

MINUTES

PLANNING BOARD

JANUARY 25, 2011

LONG HILL TOWNSHIP

CALL TO ORDER AND STATEMENT OF COMPLIANCE

The Chairman, Mr. Connor, called the meeting to order at 8:02 P.M. He then read the following statement:  
Adequate notice of this meeting has been provided by posting a copy of the public meeting dates on the municipal bulletin board, by sending a copy to the Courier News and Echoes Sentinel and by filing a copy with the Municipal Clerk, all in January, 2011.

OATH OF OFFICE

Mrs. Wolfe administered the Oath of Office to reappointed member Brendan Rae.

ROLL CALL

On a call of the roll, the following were present:

Christopher Connor, Chairman	A. J. Batista, 1 <sup>st</sup> Alt.
Mead Briggs, Vice-Chairman	Thomas Vetter, 2nd Alt.
Mayor Nanette Harrington, Mayor	
E. Thomas Behr, Member	
Donald Butterworth, Member	Barry Hoffman, Bd. Attorney
Kevin Dempsey, Member	Kevin O'Brien, Twp. Planner
Guy Piserchia, Member	Thomas Lemanowicz, Bd. Engineer
Brendan Rae, Member	Dawn Wolfe, Planning & Zoning Administrator
Michael Smargiassi, Member	

X X X X X X X X X X X

PLEDGE OF ALLEGIANCE

EXECUTIVE SESSION - It was determined that there was no need to hold an executive session.

PUBLIC QUESTION OR COMMENT PERIOD

The meeting was opened to the public for questions or comments. There being none, the meeting was closed to the public.

DISCUSSION

ORDINANCE 273-11 – AN ORDINANCE CONCERNING OFF-STREET PARKING REGULATIONS IN DOWNTOWN STIRLING

Via a memo dated January 13, 2011 to Dawn Wolfe, Planning & Zoning Administrator, Christine Gatti, Municipal Clerk, advised that the Township Committee had introduced Ordinance 273-11, as depicted below, at its January 12, 2011 meeting. She requested that the Ordinance be considered by the Planning Board at this evening’s meeting and further advised that the public hearing for the Ordinance is scheduled for Wednesday, February 9, 2011.

-----

**TOWNSHIP OF LONG HILL**

**ORDINANCE #273-11**

**AN ORDINANCE CONCERNING OFF-STREET PARKING REGULATIONS IN DOWNTOWN STIRLING AND SUPPLEMENTING AND AMENDING SUBSECTION 151 ENTITLED “OFF-STREET PARKING AND LOADING” IN SECTION 150 ENTITLED “DEVELOPMENT DESIGN STANDARDS” OF THE TOWNSHIP LAND USE ORDINANCE.**

**STATEMENT OF PURPOSE:** To relax onsite parking requirements in the B-1-5 Village Business Zone to encourage business development in downtown Stirling.

**WHEREAS,** The Township Planning Board has recommended that the Township Committee adopt an ordinance relaxing on-site parking standards in downtown to encourage the location of new business to the newly renovated downtown Stirling Business District; and

**WHEREAS,** the Planning Board has also recommended that on-street parking restrictions remain in effect;

**NOW THEREFORE BE IT ORDAINED** by the Township Committee of the Township of Long Hill in the County of Morris, New Jersey, that paragraph “a” of sub Subsection 151.1 entitled “Off-Street Parking” be supplemented and amended by adding the following new subparagraph “1” which reads as follows:

“151.1 Off-Street Parking

a. In all zones, in connection with every industrial, business, institutional, recreational, residential or any other use, there shall be provided, at the time any building or structure is erected or is enlarged or increased in capacity or changed in use, off-street parking for automotive and other vehicles in accordance with the requirements set forth herein. Such facilities shall be completed prior to the issuance of a certificate of occupancy. The applicant shall also meet the requirements of N.J.S.A. 52:32-11 through 32-12, requiring parking spaces for the handicapped.

Properties in the Stirling B-1-5 Village Business Zone only have to provide 50% of the number of off-street parking required by paragraph c of this subsection.

b. \*\*\*\*

c. The number of off-street parking spaces required shall be as set forth in the following table<sup>1</sup>:

<u>Use</u>	<u>Number of Required Parking Spaces</u>
Accessory apartment	1 per unit
Agricultural uses	As determined by approving authority
Apartments	2 per unit
Automobile service stations	2 per pump island plus 3 per bay or work area
Business and professional offices	1 per 250 s.f. of floor area
Churches	1 per every 3 seats of estimated seating capacity
Child care center	No requirement
Community Residences and Community Shelters	1 per bedroom or 1 per 400 s.f. of floor area, whichever is greater

---

<sup>1</sup> Properties in the Stirling B-1-5 Village Business Zone only have to provide 50% of the number of off-street parking spaces required by this paragraph .

Dwellings, single family	As provided in Section 124.4
Family day care home	1 per 250 s.f. of floor area
Financial institutions	4 per indoor teller window, or 1 per 250 s.f. of floor area, whichever is greater
Funeral Homes	10 spaces plus 1 per every three seats of estimated seating capacity
Horse farms, riding stables, swim clubs, greenhouses and nurseries	1 per 200 s.f. of floor area of the principal building
Manufacturing, printing, processing and other light industrial uses	1 per 500 s.f. of floor area
Medical office, medical and dental clinic and immediate medical care facilities	1 per 200 s.f. of floor area
Nursery school	1.5 per employee
Open space and recreation	As determined by approving authority
Other public uses	As determined by approving authority
Public utilities and institutions	As determined by approving authority
Restaurants and catering halls	1 per 2.5 seats or 1 per 60 s.f. of floor area devoted to seating, whichever is greater
Retail sales, trade and service	1 per 200 s.f. of floor area
Senior citizen housing	0.5 per dwelling unit
Townhouse	3 per unit with at least one (1) to be in a garage
Warehouse	1 per 1,000 s.f. of floor area
Wholesale trade	1 per 500 s.f. of floor area

**Section 2.** Any and all other ordinances or parts thereof in conflict or inconsistent with any of the terms hereof are hereby repealed to such extent as they are so in conflict or inconsistent.

**Section 3.** In case any article, section or provision of this ordinance shall be held invalid in any court of competent jurisdiction, the same shall not affect any other article, section or provision of this ordinance except insofar as the article, section or provision so declared invalid shall be inseparable from the remainder or any portion thereof.

**Section 4.** This ordinance shall take effect immediately upon final passage and publication as required by law.

*I, Christine A. Gatti Township Clerk of the Township of Long Hill, do hereby certify that the above ordinance to be a true copy of the original which is on file in my office. The ordinance was introduced by the Long Hill Township Committee on January 12, 2011 and is scheduled for public hearing on February 9, 2011.*

Date: \_\_\_\_\_

\_\_\_\_\_  
*Christine A. Gatti, Township Clerk  
Township of Long Hill*

-----

After discussion and comment from Mr. Dennis Sandow, Millington, Mr. Butterworth made a motion to recommend one change to the draft Ordinance which the Board felt makes the document's purpose more clear:

Second paragraph of 151.1a:

Properties located along Main Avenue in the B-1 Village Business Zone....

Mr. Briggs seconded the motion.

A roll call vote was taken. Those in favor: Mayor Harrington, Dr. Behr, Mr. Briggs, Mr. Butterworth, Mr. Dempsey, Mr. Piserchia, Dr. Rae, Mr. Smargiassi and Mr. Connor. Those opposed: None.

With the recommended change, Mr. O'Brien will report to the Township Committee that the proposed Ordinance is consistent with the Township Master Plan and that the Planning Board recommends its adoption with the suggested amendment.

-----

**DISCUSSION**  
**ORDINANCE 276-11 – AN ORDINANCE RAISING THE HEARING FEE FOR THE ATTENDANCE OF A COURT REPORTER**

Via a memo dated January 13, 2011 to Dawn Wolfe, Planning & Zoning Administrator, Christine Gatti, Municipal Clerk, advised that the Township Committee had introduced Ordinance 276-11, as depicted below, at its January 12, 2011 meeting. She requested that the Ordinance be considered by the Planning Board at this evening's meeting and further advised that the public hearing for the Ordinance is scheduled for Wednesday, February 9, 2011.

-----

**ORDINANCE 276-11**

**AN ORDINANCE RAISING THE FEE TO COVER THE COST OF HAVING A COURT REPORTER AT ALL LAND DEVELOPMENT HEARINGS AND AMENDING SECTION 182.7 OF THE TOWNSHIP LAND USE CODE ENTITLED “HEARING FEE”**

**STATEMENT OF PURPOSE:** *To raise the court reporter fee for land development application hearings to cover actual costs.*

**WHEREAS**, the fee charged applicants to cover the cost of having a court reporter present at all land development application hearings has not been raised since 2000; and

**WHEREAS**, Planning and Zoning Administrator Dawn Wolfe, in a January 5, 2011 memorandum, requested that the fee be raised;

**NOW, THEREFORE, BE IT ORDAINED** by the Township Committee of the Township of Long Hill in the County of Morris, New Jersey that Section 180 of the Township Land Use Ordinance entitled “Development Fees” is amended as follows:

**Section 1.** Section 182.7 entitled “Hearing Fee” is amended to read as follows:

“In addition to the fees set forth above, every applicant before the approving authority shall pay a fee per hearing date of ~~three hundred (\$300.00) dollars~~ three hundred seventy-five (\$375.00) dollars for all hearings which end at or before 11:00 p.m. plus ~~seventy-five (\$75.00) dollars~~ one hundred (\$100.00) dollars per hour or portion thereof after 11:00 p.m. ~~(except that the hearing fee on an application for bulk variances for an addition to an existing single family residence shall be fifty (\$50.00) dollars)~~. The purpose of this fee is to defray the cost of providing a certified shorthand reporter at every hearing of the approving authority. This fee is in addition to the cost of obtaining a transcript of any hearing, which cost is to be borne by the person obtaining the transcript.”

