

I. CERTIFICATION OF COMPLIANCE

Chairman Neiman called the meeting to order at 6:00 p.m. with the Pledge of Allegiance and Mr. Kielt read the Certification of Compliance with the NJ Open Public Meetings Act:

“The time, date and location of this meeting was published in the *Asbury Park Press* and posted on the bulletin board in the office of the Township of Lakewood. Advance written Notice has been filed with the Township Clerk for purpose of public inspection and, a copy of this Agenda has been mailed, faxed or delivered to the following newspapers: *The Asbury Park Press*, and *The Tri-Town News* at least 48 hours in advance. This meeting meets all the criteria of the Open Public Meetings Act.”

2. ROLL CALL

Mr. Herzl, Mr. Franklin, Mrs. Koutsouris, Mr. Neiman, Mr. Akerman, Mr. Follman, Mr. Schmuckler

3. SWEARING IN OF PROFESSIONALS

Mr. Vogt was sworn in.

Mr. Kielt said there were 2 changes to the agenda. Under Plan Review, Items #1 SD 1586B Thompson Grove Assoc. has been tabled to the March 2, 2010 Plan Review Meeting and # 2 SP 1927 Four Corners Partners LLC has also been tabled to March 2, 2010. The other change is under correspondence, SP 1892A Princeton One LLC has also been tabled to February 16, 2010.

4. PLAN REVIEW ITEMS

1. SD # 1586B (No Variance Requested)
Applicant: Thompson Grove Assoc.
Location: Drake Road-opposite Neiman Road
Block 251.01 Lots 32 & 88
Amended Preliminary & Final Major Subdivision

Tabled to March 16, 2010

2. SP # 1927 (Variance Requested)
Applicant: Four Corners Partners LLC

Location: northeast corner of East County Line and Squankum Roads
Block 169 Lot 34
Preliminary & Final Site Plan for proposed catering kitchen

Tabled to March 16, 2010

3. SD # 1711 (Variance Requested)
Applicant: Mizz Construction/David Zajac
Location: corner Somerset Avenue and Ridge Avenue
Block 189.01 Lots 14, 15 & 16
Preliminary & Final Major Subdivision for 3 duplex structures (6 zero lot lines)

Mr. Vogt prepared a letter dated January 27, 2010 and is entered in its entirety. The owners are Mizz Construction, Inc., 212 Second Street, Suite 302, Lakewood, New Jersey, and Asher Ben Shimol, 472 Somerset Avenue, Lakewood, New Jersey. The applicant is David Zajac, 212 Second Street, Suite 302; Lakewood, New Jersey. The applicant is seeking a Zero Lot Line Major Subdivision approval with variances in accordance with Section 18-911 of the UDO. The applicant proposes to remove three (3) single-family dwellings and construct three (3) duplexes. The existing three (3) lots known as Lots 14, 15, and 188 in Block 189.01 are proposed to be subdivided into six (6) zero lot line lots shown as proposed Lots 14.01-14.06 on the Major Subdivision Plan. Four (4) parking spaces are proposed for each zero lot line lot. The off-street parking spaces for proposed Lots 14.01 and 14.02 are located along the frontage of the property perpendicular to Ridge Avenue. The off-street parking spaces for proposed Lots 14.03-14.06 are located along the frontage of the property perpendicular to Somerset Avenue. Somerset Avenue has a variable width right-of-way with a half right-of-way width of thirty feet (30') across the frontage of the property. Ridge Avenue has a thirty-three foot (33') right-of-way and no right-of-way dedication is proposed. The tract totals 0.83 acres in area and consists of three (3) existing residential properties, Lots 14, 15, & 188 in Block 189.01. Associated site improvements are proposed for the major subdivision plan. These improvements include proposed sewer, water, and utility connections; and off-street parking in driveways with depressed curb and aprons. The property is located in the northern portion of the Township on the southwest corner of Ridge Avenue and Somerset Avenue. There is existing curbing and sidewalk along the property frontages. Somerset Avenue has an existing paving width of approximately forty feet (40'), while the existing pavement width of Ridge Avenue is only about twenty feet (20'). Except for the Board of Education lands, the site is situated within a predominantly residential area. We have the following comments and recommendations: Zoning- The site is situated within the R-10, Single-Family Residential Zone District. Per Section 18-902 F. 1. b., of the UDO, "Two Family and Duplex Housing, with a minimum lot size of 12,000 square feet" is listed as a permitted use. Zero lot line subdivisions for duplexes are permitted in the R-10 Zone. According to our review of the Major Subdivision Plan and the zone requirements, the following variances are required for the zero lot line subdivision approval requested: Minimum Lot Area – Proposed areas for proposed Lots 14.01, 14.03, and 14.05 are 5,346.27 SF, 5,999.59 SF, and 5,227.84 SF, respectively. The minimum required lot area is six thousand square feet (6,000 SF). Minimum Lot Width – Proposed widths for proposed Lots 14.05 and 14.06 are 35.75' and 34.30' respectively. The minimum required lot width is 37.5'. Maximum Building Coverage – Proposed building coverage for proposed Lots 14.01, 14.03, 14.04, and 14.05 are 31%, 27%, 27%, and 28% respectively. The maximum allowable building coverage is twenty-five percent (25%). The applicant must address the positive and negative criteria in support of the requested variances. Review Comments-General/ Layout/ Parking- On the adjoining major subdivision project immediately to the west, the Planning Board required an 8.50' wide road widening easement and a physical widening of

