and this is done by the utility company once we have an approved plan.

Applicant calls Traffic Engineer Harold Maltz to give testimony on his findings of an additional traffic study to review the impact that this development would have to this site and the surrounding area, which included counts on Second and Boulevard and Ringwood and Second .

Attorney Veltri reminded the Engineer that he was sworn in at the last meeting and he is still testifying tonight under oath.

Engineer Maltz stated he submitted a report dated June 17, 2014 which addressed the issues raised. Specifically, at the last hearing after my testimony, the Board requested week day am and pm peak period traffic counts at the intersection of Second Avenue and Boulevard and also Boulevard and the new development site at Parkside Drive. Subsequent to the meeting, my client also asked me to do a third traffic count at the intersection of Ringwood Avenue and Second Avenue/Doty Road and I was specifically asked to do that at the same time that we did the other end of Second Avenue at Boulevard.

Going through the report at the Boulevard and Parkside Drive intersection, this location was raised by the Board Engineer for review because there were some issues/concerns by members of the public who believed there was more traffic than was projected coming out of the new development and going onto the area roads. I also noted that I did the original traffic study for the Parkside Development a number of years ago. The purpose of doing this traffic count was to identify the am and pm peak hour trip generation existing at the

site for the site itself. The peak am and pm site generated traffic based on what's there and occupied today and from that to compare it to the theoretical calculations to be done from the Institute of Transportation Engineers Publication Trip Generation, 9<sup>th</sup> Edition (ITE). I would note for any residential project when you are doing a traffic study, the New Jersey Residential Site Improvement Standards (RSIS) require you to develop traffic projections from the ITE source.

I did the counts myself on Tuesday, June 10, 2014, and they were done between 7am to 9am and 4pm to 6pm. As is done for any traffic study the counts were compiled in 15 minute intervals so you can identify the contiguous peak 15 minute periods to get the hour. Schools were in normal session and weather was good. I requested my client to identify how many units were actually occupied at the time I did the counts and 76 of the 88 units were actually occupied and 12 were still under construction. I noted that construction activity was being performed on the day of the count for those units and within my counts I identified how many construction vehicles came in or out to the site and I excluded them from the summary because they are not related to the trip generation generated by the 76 residential units. Once the construction is done, the construction vehicles are gone. In the am peak hour of the site there were only three construction vehicles; three came in and none came out. In the pm peak hours, a total of four; three came in and one went out. These are very large numbers, but I did identify them and properly exclude them the result and count.

For the site drive, the am peak hour was 7:15am to 8:15am and the pm peak hour was 4:30pm to 5:30pm. If you look at Table 1 (page 2 of my report) the first line identifies for the 76 units the calculation is, if we utilized the ITE trip generation rates, during the am peak hour for the total two-way traffic would be 41 trips. In the pm peak hour it would be 48 trips. This is for the 76 occupied units. Based on the actual field counts for the project, the 76 units field measure was only 25 in the am and 28 in the pm. If you compare these numbers with the ITE theory (41 am/48 pm), the Parkside development is producing 40% less peak hour traffic in the morning and the evening then the theoretical trip generation calculations from the ITE source.

Councilman Cortellessa questioned the difference between the ITE and the actual numbers and if they are so far apart, why do we use the ITE? Engineer Maltz explained that the residential is probably the most studied of all the land uses. They have shopping centers, office buildings, medical, etc. However, there is a range and what it is it takes the data from the couple hundred studies and it compiles and comes out with an average and it also comes with what they call logarithmic equations, which they get a best fit from all the plots. But any one location, there are variations. If this data supplied to the ITE, it would input in and probably start lowering the rate slightly. I can't explain the 40% differential. Your engineer asked me to identify what the traffic actually is doing from this site because the residents had a perception that the number was higher than what the projected even was. In fact, it is showing that is not the case and it is actually coming out lower for the 76 units that are there.

Member Reuter asked if it is fair to say that this sampling is one day? Engineer Maltz stated it is one day. Typically for a project like this we wouldn't go out and do multiple

days. I would note, on the last page of my report, you can review the line that says trip generation for dwelling and it shows you an average rate for example and that it shows you a range of rates in the middle. For example, it shows you an average rate of .44 trips per unit, but it says the range, and the range is everything that was reported, and there are 59 studies, and it went from .15 up to 1.61. What they do is put it together for an average, then they also have an equation at the bottom which is a best fit for the plotted data. Then you see the same thing for the evening. So there is a variation and this site happens to becoming out on the low side of the average range, or the equation.

Mayor Mahler questioned on how you obtain the peak hour? Engineer Maltz explained that I do a count from 7am to 9am and also from 4:00pm to 6:00pm. The summary is broken down into 15 minute intervals so what happens is, and the traffic count sheets are appended to my report, you take a look and see where the four contiguous 15 minute periods give you the highest hourly total. That is the two hours that I specified and did at all the intersections. This is standard traffic engineering practice.

Engineer Maltz stated the Board had asked me to do a traffic count at Second Avenue and Boulevard. Once again I did the counts from 7am to 9am and 4pm to 6pm and the same way, 15 minute intervals. I did the count on Tuesday, June 3, 2014. Schools were in session, weather was acceptable and the peak hours were found to 8am to 9am and 4:30pm to 5:30pm. This is a T intersection with Second Avenue being Stop sign controlled and Boulevard is the north/south through street.

In the 8am to 9am time, the total intersection volume of all three legs was 252 vehicles, with the Boulevard southbound being the heaviest with 221 vehicles, and of that 221 total 136 made a right-hand turn onto Second Avenue west towards the signal. 85 proceeded south. Boulevard northbound was very light with only 24 vehicles and Second Avenue eastbound into the Stop sign had only 7 vehicles. Our observations, not only within the hour, but for the entire two hours, this intersection operated in a very free-flowing manner. There was no congestion, no long delays; it operated very well.

In the evening peak hours, 4:30pm to 5:30pm, the volume was lower in the total intersection only 224 vehicles. In this case, Boulevard northbound was the heaviest with 103 vehicles. You have a commuter pattern flow here and it was the same as I identified back in my studies in 2006 with no difference. Boulevard southbound was significantly lower with 90 vehicles, of which 78 turned right to go west on Second Avenue towards the signal. Second Avenue going eastbound towards the Stop sign only had 31 vehicles. Once again, in the peak hour and also during the entire two hour period, this intersection operated in a free-flowing manner.

In the third location, which was asked for by my client and not the Board, was done simultaneously with the one at Boulevard and Second Avenue to get a sense what was coming from one end, westbound/eastbound. The counts were done 7am to 9am and 4pm to 6pm on Tuesday, June 3, 2014, schools were in session. Peak hour at this location was 7:15am to 8:15am and 4:30pm to 5:30pm. In the morning period, Ringwood Avenue southbound was very heavy (same as I saw in 2006) with 976 vehicles and Ringwood northbound had 432 vehicles and there were gaps in that northbound flow of traffic. Second Avenue proceeding westbound into the signal had 177 vehicles in the entire peak hour of which 130 turned left to proceed south. Simultaneous with the traffic counts, I,

myself, recorded the maximum length of vehicles queues at the end of red on Second Avenue waiting for the green into the signal for every cycle of the light. There are 40 cycles of the light per hour. A cycle means a green light on Ringwood, then you get the green light on Second and Doty; this completes one cycle, 90 seconds long. Then second cycle starts when green light goes back to Ringwood. Based on the cycle timing, this occurs 40 times in each hour. What I noted and recorded every single maximum queue at the end of red when the light went green on Second Avenue for each cycle, and the shortest queue was 0 vehicles at one point and the longest observed was 7 vehicles. The average queue length of the 40 was 4 vehicle lengths and 34 of the 40 cycles (or 85%) there were 5 vehicles queued up or less. What I also observed is that on the Second Avenue approach on almost every single cycle of the light, the queues almost always cleared out. In the 4:30pm to 5:30pm period, we had a commuter travel pattern reversal on Ringwood Avenue. The heavy flow on Ringwood Avenue northbound was 970 vehicles with continuous lines of traffic, but southbound you had 605 and you had breaks in the traffic flow coming through the intersection. Second Avenue had 137 vehicles, about 40 less than the morning, and 86 of those turned left. Once again, I observed on Second Avenue almost all the queued-up vehicles on red almost always cleared on their following green. I did the same vehicle queue analysis at every single cycle of the light and once again it was identical to the morning. The shortest queue observed was 0 vehicles and the longest was 7 and the average vehicle queue was somewhat shorter at 3 vehicles and 37 of the 40 cycles the queue length was 4 cars or less.