**Section 2.** Any and all other ordinances or parts thereof in conflict or inconsistent with any of the terms hereof are hereby repealed to such extent as they are so in conflict or inconsistent.

**Section 3.** In case any article, section or provision of this ordinance shall be held invalid in any court of competent jurisdiction, the same shall not affect any other article, section or provision of this ordinance except insofar as the article, section or provision so declared invalid shall be inseparable from the remainder or any portion thereof.

**Section 4.** This ordinance shall take effect immediately upon final passage and publication as required by law.

ATTEST

TOWNSHIP OF LONG HILL

\_\_\_\_\_  
Christine A. Gatti  
Township Clerk

\_\_\_\_\_  
Nanette Harrington  
Mayor

**NOTICE**

The foregoing ordinance having been introduced and passed on first reading by the Township Committee of the Township of Long Hill, in the County of Morris on Wednesday, January 12, 2011, will be considered for final passage and adoption at a public hearing held at a meeting beginning at 7:00 p.m. on Wednesday, February 9, 2011 at the Municipal Building, 915 Valley Road, Gillette, New Jersey when and where or at such time and place to which said meeting may be adjourned, all persons interested will be given an opportunity to be heard concerning said ordinance.

\_\_\_\_\_  
Christine A. Gatti  
Township Clerk

*First Reading and Introduction: January 12, 2011* \_\_\_\_\_  
*1<sup>st</sup> Publication: January 20, 2011* \_\_\_\_\_  
*Second Reading and Adoption: February 9, 2011* \_\_\_\_\_  
*2<sup>nd</sup> Publication: February 17, 2011* \_\_\_\_\_

-----

After discussion, Mr. Dempsey made a motion to recommend that the Township Committee adopt Ordinance 276-11 as written. Mr. Piserchia seconded the motion.

The meeting was opened to the public.

Mr. Dennis Sandow, Millington, said that under OPRA, anybody can purchase a copy of the audio recording or DVD for a trivial amount of money and the meetings are broadcast live which means that thousands of people can make a recording at home. Therefore, it seemed to him that the whole function of the court reporter is getting rather archaic and he was not sure that anyone benefits from having a court reporter present. He suggested that the Board members send letters to the legislature to get the law turned around. He asked Mr. Hoffman to explain why we must have a court reporter present, adding that when transcripts are prepared there are an incredible numbers of spelling errors and misunderstanding of technical terms, even attribution to the wrong Board member.

Mr. Hoffman said that from his experience in handling litigation, the quality of the transcripts that are produced varies greatly depending upon the attentiveness and work effort of the preparer. When there is not an in meeting attendance by the shorthand reporter, he said that Mrs. Wolfe is correct that some means of generating a verbatim transcript is necessary rather than the minutes which are a summary. He said that in Long Hill Township we are fortunate to have very detailed minutes, but they are not verbatim and that is what the Statute calls for. To obtain a verbatim transcript and have it more accurate, experience has shown that they tend to be much better when they are done by somebody who regularly appears before the Board and he/she knows the speakers and who is talking when. He said that Board meetings are more difficult than a deposition or even a trial in court because you can have 11 people potentially talking and sometimes they talk all at the same time. It becomes a task to produce a quality, accurate transcript and it is an easier task to fulfill when the person is an individual who regularly appears here, knows the voices, knows how the Board operates and its procedures, and has a feel for what is going on, as distinguished from the presentation of a tape recording or disc to a transcription service to produce a transcript. Invariably, what transcription services do is accept the job and then request someone to sit along side who knows the voices because they do not have a clue as to who is speaking and when, and so you are going around in circles.

Mr. Sandow said that the purpose of a transcript is, presumably, to give both sides of litigation a common ground or understanding of what they are talking about. However, if the litigation hinges on a mistake that was made in the transcript, he suspected that one of the litigants would bring out the audio and a copy of the video and say that while these may not be admissible, but upon listening to them it is very clear that the transcript did not get it right and, therefore, in some way, shape, or form move to have the transcript disallowed as part of the evidence. He said that, clearly a transcript which is in error and does not reflect what was actually said or which confuses things is not going to be the key to settling litigation. He again asked the Board members to write to the legislature.

Mr. Batista replied, "Not unless you want to give us some recommendations on how to also rewrite the rules of evidence". He said that we are only looking at whether or not we should raise the fees for our court reporter by \$75.00.

Mr. Sandow replied that he was looking at whether or not we should continue to oppress the people who have to come before these Boards and make them pay fees for services which are essentially useless.

Mayor Harrington said that that is probably a valid discussion or argument but agreed with Mr. Batista that we are not going to change that here tonight. We have before us an ordinance to raise the fees so that we can cover the costs of what is required and asked to focus on the issue at hand.

Mrs. Wolfe added that very often when she is dealing with attorneys for applicants, they ask her at the outset if a court reporter will be present and advise that, if not, they will supply their own.

Mr. O'Brien added that applicants would pay more for a court reporter on an ad hoc basis.

There being no further discussion, a roll call vote was taken. Those in favor: Mayor Harrington, Dr. Behr, Mr. Briggs, Mr. Butterworth, Mr. Dempsey, Mr. Piserchia, Dr. Rae, Mr. Smargiassi, and Mr. Connor. Those opposed: None.

Mr. O'Brien will advise the Township Committee of the Planning Board's recommendation and finding that Ordinance 276-11 is consistent with the Master Plan.

- - - -

#### **DISCUSSION – PLANNING & ZONING PROCESS DESIGN**

Mayor Harrington said that in the late summer or early fall of last year, a lot of issues began to arise in the Planning & Zoning process that were symptomatic of process breakdowns – like escrow accounts being in arrears, for example. Participants in two meetings which were held to discuss the Planning & Zoning Process Design included the Chairs of the Board of Adjustment and Planning Board, the Zoning Officer, Planning & Zoning Administrator, Construction Official, Township Planner, Board Engineer, Township Administrator, Township Attorney, and Mr. Batista. The meetings were held to talk through the planning & zoning process and identify what were felt to be the issues and come up with action plans and corrections to be implemented to correct those problems. The process was broken up into 5 pieces where it was thought that there were some natural breakpoints.

Referring to Pg. 3 (the high level process flow), she said that the boxes are different colors which represent the splits of the application process, the pre-hearing process, the hearing, the decision, and then the follow-up. She said that dates (milestones) were put in place throughout the process where it was broken. The application process is defined as from the time an applicant walks in the door in Town Hall to the time they've actually submitted their application. The pre-hearing process is defined as the time from when the application has been submitted to the time when it is considered to be ready to process. She said that they tried to avoid the word that an application is "complete" because of it having such a distinctive legal decision, but in our minds that is really what it meant. The next phase was the hearing process which is defined as that application ready to process to whenever the Board finally makes a decision, followed by the design process which is once the decision has been made by the Board to when the construction permits are issued. The tail end of the process is from permits issued until a Certificate of Occupancy is issued and beyond that – when the Zoning Permit is issued and any additional follow-up.

She said that they looked at the identification process and identified a number of issues. One was that small projects may have NJDEP, environmental, steep slope, or other issues that would otherwise not require Board of Adjustment approval and may force it into that scenario. The problem is that we have applicants that potentially think because they have small projects they don't have to come before the Board of Adjustment and when they are half way through they discover that they *do* have to appear before and things can get very messy. The question is, what are some potential remedies for that issue? One is to have a reference map so that when someone walks in the door, Tom Delia, Zoning Officer, can look at the map which has overlays of environmental and steep slope areas and make a determination if the proposal may run into problems. The applicant can then choose to change his/her project or decide to proceed, but at least they know what to do. She said that there were some plusses and minus' because the overlay maps are not necessarily 100% accurate but they certainly give enough accuracy that we can identify most projects.

She said that we need to develop the Zoning Permit Application and included some considerations. She said that it all needs to be included in the brochure that Dr. Behr is developing. She said that they also mapped out the details of the application process which is the next page where there are "swim lanes" which indicate who is responsible for each step. The next step is the pre-hearing process which is that portion of the process where we do the qualitative and quantitative assessments of an application – all of those that happen and *should* happen before an application goes before a Board. She said that the Application Checklists need to be completed and we need to make sure that the budget is in place for all

of the professionals to review the work and it needs to be included in the Application Brochure and the specificity that needs to be there. This is the point in time where Mr. Batista joined the group. She said that one of the other things they wanted to do was to streamline the process and make it easier for applicants to get through and avoid a lot of lengthy technical discussions because they increase the cost to applicants and often result in multiple hearings. They recommended that a qualitative review be performed for all applications to ensure that the documentation submitted is sufficient for the Board to truly understand and make their decision. Discussion was held as to what a qualitative assessment looks like for a larger commercial project versus a smaller residential project and, therefore, some modulation was added based upon the size of the project.

In response to Mr. Piserchia, Mayor Harrington replied that the next step is the hearing process and once an application is complete and has been through the checklist and qualitative reviews and is ready to be heard, one of the issues that was identified is the difficulty of the various committees and commissions that should be providing input to the Boards but are often not doing so due to timing issues or whatever. There needs to be clear guidelines for which committees/commissions need to respond and when they need to respond and that when an application is submitted to the committees/commissions, that there are clear timelines associated with them. The committee/commission needs to meet in time to meet the timeline/meeting date. It was also thought that it would be worthwhile to strengthen the communication between the committees/commissions and that, ideally, there may be a need for a joint annual meeting between the Chairs of the Boards and the Environmental and Shade Tree Commissions so that each can understand each other's schedules and how best to communicate and work things out so that when the Administrator is scheduling applications to be heard, those things can be taken into account in the schedules. The Administrator right now has a very long list of committees/commissions, individuals, and organizations to whom she must distribute applications, most of whom never respond. If they are getting the paperwork, she felt that they should respond otherwise there is no point in wasting the paper, time and energy just to distribute things. On the last page, is a set of action items and she felt that we should reassess the list of all of the committees/commissions/ individuals/organizations that receive applications today and make sure that it is up to date and accurate. Some of the list is based upon ordinances and, if we need to go back and change the ordinances and make them consistent with the process, then we need to do that. The first step is to figure out who should be getting things, what makes the most sense to do, and when they should be responding.