Ridge Avenue to a sixteen foot (16') half pavement width. The Board should instill the same requirements for this subdivision because of the narrow existing pavement width on Ridge Avenue. Should the Board require the road widening easement, plan layout revisions will be necessary. Off-street parking: According to the architectural plans provided, each duplex unit will have five (5) bedrooms and an unfinished basement. The zero lot line ordinances require parking for each duplex unit as if each unit was a single-family dwelling. The applicant is proposing four (4) off-street parking spaces per unit which is in compliance with the RSIS standards of three (3) off-street parking spaces for five (5) bedroom units. The applicant should also provide testimony regarding basements since the architectural plans indicate that each unit will have a basement. The proposed off-street parking consists of a minimum of 9' X 18' parking spaces. The proposed parking configuration for proposed Lot 14.02 is cumbersome. We recommend the proposed four (4) spaces be aligned in a single row similar to the layout of proposed Lot 14.01. Construction details are required for the proposed driveways with the off-street parking. Furthermore, no pedestrian access to the dwelling units is shown and should be added. The plans only note that all existing dwellings on the three (3) existing lots will be razed. Other existing improvements and their status need to be addressed. A current Outbound and Topographic Survey shall be submitted. Each unit shall have an area designated for the storage of trash and recycling containers. This matter is not addressed on either the site plans or architectural plans. Testimony shall be provided by the applicant's professionals on disposal of trash and recyclables. Proposed building dimensions are required on the plans to confirm setback compliance. As a result of the amount of site disturbance involved with this project, such as removal of existing improvements, new driveways, utility connections, and the potential widening of Ridge Avenue, additional site improvements are required. We recommend new curb and sidewalk be installed along the entire property frontage since virtually none of the existing curb and sidewalk will remain. Also, roadway improvement plans should be prepared because of the numerous underground utility connections required. Per Subsection 18-911 F (2 (a-g)) of the zero lot line ordinance, a written agreement signed by the owner of the property is required, including provisions to address items associated with the use, maintenance, and repair of common areas and facilities associated with the overall property. Said agreement must be filed as part of this application to obtain the zero lot line subdivision approval from Lakewood Township. Architectural- Three (3) sets of architectural plans are provided. The plans must be revised to indicate the correct proposed Blocks and Lots. The first plan set is for the duplex unit on proposed Lots 14.01 and 14.02, the second set of plans is for the duplex units on proposed Lots 14.03 and 14.04, and the last set is for the duplex units on proposed Lots 14.05 and 14.06. We recommend that color renderings be provided for the Board's review at the time of Public Hearing. We recommend that location of air conditioning equipment be shown. Said equipment should be adequately screened. Coordination is required between the architectural plans and site plans with respect to patios, dimensions, and access. Basement access is proposed on the sides of the duplex units. Confirmation is required that no additional variances are required. Full size architectural plans shall accompany any resubmission. Grading- Proposed spot grades are required at the building corners, high points, driveway corners, and property corners on the Grading & Drainage Plan to allow for proper review. Proposed grading shall be revised to direct more runoff to the street frontages. Too much runoff is being directed around and behind the units with swales to adjacent properties. Proposed basement elevations must be added to the plans and soil borings provided to determine whether a two foot (2') separation from the seasonal high water table is maintained. Stormwater Management- A Stormwater Management Narrative has been submitted to reflect that the proposed increase in impervious coverage for the site is minimal. Therefore, no proposed stormwater management measures are proposed. Landscaping- Six (6) October Glory Maples and six (6) Pin Oaks are proposed along the property frontages. The locations of some of these proposed trees need to be adjusted to avoid conflicts with proposed utility connections. The proposed Tree List must