Finally, the last section of my report deals with Second Avenue between Ringwood and Boulevard. If you refer to Exhibit 2 in the middle section by 2<sup>nd</sup> Avenue, you will be able to follow me and it shows the traffic counts and flows. You will note that in the morning peak hour going westbound on Second Avenue from the Boulevard side we counted 140 vehicles. Coming out on the Ringwood side for the same it was 177 vehicles. We picked up 37 cars somewhere along the length of the road between Boulevard and Ringwood. The reverse direction was very low. It started as 22 vehicles from the Ringwood side and it was only 7 by the time you got to Boulevard. There was a very small volume with a drop off. In the evening peak hour, once again going westbound, you can see we had 81 vehicles coming from the Boulevard side but by the time you got to Ringwood it went up to 137, which is 56 more vehicles. Going in the reverse direction, coming from Ringwood there were 43 vehicles in the evening peak hour, and at the other end by Boulevard we had 31 vehicles. Eastbound had small differences, but bigger differences in westbound traffic. It is apparent that there is traffic entering and exiting Second Avenue from the intersecting streets along the Southside of Second Avenue and also do to the CVS, and not all of the traffic is traveling the entire length of Second Avenue.

This gives you a sense of what you are getting at the Second Avenue end, which is the intersection at Boulevard, and the intersection the Board really wanted me to count. My client asked me to do the other one which gave me the ability to identify what is coming in and out from each end. As you can see, it is all not coming to and from the Boulevard side. You are picking traffic up along the way or dropping traffic off on the other end. My client's request also allowed me to give some background on the queueing that is actually occurring on Second Avenue into the signal.

Attorney Harris stated Engineer Maltz has given a lot of numbers and information that describes the neighborhood, can you give us your opinion as to what the traffic impact of the proposed development would be on the neighborhood? Engineer Maltz stated, it was noted in March 11, 2014 letter which the Board Engineer drew reference to in his comments under traffic, at the bottom of the first page says: “A review to Table 1 indicates that the proposed 84 unit residential development will generate peak hour traffic volumes of 45 and 52 trips (total two-way), in the respective am and pm peak hours. These small numbers of peak hour trips are further diluted along area roads by in and outbound movements and distribution to the north and south along Ringwood Avenue, and are not of a magnitude to have any significant impacts on area roads or intersections.” I did identify a conclusion and I would also note one item I did not put in that sentence, and it is in the Board’s Engineer’s letter, is that this site is served by two access drives; one to Boulevard and one to Fourth Avenue and these access drives are interconnected on site. In addition to the in and out patterns distribution area wide, you have a dispersion of the site traffic both in and out of two access points. The 45 and 52 total two-way volume numbers are not large, which is based on the ITE calculated values and is not reflective of any reduction as we saw that Parkside is generating 40% less than the ITE numbers. If you applied a comparable 40% because you thought you might have the same sort of situation here, 40% reduction reduces the 45 in the am to about 27, and in the pm that brings the 52 down to about 31. You don’t have a lot of traffic being thrown out anywhere.

Attorney Harris, refers to Engineer Cristaldi’s letter at page 3 where he describes site circulation, and specifically, “The interior aisle widths throughout the site including the parking areas are 24 feet wide. There are no dead-ends that would require turnarounds in driveways. The site can be easily navigated.”, in your opinion, do you concur with this comment? Engineer Maltz answered “yes I do”. He is completely right on what he said. The 24’ wide circulation aisles and in the parking lot aisles conforms to the NJ RSIS Standards, which also governs the parking stalls at 9’ x 18’, and you have no dead end parking aisles, you have interconnection between the two access drives so there is no dead end, two ways in and out for the whole site, and there are no dead end parking aisles. There is good circulation throughout the site and easy access throughout the site.

Attorney Harris, refers to Engineer Cristaldi’s letter at page 3 where he states, The site is located on the corner of Fourth Avenue and The Boulevard. The site makes good use of the corner property by providing one access onto each road. These access points are set as far back as feasible from the corner.”, in your professional opinion, do you agree with this comment? Engineer Maltz answered “yes”. He is exactly right about what he concluded.

Attorney Harris asked Engineer Maltz if, in his opinion, would the proposed traffic and vehicle circulation cause a material public harm to the borough or the surrounding neighborhood? Engineer Maltz answered “no, I believe it will not.”

Councilman Cortellessa asked Engineer Maltz in his professional opinion the amount of traffic that is going to be generated by this new development does not dramatically impact Fourth Avenue, Second Avenue, Boulevard or access to Ringwood Avenue. Engineer Maltz answered “no I do not believe it will.”

**Councilman Cortellessa questioned if the age of residents within a particular development have any impact on traffic patterns? Engineer Maltz stated if you were dealing with an age restricted, which this is not, the volumes would be lower because age restricted residents could be retired so they don't have to come out in the rush hour and their peak could actually be 10am. As to the residents of the Parkside development being typically business oriented I cannot tell you, but I can tell you from sitting there I saw a school bus go through and pick children up and I saw a lot of younger people go through. I was sitting not far off the main entrance and had a view of the road that the construction is on. I was sitting right on a corner that everybody that came in had to go by me both ways, and most of the people tendered to be younger looking.**

**Engineer Cristaldi questioned if he determined what the Level of Service was at the light at Second and Ringwood? Engineer Maltz answered "no, I didn't". In fact I had asked if anyone wanted a capacity analysis done and they were only interested in the traffic counts so I didn't do it. I will say that count at the signal was not one that the Board wanted. The wanted the driveway specifically for the trip rate, not capacity. Coincidentally, in October of last year, there was a report issued that I believe you may have reviewed by Joseph Steiger that was performed for my client at the intersection of Fourth and Boulevard. It had to do with sight distance but he also did traffic counts and capacity analysis at that location and then he added in on top of the traffic counts he performed the peak hour, he projected the traffic for the 88 units in the Parkside project, which in my original study was called Valley View at Wanaque. He had a copy of my report and applied the orientation analysis and he then did a capacity analysis at that location in the am and pm. I have that report and I understand that the Board and a Traffic Engineer the Board retained had reviewed it. I also took a look at that report to verify his information was correct and, in fact, the traffic counts that he had in October of last year at that intersection are very close to the counts we had at Second and Boulevard. He had Levels of Service A for Boulevard northbound in both peak hours and Level A in the evening on Fourth and B right on the line with A in the morning, and we have comparable geometrics and almost identical volumes. The Level A B, based on the very free-flowing operations we saw just by eye and experience, I would say that is a Level A B intersection. Level A B doesn't have a significant amount of volume and are excellent performance levels. C and D are also considered good peak hour performance levels.**

**Chairman Foulon : Is there anyone in the public wishing to come and ask Traffic Engineer Maltz, any questions, please step forward now and state your name and address:**

**Roland Carollo, 3 Second Avenue, Haskell**

**If this projection analysis is off to some extent since it was only a one-day test, what happens for actuals once the development is filled and the projections that you stated are off? What is the next table setup that is going to take place?**

**Engineer Maltz stated that he gave the ITE projections which are the 45/52. The Board's Engineer asked me to test that number at the Parkside site and I did it and found out it they were working 40% lower. Under any circumstance, if there was a deviation and it**

went to the high side, this is not a large project in terms of trip generation. If you suddenly noticed 20% more traffic, on 52 trips based on the ITE (not the 40% lower figure) that would only be 10 cars two ways. I have full confidence that you are not going to see any significant impacts whatsoever.