With regard to the pre-hearing process, Mr. Dempsey asked if there is a time line for the quantitative review? He said that we should be able to tell an applicant going into a review about how long the process will take.

Mr. O'Brien replied that, currently, there is a review committee for completeness which meets every couple of weeks, as needed.

Mr. Dempsey asked if it would be appropriate, in the case of a two-family dwelling, for everyone to sit down just once rather than at a Completeness Review Committee *and* a Technical Review Committee meeting, or would the Board's professionals rather review an application first without the applicant's professionals being in the meeting room with them?

Mayor Harrington replied that they wrestled with that question and the thinking was that the Completeness Review is a relatively quick one. If we can go through that fairly quickly (10 or 15 minutes) and we can go back to the applicant and say that there are potential issues here, the applicant then has the option to say that they do want to schedule a Technical Review Committee meeting, or they can say that they believe they are okay and prefer to go right ahead to a formal meeting. It could be that they may have more discussion and they risk being carried over.

In response to Mr. Dempsey, Mayor Harrington said that, ultimately, the first review will be a little deeper than just completeness.

Mr. Lemanowicz said that part of the issue with that is that some applicants or their representatives don't want to talk to a committee of the Planning Board because somewhere along the line they got stung because the Planning Board disagreed with the committee and they wound up doing things twice. Other times they feel it is a good idea to get some general ideas before they go forward and so a lot of it will be how the applicant feels about it.

Mayor Harrington said that we might not catch everything or prevent every applicant from having to come back more than once, but if we can get 95% of them, we will be doing really well.

Mr. Lemanowicz added that, currently, when he and Mr. O'Brien submit a letter, it is generally the first time an applicant hears from them and it states what is wrong with the application. If we have a pre-meeting, a lot of times they can offer some help to get through the process easier and it changes the



whole atmosphere when they finally appear before the Board. It helps attitude.

Mr. Batista said that he could vouch for that. When he files projects in different municipalities, they will often give courtesy reviews and he will almost always take up a planner on any invitation to come discuss a project beforehand. He said that, oftentimes, he does not even need to bring the engineer or planner he is dealing with, he will just go in and discuss it and they will give him the technicalities which he will take back to his experts.

Mr. Dempsey said that we want the applicant to know where they are and how long it is going to take. He wondered if we could double up those meetings, but then said it sounds like we don't want to.

Mr. Lemanowicz said that there are statutory requirements on timing that we do need to go with. For instance, for completeness it is 45 days and there has to be some scheduling to make it work.

Mayor Harrington said that they did not really talk about the time line for this. The goal was to identify what the process steps were. Before a meeting is scheduled, we need to make sure that there are a couple of weeks for the committees/commissions to provide their responses, but the scheduling of all of this will fall on Mrs. Wolfe's shoulders. She said that there was a sufficient amount of confusion over what steps anybody needed to go through and our primary goal was to go through them and clarify them.

She said that the primary issue that was identified was making sure that no construction permits are issued until *all* conditions had been met, the plans have been signed, and escrow accounts are up to date. It was added that the Zoning Officer will get two sets of signed plans and give one to the Construction Official so that they will know what they need to inspect.

Last, but not least, the Mayor said is the follow-up from the time construction starts until when the Certificate of Occupancy (C.O.) and Zoning Permits are issued, and beyond. The issue was to make sure that all conditions are satisfied for the interior, exterior, and long term. There will be some cases in which a C.O. will be issued and then the Zoning Permit will follow because the construction is done at the end of January and you cannot be planting the required shrubbery until May or June. Another thing that will be implemented is a department calendar which will contain some tickler notices in it so that the Zoning Officer knows that in 6 months or 2 years he must go out for those longer term follow-ups. She said that there are developments in town that are 5-10 years old that have never fully satisfied all of their conditions because the follow-up was never done.

Mr. Briggs suggested that, in a case where 7 years was granted to an applicant for completion, an annual letter be sent to the applicant that has the issue *and* the Board so that there is constant review on an annual basis and, if there is a change in ownership, the new owner will be made aware of the necessity for completion.

Mr. Hoffman said that, if there happens to be an omission in sending out such a reminder notice, he wouldn't want that to enable the applicant or his successor to say that they are freed up from this burden or responsibility because a notice was not sent. He said that it would be a *courtesy* notice that is worded in such a way that it doesn't grant or change any substantive rights.

Mr. Batista said that we would still have the insured bond and the recorded conditions on the deed at that point. With regard to the Zoning Permit process, he asked Mayor Harrington how we are going to deal with conditions such as the one that Mr. Briggs just described 7 years down the line in issuing the final Zoning Permits?

Mayor Harrington replied that the idea is that the final Zoning Permit is not issued until all of the conditions are met. The Zoning Officer will have a tickler file and, at the appropriate time, he will go out and check to see if the conditions have been met. If not, then the zoning enforcement process that kicks in.

Mr. Batista asked Mr. Hoffman how that would affect a subsequent transfer during a period where conditions haven't been met? He asked if the municipality would have to refer to the Zoning Permit in the conditions that are recorded?

Mr. Hoffman replied that the party that should bear the responsibility of notifying his successor is the one who obtained the approval and is transferring the title or interest in the property to his successor. That should be worked out between the attorneys for the seller and the buyer so that there are no surprises and there should be a representation that these are the conditions that attach as set forth in a Resolution adopted on a particular date and there are no others.

Mr. Batista recalled a project last year that was the impetus for now requiring the posting of bonds and

deed conditions. He said that at that time we did not need to discuss Zoning Permits. He realized that the purchaser is going to be responsible for whatever is outstanding on the Zoning Permit if they purchase without that, but was curious as to whether we can do anything to put them on notice. He said that he has never seen it done where, if a Zoning Permit is required, putting that type of restriction on a deed.

Mr. Hoffman recalled a case that strongly recommends that all deeds include a verbatim list of the restrictions and covenants that apply so that in searching a title the prospective purchaser would know what he has to do to live up to the town's requirements. He did not think that a town has to take any proactive steps. He said that the Board has acted and set forth the terms of the approval and it is up to whomever may own the property from time to time to satisfy those conditions.

Mr. Lemanowicz said that another way to potentially handle that is that the Tax Collector has to respond to every closing and maybe when he/she gets a notice of closing he/she must verify that there are no outstanding Zoning Permits.

Mr. Batista replied that, technically, it is the purchaser's attorney's obligation to do that. He said that there were certain members of the Board that he felt were compassionate towards the purchaser whose attorney was responsible for particular malfeasance and this would definitely help stop that type of situation.

Mayor Harrington said that, if you include in the process that conditions be recorded on the deed, that is our way of ensuring that if there is some transfer, the conditions don't get lost annals of time.

She then referred to the last page of the Planning/Zoning Process which includes the action items and who will take them to completion.

Dr. Behr offered to give a quick update on the items for which he is responsible. With regard to the reference map, he said that he is planning to meet with Mr. Lemanowicz and others from his firm to get a sense of what they are able to do in this regard. He also had a list of other firms that Mayor Harrington gave him. He said that he will talk with them too and report back to the Township Committee with a list of providers, what they can offer, and what the probable cost will be.

In response to Mr. Briggs, Dr. Behr said the goal is to have an electronic version of the reference map available so that it can be updated and you can integrate it with other kinds of reports, including County reports as they are updated. When the new checklist is prepared, he said he will edit it for applicant readability. With the regard to the need for clear guidelines for committee/commission responses, he said that it was his hope that he and Chairman Connor can sit down and schedule a few hours to meet with the Environmental and Shade Tree Commission Chairs and iron this out. He agreed that our coordination needs to be better in order for the Boards to get the value that they offer. With regard to the Application Brochure, he said that it rests on a number of things and part of it will be to take this document and make sure that applicants, whether they are homeowners that have no clue as to how this works, or lawyers for very complex projects, can understand exactly what we are looking for. That also means that, when the Application Checklist is done, it is a matter of explaining the checklist process to people so that they do not feel overwhelmed by it. The intent is write it for at least two different audiences, homeowners with reasonably small projects for whom the burden of what they have got to do is appropriately less, and people that are doing much more extensive projects where they will be represented by an attorney and experts anyway. He said that he wanted to get this done by June or earlier.

With regard to the clear guidelines for the different committee/commission responses, Mr. Batista said that one of the things that is of the greatest concern when we had applications last year and the year before was that we were getting meetings continued because members of the Board wanted to see reports from these other commissions. He felt that that should be Priority #1 – that we should eliminate that in any way possible. If we don't have the reports and it is not the applicant's fault, he did not think that they should be made to come back because we did not do our jobs in time. If there is a more complex project, he said that obviously we would have to allow additional time for reports to come in those.

As a follow up to the discussion on the point of how the parties that are interested in a piece of property keep track of what they are obligated or not obligated to do, Mr. Hoffman said that this is discussed in Sec. 13-2.4 of Cox which reads in two sentences that "In all cases involving conditions, the limitation must be of record for the protection of further purchasers of the property and for others. The board should require either an agreement with the municipality concerning cessation of a variance which can be recorded with the county recording officer, or a recorded deed from the owners to themselves which sets out the limitation or the recording of the resolution of the board with the county recording officer". It cited the case of Aldrich v. Schwartz, 258 Super. 300, 310 (App. Div. 1992) stressing the necessity for

some record which will give purchasers of property notice of conditions.