be corrected on the plans. Corrections are required to the tree planting detail. A six foot (6') wide shade tree and utility easement is proposed along both frontages of Ridge Avenue and Somerset Avenue. Lighting- Testimony shall be provided on the adequacy of street lighting. No lighting information has been provided. Utilities-Potable water and sanitary sewer service will be provided by New Jersey American Water Company. The project is within the franchise area of New Jersey American Water Company. Testimony should be provided regarding other proposed utilities. Additional underground connections will be required if gas is proposed. Environmental- Site Description - Per review of the subdivision plans, aerial photography, and a site inspection of the property, the site is residentially developed and has no appreciable vegetation, habitat, or significant environmental value. Environmental Impact Statement - An Environmental Impact Statement (EIS) report was not prepared and submitted for the project, nor does one appear necessary given the nature of the project. Our office performed a limited natural resources search of the property and surroundings using NJ Department of Environmental Protection (NJDEP) Geographic Information Mapping (GIS) system data, including review of aerial photography and various environmental constraints data assembled and published by the NJDEP. The following data layers were reviewed to evaluate potential environmental issues associated with development of this property: Known Contaminated sites (including deed notices of contaminated areas); Wood Turtle and Urban Peregrine habitat areas; and NJDEP Landscape Project areas, including known forested wetlands, emergent wetlands, forest, and grassland habitat areas. No known environmental constraints exist within or adjacent to this site per NJDEP mapping. Tree Management - The applicant must comply with the requirements for tree protection and removal as applicable for this site. Construction Details- Limited construction details are provided on Sheet 2 of the plans. All proposed construction details must be prepared to comply with applicable Township or NJDOT standards unless specific relief is requested in the current application (and justification for relief). Details shall be site specific. The plans shall be amended to include handicapped ramp details from Sheet 51 of the 2007 NJDOT Standard Details to account for the proposed ramp crossing at the southwest corner of Ridge Avenue and Somerset Avenue. Performance guarantees should be posted for any required improvements in accordance with Ordinance provisions. Final Plat (Major Subdivision) - The symbolism and legend for markers must be clarified. It is not clear which markers exist and which are proposed. The Blocks and Lots indicated for the surrounding properties must be completed. Dimensions and areas of the easements on the individual proposed lots must be indicated. The zoning schedule requires multiple corrections with respect to the variances required. Proposed lot numbers must be assigned by the Tax Assessor and the plat signed by the Tax Assessor. Compliance with the Map Filing Law is required. Regulatory Agency Approvals - Outside agency approvals for this project may include, but are not limited to the following: Ocean County Planning Board; Ocean County Soil Conservation District; New Jersey American Water Company (Water and Sewer Service); and all other required outside agency approvals. *A revised submission should be provided addressing the above-referenced comments, including a point-by-point summary letter of revisions. In addition, we recommend a meeting with our office prior to undertaking the project revisions.*

Mr. Lines appeared on behalf of the applicant as the engineer. Mr. Lines said the variance for the proposed Lot 14.01 is a corner lot with a duplex so they have 12,000 sf for the entire lot but the lot line gets offset and the lot area variance for Lot 14.03 is because there is skew in the lot lines but that is also 12,000 sf. On Lot 14.05 the lot is odd shaped and so they didn't go into the setbacks it is narrower than the other ones but is over 12,000 sf. Mr. Lines said they agree to the comments in the report and can address all the comments and provide testimony. Mr. Neiman asked him to remember to address the maximum building coverage because it is a variance that the board does not like to grant that often and the allowable is 25% and he is

asking for 31%, 27%, and 27%. Mr. Lines said the 31% and the 28% is because they are for the small lots because of the corner situation and the odd lot shape and on the whole those lots are at 25% lot coverage. They are not asking for any side yard or front yard variances.

Mr. Akerman asked Mr. Lines to clarify the building coverage and Mr. Lines said if you look at the lot coverage for Lot 14.01 and 14.02 together, it is 25% for the building; it is when you put the lot line in it offsets because it is a duplex and they have to go down the middle of the units so you end up with 2 odd shape lots. Mr. Akerman asked if he was over on some of the lots and under on some and Mr. Lines said yes- Lot 14.02 and 14.06 have less lot coverage and Lot 14.03 and 14.04 is because of the depth. Mr. Akerman asked if it averaged out to 25% on the whole and Mr. Lines said he would check and will have that at the public hearing.