Mr. Carollo stated you are going by statistical and actuals on a one day shot, but those actual numbers could result in higher numbers and higher traffic patterns. Engineer Maltz stated you are proposing a lot of what ifs. In terms of the one day that I did, unlike with shopping centers where you might do multiple days of counts, typically you pick a typical day to go out. I called the schools to make they were in session, it was a normal business day, good weather, not adjacent to any religious or other holidays and that is how you pick a day to get an appropriate reading. Residential patterns tend to be repetitive; you have the same people repeating their routine.

Attorney Harris questioned Engineer Maltz if he had taking the counts on another day, Wednesday or Thursday, do you believe there would have been any significant change in counts? Engineer Maltz stated “no, it would be repetitive”. Typically, we focus on Tuesday, Wednesday or Thursday. We tend to avoid Mondays and Fridays because of long weekends especially during certain times of the year.

Mr. Carollo questioned should there be a significant difference down the road, what happens as far as the Borough is concerned, would they make arrangements for changes in the light patterns? Chairman Foulon stated “yes”. The Police Department has a traffic bureau that would try and remedy the situation as best they can by changing the timing of the light, or putting in different delineators, or something like that.

Dave DaSilva, 108 Monroe Street, Haskell

My concern at the last meeting was, not just the traffic at Boulevard and Second, it was the traffic that you were talking that comes onto Second Avenue after Boulevard. From my experience and my wife and I were doing a little bit of a fun project texting each other about how many cars were there when we got there and it was more towards 7, 8 or 9 each time, and it did not clear within the 90 second cycle. We sat there for two or three cycles. That is more our realty every day, five days a week. When you look at your expert opinions to the Board like this, you are not suggesting that the Board look at just the impact that this project will have with the 25 or 28 cars, you realize, and I am sure the Board realizes, that you have to look at the total impact of what the addition of Parkside and this new project will have to the entire neighborhood not just the twenty something cars? Engineer Maltz isn't sure what Mr. DaSilva's question is.

Mr. DaSilva stated you just can't say that the impact is “x” and the project should be okay because the impact is just “x” because you don't think in your professional opinion it is okay to take a bad situation and make it worse because the impact of just that project in a vacuum doesn't change that situation. Engineer Maltz stated that this project is a very small trip generator. I would like to comment on what you and your wife did. Did you do 3-6-9 observations of cars queued up? Mr. DaSilva answered “yes”. Engineer Maltz stated, just so you know, I did 160. Mr. DaSilva stated each time we did it, every day five days a week for two months, there were 6-7-8-9 cars. Engineer Maltz stated he did

continuous 40 an hour, 2 hours in the morning and 2 hours in the evening and that was 160, and if you have the 7-8-9 what about the 0-1-2 that I saw? You didn't mention you got those. In terms of the trip generation, like I said, these are small volumes. Yes, when you go out on the main road, Ringwood Avenue, there is a lot of traffic. They can go down to Whistler and they can go up to Father Hayes to the north. Even back in 2006 it was pointed out to me by the Borough Administrator that these are patterns that are taken in the area to consider. You have a signal at Second Avenue and that would be a means to get a break to make the left. What I observed based upon 160 observations of what queueing was like and how they cleared, I think there is certainly capability to handle anything from this project.

Mr. DaSilva, referencing the A B classification for this intersection, you don't think there is anything wrong today with how that intersection functions? Engineer Maltz answered "not on the Second Avenue side". In fact I timed it in my original study and one of the recommendations I made back in 2006 and 2008 in my study for the Parkside project, was a two-second re-timing in the evening for the Doty/Second Avenue approaches. I was curious to see what the timing was out there and if it was changed and it is an actuated signal and I found the morning was the same as what it was back in 2006, but they apparently had added in the two seconds that I recommended to the timing and it appeared to operate better than when I did the traffic counts and observations back then. As the Chairman pointed out, they can do signal timing adjustments to improve things.

Mr. DaSilva, in reference to the traffic flow in the development, has anybody checked with the fire department to make sure the existing apparatus we have today can actually navigate all the turns. The Site Engineer Kucera answered this question and stated we checked for the garbage truck and found it acceptable. I cannot answer specifically for your fire trucks. Member Platt stated that in fact both the Chief and I looked at the plans and they are acceptable for our fire trucks.

Chairman Foulon asked if anyone else had any questions for the Traffic Engineer and no one appeared.

**Attorney Veltri swore in Thomas Brennan, Professional Architect**

Architect Brennan has a Bachelor of Architecture from New York Institute of Technology.; has been a practicing architect for over 28 years and hold licenses in New Jersey, New York, Pennsylvania, and a couple other states; and does a lot of residential work in New Jersey for developers for over 25 years. He was the architect for the Parkside project. Attorney Veltri questioned if Architect Brennan was a Planner and he stated "no".

Architect Brennan stated the applicant asked him to prepare designs for this application which consisted of townhouse flats which are the 8 and 12 unit buildings that you saw in your package and also the 20 and 24 unit building which are condo flats. All of the projects have garages attached to them.

The condo flat building has individual garages along the front and you walk into a hallway and go up a stairway to your unit. These consist of one bedroom units and two bedroom units. The one bedroom units are light, airy and open and about 820 square feet. The two

bedroom corner units have two bedrooms, two baths, a large living room and dining room and are 1324 square feet. These are very marketable and the type of units that are very successful in today's marketplace. This is a three-story building.

The other buildings where the 8 and 12 units are is known as a stacked flat townhouse. There is an attached garage and there is a townhouse that is in the rear of the building, lower level and consists of a living room, dining room and kitchen. You go up the stairs and there are two bedrooms and two baths. In the front of the building, the townhouse has an attached garage so you have direct access into your unit, and you come up the stairway and you have a large living room, dining room, kitchen and this has volume space to it. Volume space meaning that you can look up to the loft from the lower level. On the second floor you have two bedrooms, two baths along with the loft area. This is primarily how the stacked townhouses work.

Attorney Veltri questioned the Architect. You have 84 units proposed in 6 buildings, but how many units are in each building? Architect Brennan explained there are 74 – 2 bedroom units and 10 – 1 bedroom units:

<b>Building 1</b>	<b>12 Units</b>	<b>All Two Bedroom Units</b>
<b>Building 2</b>	<b>8 Units</b>	<b>All Two Bedroom Units</b>
<b>Building 3</b>	<b>20 Units</b>	<b>4 – One Bedroom Units 16 – Two Bedroom Units</b>
<b>Building 4</b>	<b>24 Units</b>	<b>6 – One Bedroom Units 18 – Two Bedroom Units</b>
<b>Building 5</b>	<b>12 Units</b>	<b>All Two Bedroom Units</b>
<b>Building 6</b>	<b>8 Units</b>	<b>All Two Bedroom Units</b>

The elevation styling is very similar in nature to the Parkside development. It has vinyl siding, cultured stone and a variety of different features. Referencing an 8-unit building which has the two bedrooms and the lofts in the townhouses, you can see from the elevation that the majority of it is in the roof. What actually stands out in the front of the building are the two large gables that are 32' high. The rest of the building all goes back and as you can see (architect pointing on an plan) here is the front, and then this is sloping back as a hip roof so by the time you get up to the 40', you are really talking about a set back from the front of the building by some 30-35'. So as this hip roof is sloping back, where you are

hitting the part that is about the 40' would really be far from the very front of the building. What you are really looking at is only about 32'.

When we go to the second building, which is the 20 unit building or the 24 unit building, and these are the condo flats, the upper portion that is measured where we are exceeding the 40' by 3' is just a little piece that is at the very, very top and really where the gables are, where the massing might be at the front, is right at 40'. In essence, the majority of the building is below the 40'; it is only as the projection of this roof goes back that, at the very peak of the roof, which is set back from the front of the roof, is where we would go above that 40'.

The reason why we did this is because you want a very attractive building. The Parkside had 10 on 12 roof pitches, a lot of gables and a lot of interest to it and that is what we wanted to try to achieve in this project. One of the options of taking off the 3' and get below it is we could do a flat roof but I don't believe anyone here would want a flat roof, but would agree that putting a shingled roof on would best for this project. With that being said, we are at the minimum of what you could have as an asphalt shingled roof. An asphalt shingled roofs are a minimum 4 on 12s and we are at about 4-1/2 on 12. If we were try to get below the 40', we would not be able to use this type of asphalt shingle roof, and I believe this would be detrimental to the look of the project and we would have to do a flat roof.