Mayor Harrington said she will be presenting the Planning and Zoning Process Design at the next Board of Adjustment meeting and then to the Township Committee, after which she will have Mr. Pidgeon make sure that the Zoning Permit Ordinance is consistent with it. She said that we may have some additional ordinance reviews when the committees/commissions are straightened out. She asked the Board if they were in favor of the proposed Planning and Zoning Process Design?

Dr. Behr made a motion that the Planning Board accept the revised procedures as presented by Mayor Harrington on behalf of the committee that worked on them which was seconded by Mr. Briggs. All were in favor.

Dr. Behr said that the person that did the heavy lifting on this is our Mayor and he felt that she is owed a lot because it was a tremendous amount of work.

Mr. Batista said that starting on the committee last year knowing that there was a lot of discussions going in a lot of different directions with input and being able to synthesize that into something as concise as this is “fantastic”. He said that he was ecstatic to see it and cannot wait until it is put into practice.

Mayor Harrington viewed putting it down on a piece of paper as the easy part, but she felt that actually making it happen is, in her mind, more difficult.

Dr. Behr said that, to a large extent, this is what we are doing now because there was a need to change the process anyway. He said that the Board’s consultants and Mrs. Wolfe have had plenty of experience in working within this framework to know that it works. He said that it is not like a radical change will be brought about, most of the things have already been put in place.

Mr. Connor felt that it was phenomenal that the proposed 3 meetings actually came down to 2 meetings.

The meeting was opened to the public for comments.

Mr. Dennis Sandow said that he remained confused about this thing called a “Zoning Permit”. He said that he heard an ordinance introduced at the Township Committee and heard a great deal of discussion and confusion and heard it discussed here before and at one point, 2 or 3 months ago, he said why don’t I just write this up, as you intend it to become, and put it on the Chamber of Commerce website and he was told not to do that quite yet because we still don’t understand. It was his understanding that a Zoning Permit says that this project complies with all of the requirements of the Zoning Ordinance or variances granted by the Boards, and yet in all of the flow charts he saw that a Zoning Permit is the last item after everything else is finished. Normally a permit, whether it be an alarm permit, a dog permit, or a street event permit is something that is issued in advance of the project or event which essentially says that you have complied with all of our pre-conditions and you may now go ahead and do it. Yet, here, he discovered flow charts for what to him is the first time that the permit is issued *after the fact* and all the work is done. When we first had the discussion at the Township Committee as to where an applicant goes first, in the past he had been going to the Construction Office and the Construction Office would say, wait – that looks like it requires action by a Board, there is a zoning issue here. When this first came up several months ago, the statement was that now the first visit is going to be to the Zoning Officer and if he decides you are well within the bulk requirements of the lot, then he will issue a permit which essentially says that this project, as I have seen the drawings, is in compliance and it is okay for the Construction Office to go ahead and issue construction permits. He said that a construction permit is issued *before the fact* which means he is now totaling confused as to why a Zoning Permit is the *last* thing that is issued in this process.

Mr. Smargiassi referred to Pg. 9 and said that the last box states “Issue Construction Permit(s)”, so there is a permit that is issued in the decision process before you get to the end. He said that this doesn’t show up on Pg. 1 which is the “big picture” flow chart and maybe it does not address Mr. Sandow’s comments about the Zoning Permits at the end. He suggested in the box above that, that the Fire Official be added. He said that he believed that there are other officials who also have to approve and sign off on permits besides Construction and Zoning.

Mr. Sandow replied that, if you look at the front page, you will see the last item on the right on the top line and in the lower right hand corner it states “Issue Certificate of Occupancy and Zoning Permit”. Whether you need zoning authority or not, he said that it appears as if the permit that says you are now complying with zoning is the *last* thing we issue rather than the *first*. He said that that strikes him as not being what permits generally allow.

Mr. O’Brien replied that the Zoning Permit is new. We no longer can rely on the Construction Official to

issue a C.O. and have it contain the zoning requirements. A Zoning Permit under this process is issued at one of two stages. The first stage would be if you apply for an addition to your house and it meets all of the zoning requirements, then a Zoning Permit is issued and then it goes to the Construction Official who then issues construction permits.

Mr. Sandow replied that that is not what the top line says on the first chart.

Mr. O'Brien disagreed. He said that a Zoning Permit is issued after the Zoning Officer realizes that that application fulfills all of the requirements of the Zone.

Mr. Sandow replied that, if you read across, it says "Issue Construction Permit", then "Construction", then "Construction Approval", then "Issue C.O. and Zoning Permit". He felt that "Zoning Permit" should be about 4 blocks to the left of where it is.

Mr. O'Brien said that a Zoning Permit is issued once all of the zoning requirements of the Zone have been met and that happens under two circumstances. One – if the circumstances are allowed by the Ordinance and: Two – if they are not allowed by the Ordinance and the applicant has to go through a Board. Then that is why it would be at the very end of the process because that would be when they meet their zoning proof.

Mayor Harrington felt that part of it is a nomenclature thing and she said that the committee struggled with that as well. She said that, where you see Zoning Permit in this process, think of it as the equivalent of a C.O. for the zoning and that the Zoning Officer has signed off on the fact that all conditions have been met and you are done. She said that the permit notion that you are thinking of that says that this project *will* conform and go ahead and do the project – when an applicant goes through either Board, the decision of that Board is essentially that agreement that says it is okay to now go do your construction. What we did *not* include in this process (and maybe we *should* consider) is that on the top line we did not include something from the Zoning Officer where there are no approvals required, some sign off from the Zoning Officer that says it is okay to go through construction. That is really the one box that we are missing and Mr. Sandow rightfully pointed that out.

Mr. Lemanowicz said that we had talked about that as a Preliminary Zoning Permit and a Final Zoning Permit because it is a two step process. The person would come in and if a Board approval *is* required, they would go to the Board. If it is *not* required, you get your Preliminary Zoning Permit and that authorizes the Construction Office to issue a Building Permit. The building gets done, the applicant then comes back and requests his/her C.O. Then the Zoning Officer says, for example, that you were supposed to build your garage 6' off the property line, let's see your as-built. If, after review of the as-built, everything looks okay, he/she would then get their Final Zoning Permit and that allows the Construction Official to issue the C.O.

In that case, Mr. Sandow said that instead of calling it a Zoning Permit, why don't we call it a Certificate of Zoning Compliance and keep all the permits at one end of the process and all of the certificates at the other end of the process? His recollection at the initial Township Committee meeting was, if someone walks in with signed and sealed plans and the Zoning Official is content that there are no zoning issues, he issues a permit which says you may now go to the Construction Office and, if you hand them the same set of plans, then they will issue you a permit to build to those plans and at the end, if you do build to those plans, you will still be in compliance with zoning. If you do *not* build to the plans, then the Construction Official will not give you a C.O. and you will have to move your garage. In other words, one permit precedes the other permit and "zoning" will come first. If it *does* have to go to the Board, then their will be Board action, plans are revised and resubmitted to the Zoning Official, and if he sees that the plans are consistent with the ruling of the Board, then once again he issues a Zoning Permit and then, if the plans go to the Construction Office, construction permits are then issued and then it is in the hands of the Construction Official to be sure that all of the conditions of the Zoning Permit and the drawings are met. He said that it doesn't seem reasonable that once construction has started on signed plans that the Zoning Officer would have to keep his hand in this. It seemed reasonable to him that the Construction Official would be required to make sure that the conditions of the construction permit are met.

Mayor Harrington replied that that is one place that we need to disagree because the Construction Official inspects what is inside the 4 walls. The Zoning Officer makes sure all of other things that are part of the conditions are also met.

Mr. Dempsey added that you cannot hold back a C.O. because they don't have a bush where we want it to be. If the inside of the building is okay, he comes out with a C.O.

Mr. Sandow said that, in other words, if he wanted to put up a large shed on his property and it is

properly set back and doesn't affect lot coverage regulations, then he could do that without a C.O. because no inspector is going to get inside the shed.

Mr. Dempsey disagreed and said that what we are saying is that, if you wanted to build a building and didn't do everything that the Zoning Board wanted you to do on the outside of the building, you could still get a C.O. He said that he agreed with Mr. Sandow and felt that it should be called a Zoning Certificate. He said that the idea that it is in there is because there was a loophole that you did not have to comply with everything from this Board and get your C.O. and you can live there and did not have to completely comply with the Board. Now we are closing the loophole up and in order to do it, you have to comply with the Board and anything it decides.

Dr. Behr said that we are missing a point. The phrase "Zoning Permit" is defined in the MLUL. It is defined in part as "a document signed by the administrative officer (1) which is required by ordinance as a condition precedent to the commencement of the use or the erection, construction, reconstruction, alteration, conversion or installation of a structure and (2) which acknowledges that such use, structure or building complies with the provisions of the municipal zoning ordinance or variance therefrom duly authorized by a municipal agency....".

Mr. Sandow replied that Dr. Behr had recited "occupancy or commencement of construction" and his point was that it seems that this belongs before commencement of construction – that the plans are totally conforming to the zoning ordinance and/or the variances prior to the commencement of construction.

Mr. Lemanowicz replied that that was what he defined as the Preliminary Zoning Permit.

Mr. Dempsey said that, in name only, it belongs in the front.

Mr. O'Brien noted that we have Preliminary and Final Site Plans and Preliminary and Final Subdivisions.

Mr. Sandow agreed but said that all of those occur *before* construction begins.

Dr. Behr added, "Or before the ability to use the property begins so that the Zoning Permit also says you cannot use the property until you have satisfied the conditions".