Mr. Schmuckler said he knows Mr. Bandman came to the board about a year ago about the next lot and they had him widen Ridge and asked if this was going to be in sync with that and Mr. Lines said yes, they would line everything up with Bandman's project and Ridge will have a 6ft. road widening on one side so they will end up with 26ft. They will provide a road widening easement and widen the pavement to match. Mr. Neiman asked if they will have 4 off street parking spaces and Mr. Lines said yes.

Motion was made by Mr. Akerman, seconded by Mrs. Koutsouris, to advance to the meeting of March 16, 2010

ROLL CALL: Mr. Herzl; yes, Mr. Franklin; yes, Mrs. Koutsouris; yes, Mr. Neiman; yes, Mr. Akerman; yes, Mr. Follman; yes, Mr. Schmuckler; yes

4. **SP # 1910B (Variance Requested)**
Applicant: Oorah Inc.
Location: 1805 Swarthmore Avenue- east of New Hampshire Avenue
Block 1609 Lots 2, 4
Preliminary & Final Site Plan for office, warehouse and school

Mr. Vogt prepared a letter dated January 26, 2010 and is entered in its entirety. The applicant is seeking Preliminary and Final Major Site Plan approval with Variances. The applicant proposes the expansion of existing developed sites to include Office, Warehouse, and School uses with site improvements within the Lakewood Industrial Park. The existing properties located along the northeast side of Swarthmore Avenue consist of Lots 2 & 4 in Block 1609. Lot 2 contains approximately 6.7 acres and Lot 4 about 3.4 acres. Each lot has a one-story masonry building with associated parking lot and site improvements on it. The applicant is proposing to replace the existing building on Lot 2 with a 160' X 506' three-story mixed use building consisting of warehouse, office, and school uses. The warehouse use proposes 48,490 square feet of floor area of two-story height. The office use proposes 32,470 square feet of floor area on both the first floor and second floor for a total of 64,940 square feet. The school use proposes 80,960 square feet which encompasses the entire third floor. The applicant is also proposing an addition to the existing building on Lot 4. An addition of 147'-7" is proposed to the rear of the existing 152'-5" X 135'-6" one-story structure. The proposed addition will be three-stories and also cover the existing one-story part of the structure making for a proposed 135.5' X 300' three-story building. This proposed mixed use building will also consist of warehouse, office, and school uses. The warehouse use proposes a combination of 5,419 square feet of existing area and 20,088 square feet of new area for a total floor area of 25,507 square feet, most of it being two-stories in height. The office use will continue to contain 15,458 square feet of existing floor