Member Reuter is curious about the rear view since that is where the height is. I would like to look at that. I am also going back to a question earlier, where are we measuring from? Architect Brennan stated we are measuring from the grade to the very peak of the roof. I would like to comment that other towns I have testified before their heights are measured to the average of the roof, which is from the soffit line to the ridge and that would be the average. If we took our average, we would be right at about 37'.

Chairman Foulon questioned what is the height from street level? Grade level and street level are the same? Architect Brennan answered "yes, grade level and street level would be the same."

Chairman Foulon questioned what the retaining wall was for then? How high are you off of the Boulevard?

Engineer Cristaldi stated the way the building height is defined is the highest peak from the front elevation, so what is the height of the building from the front to the highest peak?

Architect Brennan answered, "right now we are at 43'."

Engineer Cristaldi asked, now go around the back of the building, what is the height of the building? Is it exposed more than 43'? Engineer Kucera stated it is about the same.

Engineer Cristaldi stated the confusion is it looks like from one view the building has more stories than the other view from the one rendering.

Architect Brennan stated there are two different building types. There are an 8 and 12 unit building type and a 20 and 24 building type.

Engineer Cristaldi, referencing the rendering, questioned what is the height of the lower building? Architect Brennan stated the lowest one from the grade in the front to the very high peak of the roof is 43' and the other one is also 43' to the highest peak of the roof.

Attorney Veltri questioned so do you agree you need deviations from the bulk requirements for that building? Architect Brennan answered, "yes".

Attorney Veltri stated we were under the impression at the last meeting that an argument would be made that you would be within the 40'. Architect Brennan stated one reason I

**gave was because of the roof pitch or they could do 8' ceilings, which are not marketable, so to be competitive, and build a desirable project, the developer needs 9' ceilings. Attorney Veltri just wants to confirm that this is a deviation. Architect Brennan stated it is a deviation because we have reasons for it. Attorney Harris confirmed that the developer is requesting a deviation to allow for the building height of 43'.**

**Chairman Foulon questioned, I am driving on Fourth Avenue what is the elevation from that street to the top of the building? The reason why I am asking is because when we had our pre-application meeting, you had told us that there would be no difference when you from when you drive down Fourth Avenue now. If you put another building right across the same height as the one you have on the left hand side, you are going to feel like you are in a tunnel or something like that it. We discussed that and you said no, that would not be. Engineer Kucera stated between Fourth Avenue bottom of the curb and the back of Building #3, is about 2-1/2'. If we are talking about 43' all the way to the top of the roof, it is 45-1/2'. The other side has a stone retaining wall that is about 3' high right past the curb and on the other side you will have a gradual sloped, landscaped area leading up, which is about 2% or 3% of slope, and it's about 2' to 3' between the curb on Fourth Avenue and grade at Building #2.**

**Member Reuter questioned what about the south side? You have 2-1/2' to 7', so at the 7' side plus 43' would be 50' in the air – is this correct? Engineer Kucera stated that would be from the bottom of the wall, “yes”. That is also why we proposed the fencing and the landscaping to alleviate this impact.**

**Architect Brennan stated another factor on this particular project for the 8 and 12 units is the volume of the inside. When previously describing the units, when you look up into the loft, if we were to have to bring the building down that extra 3' we would lose all that and that would be the drama, the sales pitch to get people to purchase. Keep in mind that the very piece that it is in the 3' is not out front. It's not like we are building a wall that is 43' tall, 43' is set back some 35' from the front of the building. It will be unnoticeable in the whole scheme of things when you look at it.**

**Attorney Harris, referring to page 6 of Engineer Cristaldi's letter, and in particular the comment: “The architect should describe how the building meets the 4/50 horizontal break requirement.”, could you explain how the developer meets this requirement? Architect Brennan stated typically that is described as for 50' over, you would need to pull the building out 4' just so you don't get a barrack-type look. We have a variety of interest all away across our buildings, i.e., balconies, hip roofs, gables, etc.**

**Attorney Harris, referring to page 6 of Engineer Cristaldi's letter, and in particular the comment: “The applicant must demonstrate that the garage space is large enough to actually function.”, does it? Architect Brennan stated “yes”. I think the smallest garage in width was 10x8 and all the other ones are 11, 11x4, 12' and more than sufficient to accommodate cars. In depth, just to point out in the townhouse project that has the individual garages, the garages are 22' or 24' long and in addition to it, there is a storage area that is in the garage that is about 5x6. In the other units, which are condo flat**

building, those have the garage space, but then you have storage units that are off of the hallway.

Member Reuter stated there are 88 units are Parkside. How big is that property? An answer was given for “7.85 acres”. Member Reuter stated that it is safe to say that the density by number of units with this new project is higher. Attorney Harris stated the density is higher with this project than Parkside, but the density of this new project is in conformity with the Redevelopment Ordinance.

Architect Brennan stated that he believes there were a lot of rock outcroppings and other things that were unusable at Parkside. Had that been more usable, more units may have been generated. Vice Chairman Graceffo stated that is what gave that property its advantage. It gave it the appearance of being more open space and the esthetic view is much more pleasing. Whereas, looking at this new project, I find that it is mostly macadam. When you talk about landscape and view of all these trees, this is really not much in terms of green, just mostly macadam. I love the architectural concept of the buildings, the elevations, but I just don’t like the tightness of the whole project. I think there is too much bulk and this is the main negative as I view it. If you get rid of 12 units, maybe you can do more and show more green and open space. However, the way the project is presented now, you have good points and have some bad points.

Chairman Foulon also commented that you have no recreation in there whatsoever.

Vice Chairman Graceffo stated if you take away the roadways, in front of every building you got macadam of driveways and in order to get more impervious coverage, you put in a strip of gravel which does not meet my need of an esthetic development.

Architect Brennan stated the area between the buildings is equal to or may ever exceed what is at Parkside.

Vice Chairman Graceffo stated the buildings are bigger so instead of having only 8 and 12, there are 20 and 24 unit buildings.

Architect Brennan stated there is patios, balconies and green space and it is more private.

Chairman Foulon stated but the density is greater.

Vice Chairman Graceffo stated the main area is just basically driveway and roadway. I think the fact that you have a building of 20 units and 24 units it just gives it a more barrack look that you mentioned before. At Parkside, we don’t have the barrack look and the biggest building has 12 units. Even though the elevation is quite interesting with the different gables, hip roof, setbacks and the interior floor plans are great, but when you put it together you have a lot of big green trees, which are not really that big or green, and come December there is no green and at one point all you are going to see is macadam and I don’t really want to see that. I am concerned about the fact that we have such large buildings that almost look like apartment buildings.

Chairman Foulon stated maybe you can cut back on some units.

Architect Brennan stated that even though the smaller buildings are 100’ and 120’ across and another building is 150’ across, it does have a lot of interest and variations.

Vice Chairman Graceffo stated it is a good design, but it is maybe 30’ more than I want to look at.

Chairman Foulon reiterated that the density is not like it is at Parkside, across the street.