Mr. Sandow replied that part of our confusion here is that this Board and the Zoning Board maybe handle 15 cases per year and that is nowhere near the totality of the construction that goes on in this town. Those are only the exception cases. It seemed to him that we should focus on the ordinary homeowner who is fully conforming and who does not have to come to a Board. Why does he have to be tracked by two different officials in parallel before he gets a Zoning Permit which comes either simultaneously with, or a few hours before or after, a C.O. It sounded to him like it was adding to the confusion rather than reducing it.

Mr. Piserchia said that, unfortunately, he could recall at least a dozen cases in which plans were submitted in which the final product isn't remotely what it was when the Township received it. He said that, if he understood correctly, the final Zoning Permit or Zoning Certificate is to ensure that the plans that were submitted are indeed what were built.

Mr. Sandow asked if it wasn't the job of the Construction Official when he issues a C.O.?

Mayor Harrington replied, "Not entirely".

Mr. Dempsey agreed and said, "Not anymore, not with a C.O.".

Dr. Behr also replied that he (the Construction Official) is no longer allowed to do it by Statute.

Mr. Sandow replied that, if he submitted plans and asked for a construction permit and do not build to those plans, then why is that a zoning issue? Why isn't that a Construction Official's issue?

Mr. O'Brien replied, "Because the zoning authority tells them what to do and where to do it". He said that, as Mr. Dempsey had said, that the Construction Official is only worried about what is inside that building.

Mr. Dempsey added, "And the safety of the building".

Mr. Sandow said to assume that this work *is* inside the building and that he is putting an addition on his house and has no obligation to plant more trees or install new sidewalks, he is just adding a small addition which is fully conforming in terms of all of the bulk regulations.

Mr. O'Brien replied that the way to find out that it is fully conforming is for the Zoning Officer to issue a permit that says it is.

Mr. Sandow replied that he can do that based on looking at his plans.

Mayor Harrington disagreed and said that he needs to do it *after* everything is done and said.

Mr. Sandow asked why? He said that the Construction Official has already been inside the house.

Mayor Harrington replied that he needs to do it at both points in time because what is in the plans is often not what is actually constructed.

Mr. Sandow argued that then you have a Construction Official's issue.

Mayor Harrington replied that the Construction Official can agree to all kinds of changes that maybe are outside of what the zoning allows.

Mr. Sandow replied that the Zoning Permit is based on the same signed and sealed plans as the construction permit. He said that he supposed you could argue that if the Construction Official allows changes to the plans, then he should notify the Zoning Officer, but if there are no changes why do we have to continue the parallel track?

Mr. O'Brien replied, "Because the Construction Official has absolutely no zoning authority, according to State Statute".

Mr. Sandow replied that if he is only working inside the building....

Mr. O'Brien replied that Mr. Sandow mentioned an addition, which means that they have gone outside.

Mr. Sandow said that, if there are plans which are conforming to zoning and if the building is built to those plans, even if there are interior modifications during the course of construction, if there are no trees or sidewalks involved and, if the footprint of the addition remains the same, then he did not see why the Zoning Officer has to continue to be involved.

Mayor Harrington replied that we have had instances where the footprint changed during construction.

Mr. Sandow replied that, if that is the case, then the Construction Official can notify the Zoning Official to look at the new plans.

Mayor Harrington replied that the Construction Official can look at it and say it is fine and conforms to all of the electrical and building codes. The Construction Official is only concerned about the 4 walls and the safety of the structure and plans change as construction proceeds. The Construction Official can inspect it and say it is fine and conforms to all the building codes, it is safe, and all of those things. But in the end it can wind up that the footprint can change. She said that there are a lot of "ifs" in here and the bottom line is that the ordinary construction that didn't require Board approval to begin with, is a fairly streamlined process that, at the end, both the Construction Official and the Zoning Officer can sign off on compliance. If we are having a problem tripping over the name because it is a permit and it is at the end, that is because it is by Statute and that is what we called it.

Mr. Sandow replied that he understood it was by Statute, but the Statute does say "before occupancy or the commencement of construction". He did not know whether that allows us the leeway to write our ordinance one way or the other or whether that requires us to be as ambiguous as the Statute.

Mayor Harrington said that that is why we came up with this notion of a Preliminary and a Final. She apologized that that did not make it into the document and said that she will update it and make sure that it is circulated.

Mr. Sandow said that he supposed that there will be an additional fee charged to the applicant for the Zoning Permit?

Mr. Batista replied that he thought there will be a lot of additional fees that are going to go in the application process as Mr. Briggs has been revisiting a lot of the escrows and things like that.

Mr. Sandow said that he supposed that, if you are going to have to get a Preliminary and Final Zoning Permit, then the Fee Ordinance ought to be very clear that you've got to pay it twice. He said that we

wouldn't want to "lowball" our applicants.

Mr. Batista said that the Township shouldn't have to front money like they have been doing for 10 years as we have seen from fees not going up in 11 years with regard to our court reporter.

Mr. Dempsey added that we do not want everybody to run rampant and not have a Zoning Permit and just allow anything to happen.

Mr. Batista said that the fact of the matter is that Mr. Sandow stood here a year and a half ago and was complaining about multiple meetings on applications. If we are paying a little bit more for these hearings and still netting less out of the applicant's pocket, that is what this is designed to do.

Mr. Sandow addressed Mr. Dempsey and said that, for the past 5 or 6 years, the un-equalized assessment in this town has grown by approximately 4 or 5 tenths of 1 percent per year. So he would hardly say that construction is running rampant in this town.

Mr. Dempsey said that he did not say construction – he meant compliance and the ordinances changed just last year and we already had one, immediately thereafter, bite us and this is why we are doing this, and, if it is more paperwork it has got to be more money.

Mr. Sandow had no further comments.

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

**DISCUSSION - BEST MANAGEMENT PRACTICES (BMP) MANUAL**

Mr. Lemanowicz said that the Board members were provided with a draft of the Long Hill Township Best Management Practices Manual (BMP) for stormwater which was initiated by Dr. Leonard Hamilton. He took it over and tried to form it into something that applicants could use for smaller developments. The issue was that the Environmental Commission understood, as the Boards do, that some of the techniques in the State's BMP Manual simply don't fit on a residential development. He said that the Board of Adjustment often hears lot coverage variances and there is a need to control stormwater. When you start talking about drywells, he said that it gives a vision of a very expensive and complicated system. What the draft BMP manual does is to break down some of those larger facilities in the State BMP Manual and brings it down to the individual lot size. He said that it includes such things as rain gardens which are effectively what the State BMP Manual calls a bio-retention basin, which by its name alone will frighten people. However, it is essentially the same thing. It is something small that can fit into a landscape and the idea is to create something that residents don't get frightened of by the term and potential cost. He said that he took the format of the State BMP Manual and adjusted some of the things that Dr. Hamilton did, trying to provide a little more direction and format. The first item is rain gardens and provides a small illustration, where it can be used, the conditions where practice applies, and then some basic design issues under Part 3 "Design Criteria", how you size them and things you might want to watch out for. He also included a table of suggested plantings, basically trying to help applicants through the process. There is also a maintenance section and the sections follow the State BMP Manual so that if an engineer is hired by a homeowner, they will recognize the steps. Some photographs and websites are included which will encourage them to look around. In the case of a rain garden, he felt that photographs are critical because people do not really understand what they are supposed to look like. For instance, under Item 5 "Additional Information", if you told someone that that photo was of a stormwater management device, they would probably question you because it doesn't look like one. But if you call something a "bio-retention basin", many people picture something dramatic.

The next items he touched upon were infiltration trenches which are very similar to drywells except that there is no structure. It is just a hole filled with gravel. It doesn't store as much water, but again if you are talking about adding a 200 S.F. patio, you don't need a 1,000 gallon drywell. You can deal with it with gravel. On a single family house, if you are trying to take care of runoff from a patio, deck, or driveway, you can hide the trenches. For instance, there was an application before the Board of Adjustment where the house was on the top of a hill and the residents below that house were very concerned about what would be coming down at them. The applicant's engineer had proposed small plastic lawn grates pipes to what was similar to a drywell system and it just didn't look right. He said that the homeowners questioned if they really had to have the plastic lawn grates because they were right in the middle of a play area for their children. Instead, he said that an infiltration trench was topped with decorative gravel and called it edging for around the lawn where the lawn became woods. So now the water came down, hit the stone and fell into the trench and it was actually piped back into the drywell system so that the homeowners had their clear yard and a stormwater system that looked like landscaping edging. He said that he has used such systems on a number of occasions and the homeowner(s) were happy that they would not have to trip over inlets. He said that it is a matter of educating homeowners to some extent. He said that, obviously, you don't want an infiltration trench bordering a house because

water will go into the basement.

He said that a lot of it goes back to the State BMP Manual, for instance, the whole issue of having infiltration systems 2' above ground water and so the draft local BMP Manual still goes with the State BMP Manual. Nothing is being contradicted, but we are adding more options for the smaller developments.

The next item is pervious paving systems of which there are two types. The first one is actually a paving material, either concrete or asphalt, and looks somewhat like a Rice Krispie's Treat because when you cut it, there are holes in it and the water actually goes through it. The other type of pervious paving system consists of pavers where the paver design allows water to pass through it. He said that there is a photograph of it in the manual of pavers that are set up in such a way that there is about a 2" x 2" hole that is filled with a fine gravel (not sand) to allow water to pass through it into gravel below that which will either be collected or allowed to infiltrate, depending on the design. One item he did include was that it needs to be gravel between the pavers, with a minimum dimensions. There are paver manufacturers that say if you put the pavers together with nubs that provide a ¼" space and you fill it with sand, water will percolate through it. He said that it might – for a year or so, and then it will pond. He has seen, on more than one occasion, water ponding on pavers. With small pea gravel (as opposed to sand), he said that it allows it to flow better. It takes a little longer to clog and is easier to clean out and replace the gravel.

Mr. Dempsey asked what this would equate to as far as coverage is concerned? For example, if a homeowner was over in lot coverage by 1%-2%? He asked if it would be a one for one ratio, or is a half to one, per application?

Mr. Lemanowicz replied that that is something that we have to deal with because the situation about the pervious pavers hits a number of things. First, is the Board going to allow that to provide a credit for impervious surface when it comes to determining if a project is a major development or not? A major development is that one of the criteria is that if you create more than ¼ acre of impervious surface. Then you've got the Township's zoning criteria for lot coverage. Are you going to provide a credit for that? Then you've got the drainage calculation. How will you allow it to be worked? He said that that will be discussed more on just where you want it to apply. Applying it to the determination if it is a major development or not, we will have to go through the NJDEP because it says that gravel is impervious. So, it would seem that we would probably not be correct in using pervious pavers for that determination. As far as lot coverage – is it solely for impervious cover, or is it a desire to keep something green? If the lot coverage requirement was a desire to keep something green, it doesn't matter if it is solid asphalt or pervious asphalt – it is not green. For now, he said he was just placing this as a drainage consideration and not getting into those other zoning matters. But it is something that we are going to have to deal with because it is entirely likely that an applicant is going to ask if they can count it here, can I count it here too?

Mr. O'Brien said that he believed that the purpose of this manual was for proposed development that was below the major threshold and was identified more for homeowners.

Mr. Lemanowicz agreed, but said that it is not unlikely that you will have a major development come in and you will want to use some of it. He felt that they should be allowed to, if it is applicable. He said that he has seen a townhouse development where the applicant convinced the Board that the parking requirements were excessive because that particular development included larger townhomes and it was also a golf club community which had unusually long driveways. But because of the RSIS situation with garages and parking in front of the garages, they technically needed more parking spaces out amongst the common areas and so they used a form of pervious paver called a "waffle block" and, essentially, it looks like lattice only it is 8" thick and made of concrete and the holes in it are big enough that, if nobody parks on it on a daily basis, it will grow grass. He said that it worked out very well. So, if the Board gets into ideas where you have a seasonal high parking requirement on a particular development, that might be something you might want to get into. He said that that type of structure would be what is considered to be a pervious paving system.

Dr. Behr said that he and Dr. Hamilton finished the environmental ordinances in draft form in 2008. By the time that Mr. Lemanowicz and Mr. O'Brien had had a chance to get back them, it was 2009. He recalled that in 2009 or early 2010, the Planning Board approved the environmental ordinances or at least passed them along to the Township Committee for approval.

Mr. O'Brien agreed that that was in 2010.

Dr. Behr said that they have been sitting there for a while and those ordinances specifically reference this document.



Mr. Lemanowicz said that he thought it was worded in such a way that we could go ahead with that document without the local BMP Manual.

Dr. Behr replied that, if Mr. Lemanowicz is correct, that takes away one of his objections.

Mr. O'Brien said that, when we wrote the first one, the ordinances are now at Township Committee and we left ourselves an out to add the BMP's at a later date. So, the ordinances could stand alone if they needed to.

Dr. Behr said that the point Mr. Lemanowicz made about further refinements to this are obviously important, but he did not want the environmental ordinance to be delayed because we might want to do some more reconsidering of this.

Mr. Lemanowicz agreed with Mr. O'Brien that he believed that we did something with the text.

Mr. Hoffman said that he thought we added language such as "same may be supplemented from time to time".

Dr. Behr said that his concern was that we not get just one more delay.

Mr. O'Brien said that those ordinances have been in front of the Township Committee since May, 2010.

Mayor Harrington replied that she was aware of that.

Mr. Lemanowicz said that, at this point, he was looking for a general consensus by the Board that this is what they are looking at since it is a relatively new document that he was preparing and he wanted to make sure that he was going the way the Board would like him to go with it. He said that permeable pavement and permeable pavers are the two methods under pervious paving systems. He said that he needed to break the difference between the material that is placed in the field as being pervious versus the pavers which is a pre-manufactured paving block because they are treated differently. He said that he spoke with Mr. Ferriero and he e-mailed back and interchanged the terms and has been using a method to count for this already, outside of an ordinance and has another criteria that one of them, if it is on a slope, it is less effective, which he felt is a valid point, more so with the pavers than with the pavement because the pavement is entirely pervious. In other words, the holes are literally fractions of an inch apart and it is the whole surface. He felt that that is worth looking into.

Mr. O'Brien replied that it was "permeable".

Mr. Lemanowicz said that we must also consider green roofs. He said that he has personally seen one or two of them come through and the problem with them is that they freeze. For instance, if it rained tomorrow on a green roof, it wouldn't do anything because it is frozen. It also affects rain gardens. With green roofs, he was a little concerned about how much we would permit an applicant to use because it is not a replacement. For instance, he said that if you have a house that right now goes to a drywell, granted at some point the gutters and leaders could freeze if they got clogged with snow or whatever, but for the most part they will work in the winter. Whereas, water will just run off a green roof if it is frozen.

Dr. Behr said felt that we should have a picture of a permeable pavement and, perhaps, a section included in the BMP.

Mr. Lemanowicz agreed and said that he also had a sample in his office that he will bring to show the Board what it does. He said that he will also take a picture of it and include it in the BMP Manual. He said that it is very pricey because of the fact that it is not a solid material, it needs to be thicker. He said that if you did a sidewalk or bikeway, now you would put in 3" of asphalt, whereas a residential driveway uses 2" of asphalt. He said that he did some walking paths and the manufacturer recommended 4" of this material over stone. So, you are doubling the thickness of it even though there are voids in it and it is a more expensive material by the ton anyway. In that particular case, the alternative of a detention basin simply didn't work because it was a public park and they didn't want a detention basin because it might get wet and children could get muddy. So there must be some thought behind the different devices.

Dr. Behr referred to No. 2 – "Conditions Where Practice Applies". He quoted that "The use of pervious paving systems is not recommended in conditions where certain environmental threats are known to occur..." He said that he knew that they are set forth in the Manual, but if it is possible for the lay reader, if they could get an idea of what is being talked about without having to go into the State BMP Manual, that might be helpful.

Mr. Lemanowicz replied that he could do that because it has to be made clear. He did not want to have to keep changing it every time the State changes its manual. He wanted to keep the reference and note that a more complete list may be noted in the State BMP Manual.

With regard to lot coverage, Mr. Piserchia asked if the purpose of it is for stormwater runoff or for green? He said that he never heard the second part and that the 20% number that we use, except for certain areas, was always because of how stormwater is handled, the permeation of water, recharge, etc. He asked if green is ever considered for the 20% or 25% lot coverage and can it be *allowed* to be considered?

Mr. Lemanowicz said that you can allow a minimum amount of a lot to remain vegetated. He did not know the origin of the 20% and said that we treat it as stormwater because that is the common reason to have something like that. He said there are situations where you might consider it. For instance, he has often seen ordinances that in parking lots a certain percentage of the interior of them has to be landscaped. It can't just be an island of pavement and paint.

Mr. Piserchia loved the idea that there will be green, but he felt that the part Mr. Lemanowicz just described is for aesthetic purposes, but the overall lot coverage is because of regeneration, etc.

Mr. Smargiassi said that he looks at lot coverage and the Board of Adjustment tends to focus on water, but it also goes to the look and the feel and what type of neighborhood you want. If you want houses and lots in a neighborhood that has 20% lot coverage, that gives you a different feel and quality of life than a neighborhood that has 50%. He said that it is a big part of what makes a town a town.

Mr. Piserchia agreed. However, he said that he was curious if the 20% came from Cox or the NJDEP regulations, or where?

Mr. O'Brien said that *our* 20% number here in Long Hill comes from The Ten Towns which are those that those that surround and encompass The Great Swamp. The Ten Towns primary motivation in gathering together was to deal with stormwater and flood issues. The stormwater/flood issue is what gave rise to the 20% number. With variations, our R-4 Zone allows 25% and our commercial areas allow more. But as Mr. Smargiassi stated, they work hand in hand with each other so that we have an environmental number that is very, very important, but we don't follow it everywhere for various reasons. But where it is really important in our residential areas, not only do we deal with our flood issues, we also deal with the type of town that we want this to be.

Mr. Piserchia said that he agreed with that and was just curious.

Dr. Behr said that, in addition to that, he recalled the studies that Dr. Hamilton shared during the in-services he did with the Board of Adjustment. As you go above 20%, there is an incremental increase in the damage from runoff which is why we try to hold to the 20% number where it applies, *or* require that the applicant provide additional stormwater coverage.

Mr. O'Brien added that the Ordinance works together in many different ways so that the look and feel of the Township is one of the very important criteria, as well.

Mr. Connor said that he wanted to thank the Township Committee and Mr. Sheola. He said that Mr. Sheola was able to find some money to complete this project from last year's money. Without that, he said that we would be sitting with no work being done.

X X X X X X X X

Mr. Connor said that there was one other area that he wanted to talk about which is the fact that we are starting to get some of our adopted ordinances on the calendar. There were two on the last agenda – the Shade Tree Ordinance which never made it because of the other one on the agenda which was the Valley Road Business District Ordinances which he described as “a lively discussion”. He said that the Shade Tree Ordinance is scheduled for discussion at tomorrow night's Township Committee meeting. If anybody read the Echoes-Sentinel, they read the factual version of what happened and there was also some additional activity – certainly some questions. He asked Mr. O'Brien to give an overview of what happened and where we are going.