**Thomas Carroll, Borough Administrator, wanted to address the recreation issue that the Chairman brought up. As part of any Redevelopment Agreement that we do with the developer, they will be required to make a contribution towards recreation or we will give them a project to do. With Parkside, they reconstructed the tennis courts at Back Beach Park and the lights. Our estimated cost for that was well over \$200,000 if we did. We will be looking for them to do something similar for recreation somewhere in the community. Chairman Foulon stated he realizes that, but as I travel around between here and Florida, there are very few condos that I have seen that don't have some kind of recreation, recreation hall, swimming pool or something like that. Pulte has it and I don't see why this project is exempt from providing recreation for their own residents.**

**Attorney Harris stated that the idea of an 84 unit project to have the added expense of a pool, or something of that nature, would be an unsellable project. Your monthly maintenance fee to run a pool is expensive and we are no longer at a price point that makes any sense. We are trying to be affordable.**

**Chairman Foulon stated he is very well familiar with that.**

**Attorney Harris stated that we are looking forward to make a contribution to the town's recreational amenities like we did in Parkside so that it is for the town. One of the other down sides of an amenity such as a pool is that it is only for the resident, so if we did that, it would be fore 84 homeowners, rather than the town.**

**Chairman Foulon stated that since you did nothing for Parkside, and now you are building this project which you are doing nothing for, that is a lot of units you have nothing for.**

**Attorney Harris doesn't agree that we did nothing as Mr. Carroll said we contributed over \$200,000 to the town's recreational amenities. Even if you combine these two projects, that is still not enough of unit count to make an affordable recreational facility to the residents and it would then only be for a 172 units rather than the entirety of the town, which we think is a better plan especially if, as you say that it is on the denser side, to add a recreational element to this project and still maintain the density that we need to have a project that makes sense with the costs involved here, there is no place to put it. If we cut down on the units, we will then have units that are more extraordinarily expensive because we are now paying for the recreational element, we have less units so the monthly maintenance fee is incrementally larger. The math does not work. We couldn't reduce the unit count and put in a recreational amenity that would increase the monthly maintenance and now instead of dividing that over 84 units, maybe divided over 64 units. The project would not be affordable.**

**Member Reuter questioned the developer had a price point he was looking at? Attorney Harris stated I don't think we worked the exact price point out yet, but it is going to be in the general area of Parkside (\$250,000 to \$300,000).**

**Attorney Harris asked Architect Brennan to show on the plans where the air conditioner compressors are going. This is an issue which was brought up in Engineer Cristaldi's letter. (Architect Brennan was pointing out locations on the layout boards)**

**Architect Brennan stated that all of the condo buildings have through-the-wall type units. They are self-contained and magic pack units so they don't come with air conditioner condensing units so there would be none located on these buildings. They are all contained within the building. The smaller buildings, 8 and 12 units, would all be located on the side. These would be the only units that would have the air conditioner units that are split**

system. There is a furnace in the unit, there is an a/c unit that would be on the ground and they would be located next to the garage on the side wall, possibly they could be positioned in the back over in the corners. They are high efficiency units and are a little bit quieter. Buildings 3 and 4 have everything self-contained. There will be no air conditioning units outside. Building 5 is right behind the residents and there would be a few units in the back to service the middle of the building.

Chairman Foulon questioned why couldn't they also be self-contained? Architect Brennan stated it is a different type of unit. The self-contained units are good if you have flat units where everything is on one level. Once you start doing townhouses, the split system is more efficient.

Attorney Harris questioned Engineer Kucera about the air conditioners and how are they screened and the noise buffer. Engineer Kucera stated we sketched in the assumed location of the air conditioning units in the back. I think everyone is concerned about the noise generated by those units and how the noise will impact the neighbors living to the south. These units were put in a box of 4 and we proposed 4' high vinyl fencing around them as a first barrier in terms of noise. Landscaping will be secondary barrier absorbing some of the noise and then you have 6' vinyl fence on the top of the wall as a third barrier.

Attorney Veltri would like the garbage issue explained.

Engineer Kucera (referring to a rendered drawing) stated we propose 2 areas of collecting garbage. One is at the entrance to the site on Fourth Avenue and the other is at northwesterly corner of the parking area. It is about 12' long and 12' wide and fully enclosed and we anticipate 4 containers-4 cubic yard each for garbage, paper, plastic and metals. These areas are more for the units without garages. Units with garages will store their garbage in the garages or inside and have curbside pick-up. The two largest buildings have no garages.

Thomas Carroll commented that the garbage collection was discussed. Our preference is to have as many of the residents in the townhouses putting their garbage out curbside. The containers would solely be for the residents who are in flats and don't have the garages to store garbage cans.

Attorney Velti stated that the units that don't have garages will be using those two areas. They are going to work their garbage from their units to those areas. Thomas Carroll stated yes and that is what happens right now at Brookside Heights and at Kenwood Commons. The town is required to pick up the garbage at all the condominiums now as part of the Condominium Community Services Act. The garbage in the containers will be collected twice a week on a regular basis even when the town goes to once a week pick-up. We do pick up the containers more frequently.

Attorney Harris stated that there are 19 units that don't have garages.

Mayor Mahler questioned what is going to prevent the people that have a garage from putting their garbage in the dumpster? Thomas Carroll had that discussion with the Engineer but nothing will prohibit that.

Mayor Mahler questioned which are the COAH units? Architect Brennan stated the COAH units would be distributed in the condo flat buildings and primarily it would be either the one bedroom or the two bedrooms, but we haven't defined where they would be

located as of yet. The Applicant is still determining where that would be and they typically would be a 1B or 2B unit.

Attorney Veltri stated what I would like to do on the COAH issue is, obviously that would be a condition of approval, but when you come back for final approval, we would like a report from our Planner, Mr. Albert, who already left tonight, on that issue, i.e., how many units and how many bedrooms each of the COAH units have to be.

Vice Chairman Graceffo wanted to confirm that Buildings #3 and #4 will not have garages for each unit, is that correct? Whereas the other buildings will have garages for every unit? Architect Brennan stated "that is correct". All the buildings have garages for every unit except for Building #3, which has 10 garages, and Building #4 has 15 garages.

Vice Chairman Graceffo stated that basically of the 84 units, 19 will not have garages so they will be allocated to the opening parking. Architect Brennan stated that if we have 10 COAH units, those 10 units will not have garages.

Vice Chairman Graceffo questioned how many units in Parkside have garages? Engineer Kucera stated 60 units have garages and 28 do not.

Attorney Veltri wants to confirm the amount of parking spaces on site. Engineer Kucera stated 198 parking spaces, that number includes the driveways and garages.

Chairman Foulon : Is there anyone in the public wishing to come and ask Architect Brennan, any questions, please step forward now and state your name and address:

John Maiello, 26 Rhinesmith Avenue

Mr. Maiello asked how many units all total; you have 198 parking spaces and how many go to the residents of the 198 spaces, i.e., if company is coming, how many extra parking spaces do you have?

Attorney Harris answered 84 units and there are 198 parking spaces.

Engineer Kucera stated the number of parking spaces is being determined by RSIS requirements which are the set of rules for similar developments and we are supposed to allocate 2.34 parking spaces per unit.

Mr. Maiello questioned each unit has approximately 2 parking spaces? In other words, if someone has a party or something, you don't have enough parking spaces.

Engineer Kucera stated we have 4 or 5 more parking spaces than what is required.

Mr. Maiello stated last time I came here, they said there were .4 extra parking spaces per unit. If 20 people have an extra two or three people coming over, there won't be enough parking spaces.

Engineer Kucera will explain it by saying that for this size of a unit 800 to 1300 square feet is for young couples with no children most of the time. They will have two parking spaces for the occupants in the units; one in the garage and one is the driveway. We have about 19 units with no garages so out of 84 units out in the space within the parking areas, 18 will be taken by those people, remaining 46 will be available for those guests you are talking about.

Mr. Maiello stated that every project we have done we have been short parking spaces. Everyone of them in this town. I don't know what is wrong with you people allowing to put

that many units there with not enough parking for the tenants plus anyone that comes. This is very poor planning and I am disappointed. You go to any other town, and they provide for extra parking.

Chairman Foulon stated point well taken. Just look at the mistake we made with Carter Road and we don't want to do that again.

Engineer Kucera stated again, in my professional opinion, 46 extra spaces are sufficient. Mr. Maiello stated you go over to the Reserve where most of the people don't have children, but there are two adults and both of them work and both of them have cars and they will take up 95% of your spaces. You will have nothing in excess to park. It doesn't matter what projects we have done, there is no parking for visitors and don't tell me that every one of the people in this development will be parking their cars in the garage, most will not and use it for storage. There is insufficient parking.

Engineer Kucera stated that he hasn't had any complaints with similar developments using the RSIS and not having enough parking spaces. There are 46 extra spaces, in my opinion it is plenty.