Mr. O'Brien said that he and Mr. Connor were asked to represent the Planning Board in discussing the Valley Road Ordinances and presenting an introduction to them to the Township Committee. He said that he was helped by Chairman Connor and they gave an overview of the ordinances and how they came about going back as far as the Master Plan process which started in 2007, culminating in a Master Plan adopted in November, 2008 and then ending in the adoption of ordinances to be recommended to the

Township Committee in December, 2010. He said that they went over the history of where we had come from, why they were important, and the fact that the Master Plan, as it stands now as adopted by this Board, is not supported by the ordinances that are currently in place. After their presentation to the Township Committee and public, there were a number of questions concerning the Master Plan process and the decisions made by the Planning Board, as well as the policies adopted by this Board. Not only did those questions and concerns come from members of the Township Committee, but there were also a fair number of municipal residents (15 or 20) who came out to speak against the Master Plan. There was no substantive discussion of the ordinances themselves and what was called for in the package that was presented to the Township Committee. A number of questions were raised which the Township Committee asked him, Mr. Connor, and the Board and staff to answer such as coming up with a realistic view as to the number of residents who could possibly live on Valley Rd. He said that the Board may recall that, at one point in the past, we came up with a number for sewer capacity for a report that maximized the absolute number of people who could live on Valley Rd. with the intention of making sure that we had more than enough sewer capacity to deal with any contingency that could arise. Those numbers were thrown around at the Township Committee meeting as a possible number of people who could actually live on Valley Rd., and that number is substantially less but we don't have that number because nobody has gone through Valley Rd. lot by lot, taken out the environmental constraints, and shown what can be built on it in terms of building size, impervious cover, parking, setbacks, mandatory green space, and then shown that this one acre of land, because it is constrained by environmental problems can actually only hold 2 residential units – or 100 residential units. The study hasn't been done. He felt that that was much of the concern and question that was raised. The other concern that was raised was the amount of school children who could be generated by any residential development. He said that he and Mr. Connor pointed out Mr. Sandow's study of residential generators of school children throughout the Township, which was buttressed by the Rutgers University Study which shows that apartments are generally very small generators of school children.

Mr. Connor said that there is also one other issue that he wanted to make sure is not carried on and that is when mixed use residential was discussed. Basically, people were referring to small apartments over strip malls so that the picture that was being delivered through words was that you will have a whole bunch of little stores and two stories of strip mall type apartments, essentially taking the one area in Gillette and saying that is what everything is going to look like along the Valley Road Business District, which is clearly not where it is at. He said that we need to make sure that people understand what mixed use looks like and that there are plenty of examples of things that are appropriate for this town and that are economically viable. He said that they also got into vacancy rates and the fact that houses are vacant and not selling and some of the places in the Berkeley Heights and Warren town centers are also vacant, which is the function of a number of things, including the economic downturn. He said that a point was made that Warren is having a really bad time with their town center and whether that is true or not, he did not know. He said that we are saying that in order to have a town center you need to have residential and that will provide more incentives and allow people interested in making commercial investments make them more likely. He said that there were a number of comments that had nothing to do with the Valley Rd. plan and there were a number of arguments about how there are certain buildings on Valley Rd. (Zizzor's being the favorite whipping board) that need to be changed and before we plan we need to take all of the buildings that don't look very good and upgrade them, and then we ought to plan which he felt is doing it backwards. He said that he has asked Mr. O'Brien to look over the various questions and issues that were raised and address them in a measured way, both for the Township Committee and also for the public to understand. He said that we are likely to get before the Township Committee in late February or early March.

Mayor Harrington agreed that that is what she is trying for. She said that she is coming into this like many of the people who were in the public. She said that she is seeing this and getting engaged for the first time. She said that there were a number of people who came before the Township Committee who kept insisting that we could do nothing. She understood the argument that in doing nothing the zoning does not comply with the Master Plan and is inconsistent. She said that there was a great deal of discussion and focus on what the Valley Road corridor might look like if fully developed under the *proposed* ordinances. She felt that it was important for her to understand what Valley Rd. might look like if fully developed under the *current* ordinances. She said that, worst case scenario, some of these things may or may not be as realistic as 1,000 residential units. She asked if a big box store be across the street and questioned our risk of those kinds of things that people really did not want to see happen? But once the sewer ban is lifted, she questioned if those things are real possibilities? She felt that many people have been lulled into some false sense of security in that doing nothing means no development, which is clearly an incorrect assumption. But she felt that it is important for her own edification, as well as for the public, to understand what could potentially be happening on Valley Rd. should we do nothing. She questioned if Valley Rd. could start looking like an industrial park or like places she has seen in Long Island, like one giant strip mall from one end to the next? She questioned what it could possibly look like that we *don't* want to happen, and then understand how these ordinances and zoning proposals would prevent that from happening, and then we can have a discussion and move off of that "do nothing"

dime.

Mr. Piserchia said that he was surprised at how many comments were directed to the Township Committee as if the Committee determines what gets built. He said that we don't own the land.

Mayor Harrington said that we are going to fix up the Zizzor's building.

Mr. Piserchia said that the idea that the Township itself builds something, the Mayor is exactly right. We have been lulled into this idea that we, as a town, what we see along Valley Rd. will remain. He said that, for the most part, that is all privately owned and however it is zoned is what can and may, in fact, get built and what we are trying to do is to help shape what can appear there. He said that you may not like what the plan says and maybe we can tweak that, but we the Township aren't going to build something across the street. He said that it was suggested that we use some of the Open Space money and there is not that much Open Space money to buy a mile of land along Valley Rd.

Mr. O'Brien said that he appreciated the Mayor's discussion about taking a look at what is possible under the current ordinance. The problem is, however, that we have a Master Plan that says one thing and an Ordinance that says something completely different. Right now, the ordinances have a legal problem in that they may not have a presumption of validity, meaning that a developer who comes in and attempts to develop under the current Master Plan but is turned down because it is inconsistent with the current Zoning Ordinance, should they go to court, Mr. Hoffman can tell us what is going to happen.

Mr. Hoffman said that we have had this dialogue previously and he suspected that there will be future times when we have it again but he felt that it warrants some emphasis. He said that the relationship between the Master Plan and the Zoning Ordinance is of tremendous significance in terms of the town's position and potential vulnerability in any legal challenge that might ensue. By that, he was referring to a proposal that is not in accordance with the zoning and, therefore, requires a use variance from the Board of Adjustment but which, for whatever reason, the Master Plan doesn't run in sync with the Zoning Ordinance. In that type of legal challenge, there is a much heavier burden on the town to defend its position and the Board of Adjustment's denial than if the Master Plan and the Ordinance were together on the subject because then there is a strong presumption in favor of the municipal Board's action in whatever its decision may be. There is a much heavier burden on an applicant who is challenging an ordinance when it is tied in together in a consistent way with the Master Plan than when they are each going off in their own separate directions. He said that that is the leading *Medici* case which his partner successfully argued before the N.J. Supreme Court, but the point is that that was the starting point and there is a raft of case law since then that emphasizes the importance of the Master Plan providing legal underpinning for what follows in the Zoning Ordinance. When the two of them are not in sync, you are more potentially at risk.

Mr. O'Brien said that the discussion of what could be on Valley Rd. has already happened and took part as part of the Master Plan process that went on over the last 4 years and you can go over it again – but at some point, somebody is going to have to make up their mind. Are we going to write ordinances that follow the Master Plan and, if not, we are going to need to change the Master Plan. After a 4 year process, this Planning Board has written a Master Plan and generated ordinances that are in sync as Mr. Hoffman has said.

Mr. Hoffman said that one parenthetical exception is if the use meets the standard definition of being an inherently beneficial one – it used to be schools, hospitals, child care facilities, and the like and more recently been defined much broader than that. But if it is an inherently beneficial use, they are much harder to turn down.

Dr. Behr said that the bottom line is that the intent is that the ordinances should be *significantly* in line with the Master Plan or created to effectuate the Master Plan being carried out.

Mr. Hoffman agreed.

Mr. Smargiassi said that, if the Township Committee so chose to do a 180 in the direction on the ordinances, you could also adjust the Master Plan, although he knew that that is not what anyone wants to hear.

Mr. O'Brien replied that that would be this Board's decision and it has that authority.

Mr. Batista said that, in 4 years from now, another Board could change their minds again and again and we would get nothing done ever because the Township Committee will not trust the people it appointed to these Boards to advise them on what to do with regard to the ordinances or the Master Plan.

The meeting was opened to the public.