Chairman Foulon questioned snow removal?

Thomas Carroll stated the Borough is required to go in and plow the road. The parking areas and all the other areas are handled by the condominium association. I do live on Carter Road and am aware of the parking. This parking is in great excess to what we have on Carter Road. If I had 46 extra parking spaces over and above 2 per unit that would be fantastic.

Attorney Veltri is concerned that the snow is going to be stacked in the parking areas and there won't be any parking. Thomas Carroll stated what happens on Carter Road is that the condo association actually has a private contractor come in and physically remove all the snow.

Mayor Mahler stated it is only 30 above two per unit. 84 x 2 is 168 and they have 198 spaces that is 30 extra spaces. Engineer Kucera stated he is so sorry for the mistake. I was calculating in my head.

Engineer Kucera stated we envisioned actually to move the snow into several areas. To the back of one of the parking areas, we could use an area in front of the development, and we were also thinking, if done extremely carefully, some of the snow could be moved, using a front loader, into the bio-retention basin area. The basin is kind of sensitive to get compacted, but it could be used.

Chairman Foulon stated okay. The town is just going to come and plow the streets. You have to remove it from the parking spaces.

Thomas Carroll said correct and they are responsible for moving the rest of the snow. We are just responsible for in and around the major areas and all we are doing is pushing the snow to the side and just like everybody else, they have to dig themselves out.

Attorney Veltri is concerned that the snow is going to be stacked in the parking areas and there won't be any parking.

Thomas Carroll stated what happens on Carter Road is that the condo association actually has a private contractor come in and physically remove all the snow.

Attorney Veltri questioned if that is what the developer envisions is going to happen here? Attorney Harris stated “yes”. That is how it is handled at Parkside.

Member Platt spoke with the Fire Chief and they agreed that one of the fire hydrants is really inaccessible. It is not what we would like. The one in the bottom of the left-hand corner is useless to us. The best spots for us would be one at the entrance on Fourth Avenue and one at the entrance on Boulevard.

Engineer Kucera stated it is possible.

Member Platt explained that with the fire trucks we lay the hoses into the fire, so we would drop lines and go to the fire. That hydrant in the back corner would be tough for us to get at. If we could have three that would be really great.

Engineer Kucera stated that I would like to keep the an extra hydrant where proposed for flushing purposes since it is a dead end line.

Attorney Harris stated that we will work with you to make sure you are satisfied with the location of the hydrants.

Attorney Veltri confirmed that the applicant is Greentree At Wanaque II LLC and the name of the development is Lakeland Village.

Attorney Harris stated that the applicant is complete with his professionals.

Attorney Veltri thought from the last time that you were going to have an Environmentalist here.

Attorney Harris stated the environmentalist was here and he had an emergency and had to leave. He was here on an as needed basis if there were questions for him. We would be happy to bring him back at final.

Chairman Foulon stated there is a lot of environmental questions on the land. I can't believe that you don't have someone here to replace him here.

Attorney Harris stated to the Board that there are environmental requirements to satisfy from the NJDEP to produce a developed land to a residential standard and we will satisfy those requirements. The particulars of what is there now, or the process, I am not qualified to speak. I can say that what is required is what we will do. We can't build or develop residential property in the State of New Jersey without satisfying the residential requirements. I cannot tell the Board what is there. My point is, I am not sure that it matters in the grand scheme of things what is there, as long as our remediation work is such that it satisfies the DEP's requirements for residential standards.

Chairman Foulon confirmed that we will let it go to final.

Member Reuter commented that thinking about parking lots, parking spaces and traffic and I don't think there is an answer to this, but I would like to comment. We have 198 parking spaces and we are talking about having no traffic. I am sorry, that just doesn't add up.

Attorney Harris doesn't believe anyone is saying that the 198 spaces are for fun. There will be cars coming in and out.

Member Reuter stated exactly and that is my point. They will be driving somewhere at some point in time.

Attorney Harris stated however they will not all be driving somewhere at the exact time, which is what traffic means. There is a difference between circulation traffic and a traffic jam or an impact on traffic.

Member Reuter added that my further point is that we have this system for traffic and a system to determine parking spaces. You have satisfied both systems but they don't add up. This is my opinion.

Attorney Harris stated he understands the comment. I have been on my town's Planning Board and when we heard residential developments we had the same comments. When you build residential, people live there and they have cars and they drive those cars. However, our Traffic Engineer has testified that the traffic impact is not such that it has a material or negative impact on the property.

Member Reuter stated I understand that, but it just doesn't add up in my mind. Like I said, there is no answer for it. I am just throwing it out there.

Vice Chairman Graceffo add that maybe another explanation is the fact that the standards that are established are not really what the people want in terms of the acceptable standards whether it be for traffic or parking spaces.

Member Slater believes speed reduction is more important than the volume.

Attorney Harris stated that the applicant's professionals have concluded their testimony.

**MOTION TO OPEN THE MEETING TO THE GENERAL PUBLIC TO SPEAK DIRECTLY ON THIS PARTICULAR APPLICATION:** made by Member Reuter, seconded by Vice Chairman Graceffo. Voting yes were Chairman Foulon, Vice Chairman Graceffo, Mayor Mahler, Councilman Cortellessa, Members Platt, Reuter, Verba and Slater.

**John Maiello, 26 Rhinesmith Avenue, Wanaque**

In most developments you go into the streets are wide enough where people can park on the street / curb, is that going to be possible here? Chairman Foulon & Attorney Harris stated there is no parking on the street.

**Roland Carollo, 3 Second Avenue, Haskell**

The last time I had asked about the demolition process and the removing of the slab and the soil testing that was going to commence after the slab was removed. Has that analysis been completed and has there been findings on that?

Attorney Harris advised that the analysis has not been completed as of yet.

Mr. Carollo is also questioning the lighting height. Has that been a factor proposed by anyone?

Engineer Kucera stated it was discussed at the last meeting and was mentioned in the Board's Planner's letter and there will be no lighting on the back of those two buildings facing the residents.

Mr. Carollo asked that he be shown on the renderings where the a/c compressors are going to be relative to our properties. Engineer Kucera pointed the areas to him and explained the buffering.

Mayor Mahler commented that, at the Parkside development, a lot of the units have these little fences coming out separating the units along Fourth Avenue and I think it is kind of unsightly. I would like to see none of those separators coming out of units that back up to Fourth Avenue and Boulevard. I don't know if they were options or people were just putting them up.

Architect Brennan stated that there are just open patios right now.

Mayor Mahler stated I don't want to see them on the first floor units along Fourth Avenue or Boulevard, but if it backs up to Poly Molding they can.

Architect Brennan stated that the first floor units just have a 5x7 patio and it would have a railing going across.

Attorney Harris stated if the Board doesn't want to see that dividing fence perhaps we can have that language put in the Developer's Agreement.

### Dave DaSilva, 108 Monroe Street

I am concerned about, and addressed it at the last meeting but have not heard anything about it tonight, was in reference to the sewer capacity.

Chairman Foulon stated we got a report from the Engineer that the sewer capacity is sufficient.

Mr. DaSilva stated back in 2008, when we were still talking about doing light industrial on this property, I asked a question at the Mayor & Council Meeting about the sewer capacity and I was told then by Mr. Carroll that whatever sewer capacity was currently there at the U.S. Aluminum site was what was needed. Since it was minor offices they were not going to be looking at a huge sewer use. Where did this new capacity come from?

Thomas Carroll stated that back in 2008 there was a significant amount of gallonage reserved for Wanaque Reserve. Wanaque Reserve is now fully built out, the calculations have been revised and there are not using the amount of sewer capacity that was originally reserved for them. Therefore, there is sufficient capacity for this project and other projects that may come later.

Mr. DaSilva stated also back in 2008, at the February 18<sup>th</sup> Planning Board, the applicant that owned that property at the time that became Parkside was asking to lift the 55 and older restriction and there was a ton of discussion around that. A lot of the members of the Planning Board had tons of commentary about the impact on the schools and what was going to happen with the Parkside development and the 84 units there, especially the two-bedrooms and the impact on the school and you actually denied the request at that time. Obviously, it was changed at some point. I want to know adding another 84 units that could be school age children to my school, what has changed and what is different about that application and this new application?