Mr. Sandow thought that there were only one or two persons currently sitting on the Board who was on the Planning Board at the time the Valley Rd. process started in 2007 and that is unfortunate because the Board is always “pushing the reset button”. He said that in the summer of 2007, the Chamber of Commerce wrote a letter to the Planning Board which said that it would like to participate with you up front and actively in the development of plans for Valley Rd. That letter was never put on the agenda of the Planning Board, it was never discussed, and was clearly never voted on or accepted by the Planning Board. He considered that an act of negligence which he could not attribute to any of the members because very few were on the Board at that time. But the offer still stands and he said that you will find it in the correspondence of July, 2007 between the Chamber of Commerce and the Administrator. He said that the Chamber of Commerce would like to participate and provide some continuity and some level of detail and specificity to the discussion. He said that he was more than happy to rely on the 20-20 Vision and Dr. Behr’s leadership of that because that was the forum where a large number of people got together for an incredible number of man and woman hours to discuss this. Sadly, he said that there were so many opinions and so many divergences, that the answers to the Mayor’s questions really never got documented anywhere. What would happen if? He asked what would happen if somebody wanted to put up a Tiffany’s branch where Thermoplastic’s now is? The first thing they would find out is that it is zoned industrial so you can’t put a retail store there. The second thing they’d find out is that the LI-2 Zone has a 2 acre minimum and that lot isn’t 2 acres and so they would have bulk variance issues and so Tiffany’s would go away because under the existing Ordinance, no amount of money could allow them to build a store there without coming before the Board and the whole purpose of the Valley Rd. visitation by 20-20 and all the activities since then was to make it easy for developers to build things on Valley Rd. to replace some of the buildings where the plaster board is falling off the outside. He said that we do need rationalization of Valley Rd. The Chamber’s willingness to participate actively is on the table. Goal #6 of the Township Committee said to work with the Chamber of Commerce to develop improvements for Valley Rd. and yet in all this time, he has spoken for the Chamber of Commerce from this side of the microphone and has never actually been invited to participate nor has any member of the Chamber, or the other Chamber Officer, to participate in the development of the ordinances or the documentation that obviously is required by every new member who comes in and says, “Well, what if...” Beneficial uses – he said that you will never build a big box store across the street because it is office zoned and you cannot build a big box retail in an Office Zone – that is our law. What you can do is build a windmill farm across the street on 70 acres and you could probably get away with it even under our environmental restrictions because you don’t use much footprint to build a windmill farm. The other issue he felt we have to address and very visibly and forcibly is this notion of 1,000 residential units on Valley Rd. He said that that came out of a study which was never vetted by the Planning Board or the Township Committee. It is just a number that “snuck out the door” from our Administrator to the County. It was published in the County Stormwater Plan which sort of gives it County credence even though we never blessed it leaving here. It is at odds with the Housing Plan that we approved in 1996 and in 2003 in the re-visitation and in all the housing studies we have done since then. There is no such 1,000 number and yet, it came up in the Gillette School Study last fall as a show stopper and it had to be disposed of, although it wasn’t disposed of very well. It obviously came up at the meeting of the Township Committee 2 weeks ago, although it was never mentioned in the Ordinance or as a number in our Master Plan Element and yet it came up and it was not taken off the table. It was incredible to him that we allow this one number, which is totally unsubstantiated or unblessed by any of the official bodies of this Township to continue to dominate the discussion. He felt that the Planning Board and the Township Committee have to take a firm and public stand that that number has no merit at all and will not be an item for discussion and whether it turns out to be 1,000 or 50, is really irrelevant. He said that the purpose of the ordinances to improve Valley Rd. is to improve the situation of the business district and, unfortunately all of the issues that have to do with improving the business climate have not been addressed in public and haven’t been addressed very well in the packaging of this by the Planning Board. He did not care much about what the Board does about housing on Valley Rd. He did not think there were very many people who espoused housing on Valley Rd. as an important concept – it was sort of a back lash reaction to COAH and sort of a back last invention to say that this whole business of living where you work and working where you live and after hours hiking up and down the sidewalk going from shop to shop – he felt that that was an invention to justify something that we had to do for COAH, or at least we thought we had to do for COAH, and that remains an uncertainty. He said that he did not see a large block of people saying that we can improve Valley Rd. by building housing there – at least not housing over the top of. There was some sentiment in favor of stand alone housing development and he said that maybe that would be a different matter but he felt that the compromise may turn out to be the worst of all possible worlds. He believed that the Planning Board should disavow the 1,000 and should reconsider how it wants to insert housing into the Valley Rd. Element because housing seems to be the issue on the table at the Township Committee. He said that, unfortunately, the issue *should* be how to improve the business atmosphere on Valley Rd. – that is what we started out to do and that seems to be totally lost. He reiterated Goal #6 and the letter of 3 ½ years ago and said that the Chamber is willing to take a partnership role with the Board and the Township Committee on this rather than just speaking

from this side of the microphone.

Mr. Smargiassi responded that Mr. O'Brien was specifically asked by the Township Committee to "disavow" or put the 1,100 number to rest and to come up with a more feasible number of the number of units that might actually come to Valley Rd., therefore he felt that that process is already starting. He said that the number of 1,600 came from the total build-out for the sewers and he believed that it was a number of 1,100 that was discussed for a potential on Valley Rd. which he felt we can all agree was just a simple calculation by the acres times the density and not a lot of specifics about lot constraints.

Mr. Sandow replied that that is not the issue. He said that you can't go up and down the street and look at the individual properties as they exist today and impute housing to it. If you look at the dry cleaner next to Thermoplastic's, he said that the dry cleaner is in the industrial zone which has a 2 acre minimum, and is a cut out from another lot. If you actually try to run the numbers that we have put in for the BD-Zone on that lot, he said that you might get 2 housing units less than 1,200 S.F. maximum onto that lot. But going up and down the street looking at individual lots like that, he said that you will never come up with a number that is realistic for the redevelopment scenario that we are talking about in the grand scheme. He said that we are talking about lot and driveway consolidations and bonuses and the like and that won't happen with the small lots that we have which he felt makes the quest that Mr. O'Brien has set out to do rather impossible. He said that he can't know what you could put on the existing lots because most of the existing lots are in some way, shape, or form nonconforming even to the zone that they are in. He questioned how many houses you could put on top of a 70 acre windmill farm? He said that if you look at the most likely development under the current zoning, then the answer is that those 70 acres get no housing. He said that it sounds a little bit foolish but the fact of the matter is that we put together a plan that is supposed to be a consistent redevelopment of the entire mile long strip. Now the question is, how does that shake out 20-30 years from now? Do we still have Mike's Music? He did not feel that you can evaluate the housing potential by looking at the existing lots. He said that, at the Township Committee, you may recall that he used the example of the Pathmark. You could, on an acres basis, put 200 housing units above the buildings on the Valley Mall property today. On a square foot basis of the buildings at the Valley Mall, you could also sustain just about 200 units at 1,200 S.F. each. You could put 200 units as a second floor on the Valley Mall under the new Ordinance, the only problem is that you would need 400 additional parking spaces on top of the 850 spaces that they have now – it would entail a 50% expansion of parking. He did not know how Mr. O'Brien will deal with that when he goes along and does practical housing. He felt that he has to say that the practical housing overbuild at Valley Mall would be zero. He said that he certainly can't evaluate it on the basis of acres or existing commercial square feet to serve as the basis for a second floor add-on because of the parking. He said that it is an awful lot of calculation for him to do and he certainly did not think that he should have the authority to say, what if Valley Mall were deconstructed and rebuilt as a smaller mall with the maximum amount of housing that allows us to fit all the parking in. He said that the answer is that he can't do that either because the lot coverage at Valley Mall is certainly a lot more than the 60% which we are allowing in the BD- Zone. So he might wind up reconstructing the Valley mall with half of the buildings with half of the square feet – maybe 100 housing units and adequate parking to sustain 60% lot coverage, but then he is doing the work of a developer so he did not think that he could ever get around to coming up with a number of housing units that we could put on Valley Rd. under the existing or proposed ordinances. He felt that we have to visualize what we want it to look like and then let the developers bring their money. He wished Mr. O'Brien well, but hoped that the Township Committee has the good sense to withdraw their request and refocus this where we all agree it should be – on improving the business climate along the Valley Rd. Business District.

Mayor Harrington said that she agreed with Mr. Sandow and felt that the conversation has, so far, headed off in that direction. She said that we have to calm some of the hysteria that is associated with the 1,000 units.

Mr. Sandow replied that we then simply say that there are no 1,000 units, I don't know where you got the number from, and it has never been vetted by the Planning Board and it is not on the table because it isn't a part of the plan.

Mayor Harrington replied that it may not be a part of the plan, but it is what went into the sewer capacity calculations. She agreed that it was an outside number and is not a real number. It was a number that was used for capacity planning and for that only, but it is out there. She said that we need to understand what a realistic expectation truly is. She said that she knew that it is a difficult calculation and would be happy with a range, but she said that it is something that she needed to be able to counter and answer that question.

Mr. Sandow said that his reasonable range is 50 and he would further suggest that one way to sweep this off the table and get on with the business of encouraging developers to improve Valley Rd. is to simply take housing off the list of permitted uses – period. Get it off the list. He said that there is no particular

reason why we need to have housing as permitted uses. If some developer wants to come in and meet all of our criteria and propose housing under a conditional use rule, he said that he would be happy to have that developer appear before the Board and make his case and have public comments. But he said that there is probably no reason why it should be permitted for every developer to contemplate housing if the community is so dead set against it. By shuffling our priorities and putting improving the business climate at the top of the pile, rather than building a mixed use neighborhood at the top of the pile, he felt that we could move this along quite smartly and get the public off our back in terms of the possible, potential, probable, maximum, whatever number of housing units. He felt that it is not where the argument should be.

Mr. Connor said that he believed that the actual number of people who had spoken was 8. He said that we have certainly had hearings where we have discussed residential and he knew that there was not a unanimous agreement about residential, but clearly the very strong majority of the people felt that that was an important component. He felt that we are now at the possibility of having this issue being raised again and for those people who believe that there needs to be mixed use, they need to make their case with the public. He believed that they had made their case with the Planning Board by the vote on the Master Plan. He said that we will move forward and one of the things we will clearly do is get what we believe to be the correct information out there for the Township Committee's review and for the public's review.

Mr. Batista asked, in going forward, if we are really looking at the possibility of trying to limit our ordinances so that they don't reflect what the Master Plan says? He said that he would like to know this going forward before we set our schedules for the next 6 months and attempt to do the Land Use Element and draft many more ordinances to what the Master Plan is now, because he said he did not want to spend the man hours when he knew that, potentially, that could just go away. He asked that if we could, perhaps, get something from the Township Committee, are we going to use the Master Plan or are you going to authorize us to begin this 4 year process again and, as Mr. Sandow said, hit the reset button? He said that he did not want to spend the man hours doing work for nothing.

Mayor Harrington said that that was a good question.

There being no further comments, the meeting adjourned at 11:00 P.M.

---

DAWN V. WOLFE  
Planning & Zoning Administrator