Thomas Carroll does not have the exact statistics with me, but I did earlier this year did ask for the number of students that are going to Haskell, Wanaque and Lakeland out of all the condominium projects that we have in town. I also asked the Board of Education for the cost per student and did the analysis as to the amount of ratables that we get from each one of the condominium complexes versus what the cost is, and it is a net plus in every case. Even with the added students, which is minimal in number, there is not a financial burden on the school system from any one of the developments in the Borough.

Attorney Harris stated there are currently 76 occupied units at Parkside. There are 4 school aged children living in the development. Chairman Foulon stated that is good to know.

Mr. DaSilva has a concern about the additional 100 students from the closing of St. Francis School and the impact class size. Obviously, there is a financial impact which all of you were concerned about back in 2008 and I think it is still a valid point and this needs to weigh on your minds when you make a decision. Member Slater stated if you are concerned about the size of classes you can still get a good education and I did with 25-30 students in a class. Mr. DaSilva stated when he brought the house this wasn't a concern and he doesn't want his children to experience oversized classes.

Mr. DaSilva is concerned about the environmental impacts especially since we have not had a chance to discuss this with anyone. I am downstream of the project. We are capping this project and not really taking anything out of there. We are just putting a big lid on it. I don't what is going to happen to the soil underneath this when you put all this weight on it. I have tons of questions I have prepared to ask an environmental person and I would like the opportunity to ask them. I think it is unfair to move forward with this project, even for the preliminary approval, before we all have the opportunity to question somebody about the environmental impact.

Mr. DaSilva has made known his feelings about the traffic. I think you are going to be making a bad situation worse for my family and for my neighbors. The parking issues raised were very interesting points. If you have all those cars, people are going to be using them. Most of the people you said are working adults with no children, but these people go to work and I know what I experience every morning and this is going to impact us.

Mr. DaSilva has a lot of concerns about the deviations that you are looking to approve. Having retention walls and walkways and retention basins and garbage areas within the setbacks I think is going to impact the overall project in the way it looks and the way it impacts the rest of the neighborhood.

Mr. DaSilva is concerned about the building height. If you think about what this is going to look like for my neighbors on Second Avenue looking at a 7' wall and then a 6' fence and the 45' monstrosity on the other side of the fence, it is going to impact them. As I drive down the street, I am probably going to see it.

Mr. DaSilva stated overall I think this project does make me and my neighbors and the rest of the town incur material public harm and I hope that you think about my comments when you make your decision.

John Maiello, 26 Rhinesmith Avenue

As far as the schools go, the individuals before me purchased the property where the Wanaque School was and there was plenty of property there for any expansion. There is no room for expansion at the Haskell School. What happened is the school made an agreement with Lakeland and the town that they could use the property for sports field.

Now if they have to get that property back, they have pay you back \$1,000,000. Is that correct Tom?

Thomas Carroll stated “that is not correct.” I don’t think that is anything that is relevant right now. I will take a look at the contract.

Chairman Foulon agreed that this has nothing to do with what we are talking about now. Member Slater stated you can increase class size before you have to expand.

Let the record show that no one else stepped forward.

Engineer Cristaldi stated he had spoken to Engineer Kucera, and it is in my report, about putting in two inlets and Engineer Kucera stated it is not a problem.

Attorney Harris, referring to Engineer Cristaldi’s report, stated that whatever he requests in his report, the applicant is okay with it. We don’t object to any of Engineer Cristaldi’s modifications or requests for revisions.

Attorney Veltri questioned if the Board had any other questions for the applicant or experts that are here.

Vice Chairman Graceffo has no questions, but has a comment. I just feel, like I mentioned before, that the project is more than what I expected in terms of its overall appearance and layout. I like the design of the units, but I think there is too many and especially in terms of talking about the parking, road congestion and a few other things. It would make sense to me if this project can be reduced by at least 12 units to give it a little more space, a little less traffic and a little better look aesthetically for open spaces rather than what we are being presented with.

Chairman Foulon questioned if the applicant would consider downsizing the project?

Attorney Harris advised the applicant will consider.

Chairman Foulon stated he would like to see it before he brings this to a vote. I agree with Joe that the density is too much and I believe we have parking problems. I go back to our pre-application meeting and you said the only thing you wanted relief from was granite countertops; everything else would be the same. It is not the same.

Attorney Harris questioned if the Board has a specific number?

Vice Chairman Graceffo stated I said 12 units. I think the 24 unit should be knocked down by 4; the 12 unit in back, instead of being an 8 and a 12 should be two 8s to get a little more space in the back corner; and the 20 unit should be only 16. You would get a little more space on the sides of the building and in the middle of the building and I think that might make a lot of difference. Right now the only green space you have right now is a little bit behind Building #3 and then the rest of it is macadam.

Attorney Harris asked the Board if he could take a 5/10 minute break to meet with his client to review the Board’s request.

Chairman Foulon agreed to the break and the Board will continue with its other business.

**Attorney Harris introduced David Gunia**

**Attorney Veltri swore in David Gunia, Division President for Greentree At Wanaque, II**

**David Gunia testified that they are in agreement to reduce the density by 8 units.**

**We are proposing a reduction to Building #4 from 24 units to 20 units and this will match Building #3, which is also 20 units. The footprint shrinks significantly and the 4 units that we are reducing it are going to be surface parking. We propose to leave the surface parking in so that it contributes to higher density of parking for the units.**

**Secondly, we are producing to reduce the Building #5, the 12 unit stacked townhouse unit from 12 units to 8 units and this will reduce impact to the residents along Second Avenue.**

**Attorney Harris commented that the Redevelopment Ordinance allows for the 84 units, but in the spirit of accommodation we are more than willing to reduce units. One of the things that make this appropriate is that it also reduces our impervious coverage so that the deviation we were asking for is no longer required and our Engineer assures us that when he redoes the calculations at 76 units, we will be below 60%.**

**Member Reuter wanted to note that the two buildings being reduced are on the south side that abut the residents on Second Avenue. Attorney Harris stated that is one of the reasons we chose those buildings. It makes the most sense from a site plan perspective and makes the most sense for our neighbors.**

**Attorney Harris stated our case is concluded at this point.**

**Chairman Foulon stated we have one other problem, and the consensus here is we really want to hear from the environmental guy before we give approval. The neighborhood wants to know what is going on with the environment. They want to know what chemicals are there, etc.**

**Attorney Harris stated we are not asking for final today. Even if the environmental expert gave his report today, we are not building until we have final approval. If his testimony and his report is unacceptable to you at the time we apply for final, you won't give us our final approval and we won't build.**

**Chairman Foulon believes that will be sufficient.**

**MOTION TO APPROVE PRELIMINARY SITE PLAN: made by Member Slater, seconded by Vice Chairman Graceffo.**

**THIS WILL BE A MOTION FOR PRELIMINARY SITE PLAN APPROVAL TO CONSTRUCT 76 UNITS IN 6 BUILDINGS WITH 198 TOTAL PARKING SPACES (CORRECT TO 190) ON SITE; IT WILL BE BUILT IN ACCORDANCE WITH SITE PLAN ENTITLED "LAKELAND VILLAGE AT WANAQUE" PREPARED BY RADIM KUCERA DATED APRIL 4, 2014 REVISED THROUGH 7/4/2014 AND WILL BE FURTHER REVISED BASED UPON TONIGHT'S TESTIMONY; AND THE ARCHITECTURAL PLANS THAT WERE DRAWN BY THOMAS J. BRENNAN, WHICH ALSO NEED TO BE AMENDED TO ACCOMMODATE THE REDUCTION IN**

**UNITS THAT WAS MADE TONIGHT; THE SITE IS GOING TO BE A COMBINATION OF CONDOMINIUM FLATS AND TOWNHOUSE UNITS; THE NUMBER OF UNITS AND THE SQUARE FOOTAGE WILL NEED TO BE DETERMINED BASED UPON THE AMENDED PLANS; THE APPROVAL TOOK INTO ACCOUNT A DEVIATION FROM THE ORDINANCE IN TERMS OF HEIGHT OF THE BUILDINGS AND THE BOARD GRANTED THAT APPROVAL BASED UPON THE ARCHITECTURAL BENEFITS FOR THAT HEIGHT AND THE LAYOUT OF THE UNITS AND WE GRANTED THIS APPROVAL SUBJECT TO THE FOLLOWING CONDITIONS: THAT ALL OF THE REPRESENTATIONS AND STIPULATIONS OF THE APPLICANT, INCLUDING THE REDUCTION IN THE UNITS IN THE BUILDINGS THAT WERE PUT ON THE RECORD TONIGHT WERE TRUE AND ACCURATE AND IF THEY ARE NOT THE SAME AT FINAL, THEN THE PRELIMINARY APPROVAL WOULD BE SUBJECT TO REVOCATION; THAT THE APPLICANT MUST COMPLY WITH ALL THE CONDITIONS AND COMMENTS SET FORTH IN THE BOARD ENGINEER'S (MICHAEL CRISTALI) REPORT DATED JULY 15, 2014 AND THE PLANNING BOARD PLANNER'S (KENNETH ALBERT) REPORT DATED JULY 17, 2014; THAT THIS APPROVAL IS SUBJECT TO THE APPLICANT ACQUIRING TITLE TO LOT 5.01 FROM THE FUTURE OWNER, WHO WE BELIEVE WILL BE THE BOROUGH OF WANAQUE; SUBJECT TO A COAH CALCULATION WHICH WILL BE MADE AT THE TIME OF FINAL BY THE PLANNING BOARD'S PLANNER; SUBJECT TO A DEVELOPER'S AGREEMENT BEING ENTERED INTO BETWEEN THE APPLICANT AND THE BOROUGH OF WANAQUE; SUBJECT TO COMPLIANCE WITH ALL STATE, COUNTY AND LOCAL REQUIREMENTS, INCLUDING BUT NOT LIMITED TO THE DEP AND ENVIRONMENTAL REQUIREMENTS TO SOLVE ALL OF THE ENVIRONMENTAL ISSUES ON SITE AND ENABLE THE SITE TO BE BUILT ON WITH RESIDENTIAL UNITS; IF REQUIRED, A DEVIATION BE GRANTED ON THE IMPERVIOUS COVERAGE AFTER THE CALCULATIONS ARE MADE ON THE REDUCTION OF UNITS:**

**Robert Benecke added:**

**FINAL SITE PLAN APPROVAL BE CONDITIONED UPON A REDEVELOPMENT AGREEMENT BEING EXECUTED INCLUDING ALL THE ISSUES THAT BOROUGH ADMINISTRATOR THOMAS CARROLL ADDRESSED TONIGHT-RECREATION, SNOW REMOVAL ETC.; AND SECOND, AS TO THE OWNERSHIP ISSUE, IN THE REDEVELOPMENT PLAN ORDINANCE #11-0-14 ALLOWS FOR FINAL SITE PLAN APPROVAL WITHOUT THE APPLICANT HAVING OWNERSHIP, BUT WITH A CERTIFICATION BY THE BOROUGH THAT EITHER COURSE OF CONDEMNATION WILL GENERATE THE DEED TO THE BOROUGH THIS WAY THEY CAN PROCEED WITH FINAL SITE PLAN APPROVAL**

**This is a pretty big hurdle for the Borough to climb and to achieve but it will also quicken the pace by about a month to six weeks, so as long as we are satisfied that the court has decreed that we will be getting the Deed that will satisfy the test under 55D-89 in the statute.**

**Attorney Veltri added that as long as it is understood that there will be no building permits issued or any construction of any type on site until that is done.**

**Robert Benecke stated we will not satisfy that because of Redevelopment Plan and the reason for that is that we can be a co-applicant on the building permit as long as it is vacant property. That is not going to happen but the condition can't be there because we want to be able to have them move forward with their financing. If everything else is equal, there could be a six to eight week gap and we don't want to have anything slow up and that is the provision in the Redevelopment Plan Ordinance.**

**Attorney Veltri stated but what if they start construction or clearing the site and then all of a sudden they don't buy the property. Mr. Benecke stated that can't happen because the purchaser and sale agreement, within the scope of the RDA has to be executed and closed upon in escrow or with the title company.**

**Attorney Veltri stated that most of the time when you close in escrow, the deed is also held in escrow. So if they are closing in escrow, then I think the condition would be satisfied. I am worried about if for whatever reason they don't close and we have a mess.**

**Mr. Benecke stated that is not going to happen but ultimately it becomes a town issue, not the Planning Board issue. Attorney Veltri stated it is a Planning Board issue because we have an application saying this is part of the application and that they own it. Mr. Benecke stated and you have a Redevelopment Plan to apply that application to and the Redevelopment Plan is clear that once we've cleared the court proceedings, that deed and that property can be placed into the site plan.**

**Attorney Harris stated that we won't make an application for final until such time as we have placed into escrow with the Borough.**

**Attorney Veltri stated that solves the problem, and Mr. Benecke agreed and stated it is subject to the Redevelopment Agreement that will have to be placed into the record.**

**Engineer Cristadi added:**

**All units will have to have individual water heaters.**

**Fire hydrants are subject to the Fire Department's review.**

**They also have to provide the height calculations so that we can certify them. We don't do the calculations for them.**

**Any retaining walls over 4', they will have to do a structural design for the building department and they will have to certify them in the end that they were built in accordance with the design.**

**If they need to bring in any fill from an outside source, it needs to be clean. Attorney Harris stated we will have the source and fill certified.**

**Attorney Veltri stated we have one correction to your beginning, where you mentioned there would be 198 parking spaces. With the reduction of the units, we are losing the garages and driveways for those 4 units so the actual parking count/spaces will be reduced down to 190, but that will increase the parking ratio.**

**Attorney Veltri stated we will amend the Resolution accordingly.**

**VOTE ROLL CALL: Voting yes were Chairman Foulon, Vice Chairman Graceffo, Mayor Mahler, Councilman Cortellessa, Members Platt, Reuter, Verba and Slater.**

**VOUCHERS:** submitted by Alaimo Engineering for meeting attendances for \$190 and \$570; and on the RSK Development Application in the amount of \$320, \$960 and \$880.

**MOTION TO APPROVE VOUCHERS:** made by Member Slater, seconded by Member Reuter. Voting yes were Chairman Foulon, Mayor Mahler, Councilman Cortellessa, Members Platt, Reuter, Verba and Slater.

**RESOLUTIONS:** None

**No Meeting In August – Next Meeting is September 18, 2014**

**PUBLIC DISCUSSION;**

**Dave DaSilva, 108 Monroe Street**

A pet peeve of mine and it makes it very difficult to participate in these meetings is when they are showing you guys the exhibits, we can't see them unless we maneuver around the room so if you can remind the applicants to show us occasionally. Attorney Veltri stated remind us also.

I came here for two things tonight; one was this application and the other thing was to participate in the public hearing on the Ordinance and you guys never opened it up for public discussion. I have a list of things that I wanted to discuss in reference to the Ordinance so procedurally I don't know what is next since you already voted. Attorney Veltri stated it is a recommendation that we voted on. We didn't pass the Ordinance. It is going back to the Council to be voted on in August. You are correct that procedurally we should have opened it up for public discussion. Chairman Foulon apologized.

Attorney Veltri advised that the Board voted to indicate to the Mayor & Council that Lot 5.01 qualified as an area in need of redevelopment subject to condemnation as defined by the statute. What happens is they also have to agree to it and then they will vote on the Ordinance. You should get a chance at that meeting to air all of your comments. Mr. DaSilva stated, it is possible, by unlikely, that something I said may have changed somebody's mind and I don't appreciate the fact that I didn't get that opportunity.

**MOTION TO ADJOURN AT 11:30 P.M.:** made by Member Slater and seconded by Chairman Foulon.

Motion carried by a voice vote.

---

Jennifer A. Fiorito  
Planning Board Secretary