area on the first floor, plus 20,088 square feet proposed for the second floor, for a total floor area of 35,546 square feet. The school use proposes 40,399 square feet which is the entire third floor. The proposal will consolidate the existing lots into an overall project under single ownership. Circulation and off-street parking will be provided throughout the site. Off-street parking for passenger vehicles proposes a total of four hundred seventy-eight (478) spaces, which includes thirty (30) "land banked" spaces. Bus drop off areas are proposed for the schools in each building. Truck loading areas are proposed for the warehouse uses in each building. Access to the proposed development will be provided by three (3) proposed driveways from Swarthmore Avenue. However, the easternmost proposed driveway will only be a one-way in with a bus drop off immediately in front of the easterly building. The proposed tract consists of roughly 10.11 acres in area, and is largely developed. Some wooded areas exist on the site, particularly along the western and northern property boundaries. The property is generally flat with the front third sloping towards Swarthmore Avenue and the rear two thirds sloping towards the north. Freshwater wetlands and state open waters exist off-site within three hundred feet (300') of the tract. A Letter of Interpretation – Presence/Absence Determination confirms that freshwater wetlands and wetland transition areas are located off-site north of the property associated with the South Branch of the Metedeconk River. However, a three hundred foot (300') Riparian Buffer intersects the northwest corner of the site and is indicated on the Site Plan. The site fronts the northeast side of Swarthmore Avenue. The roadway is improved with municipally supplied water and sewer services available in the roadway. Surrounding lands are all improved with large commercial and industrial land uses. The site is located in the M-1 Industrial Zone. Warehouses, quasi-public and private educational facilities, and office buildings are all permitted uses in the zone. *Waivers- The following waivers have been requested from the Land Development Checklist:* Topography and man made features within two hundred feet (200') of the site boundaries. Profiles- Tree Management Plan - We support the requested waiver for partial topography. The applicant's engineer has requested that the providing of Profiles and a Tree Management Plan be deferred to a later time as opposed to being waived altogether. We support these requests. The applicant shall provide supporting testimony on the requested waivers as required. Zoning - The site is situated within the M-1, Industrial Zone. Warehouses are a "permitted use" per Section 18-903M.1.c., of the UDO. Quasi-public and private educational facilities are a "permitted use" per Section 18-903M.1.m., of the UDO. Office buildings are a "permitted use" per Section 18-903M.1.o., of the UDO. Confirming testimony should be provided by the applicant's professionals regarding the proposed uses. According to the UDO, the minimum front yard setback may be reduced from one hundred feet (100') to fifty feet (50') with approval of the Lakewood Industrial Commission. As shown on the survey, the existing building which will be added onto has an existing front yard setback of 56.7'. A front entrance with a stairwell is being proposed with the addition to the existing building. As a result, a variance for a front yard setback of 46.3' is being requested. The building being replaced proposes a front yard setback of eighty feet (80'). Testimony shall be provided regarding the variance request and status of the Industrial Commission approval. As shown on the survey, the existing building which will be added onto has an existing side yard setback of 29.8', where thirty feet (30') is required, this necessitates a variance. Brick pilasters are being proposed with the addition to the existing building. As a result, the side yard variance required will be 28.5'. Testimony shall be provided regarding the variance request. Per review of the site plans and application, the following design waivers appear to be required: Providing parking facilities closer than twenty feet (20') from the street line (Subsection 18-807.C.6.). The nearest proposed parking facility to the street line appears to about ten feet (10'). Curb is not provided throughout the parking lots in order to allow runoff to drain through overland swales and improve water quality. No sidewalk has been proposed along Swarthmore Avenue. This is consistent with other site plans in the Industrial Park. Any and all other design waivers deemed necessary by the Board. Review Comments - Site Plan/Circulation/Parking-The

off-street parking requirements for the site are based on the following: One (1) space devoted for every one thousand square feet (1,000 SF) of warehouse. One (1) space for each three hundred square feet (300 SF) of gross floor area for offices. One (1) space for each classroom, tutor room, library, meeting room, and office. Our review of the proposed project indicates seventy-four (74) spaces are required for warehouse use (73,997 SF), three hundred thirty-five (335) spaces for office use (100,486 SF), and twenty-two (22) spaces for school use. A total of four hundred thirty-one (431) off-street parking spaces are required and four hundred seventy-eight (478) spaces which include thirty (30) "land banked" spaces are proposed. The requirements shall be corrected on the Cover Sheet. The following provided values must be corrected in the M-1 Zoning Table: Side Yards should be 28.5'/74.5'. The Rear Yard appears to be about ninety-five feet (95'). A Land Summary has been provided on the Cover Sheet for CAFRA purposes. Clarification of this Summary is necessary. Vehicular Circulation Plans are required to confirm accessibility for buses, trucks, delivery, emergency, and trash pickup vehicles that will need to access the site. Further coordination is required between the Site Plans and Architectural Plans, especially with respect to loading areas and truck circulation. A 10' X 20' refuse area is proposed adjacent the truck delivery behind the new proposed building. A 10' X 24' refuse area is proposed in the northeast corner of the site behind the proposed addition to the existing building on the easterly side of the site. Testimony is required regarding the adequacy of the enclosures. The refuse areas are enclosed, screening has been provided for the 10' X 24' area, but no screening has been provided for the 10' X 20' area. The waste receptacle areas should be designed in accordance with Section 18-809.E. of the UDO. A detention basin is proposed in the southeast corner of the site along the Swarthmore Avenue frontage. The proposed basin has the configuration of a long, narrow trench. The basin will not be fenced and has no vehicular access. Design revisions to the basin appear necessary. Two (2) underground "Stormtrap" Systems are also proposed below the parking lots to be constructed behind the proposed new building. No sight triangles associated with the proposed vehicular site access points have been indicated. Swarthmore Avenue is improved with utilities, curbing, and pavement. Curbing needs to be replaced with depressed curbing at the proposed driveway access points. Curbing also needs to be proposed where existing driveways are being eliminated. Proposed handicapped spaces and aisles shall be dimensioned. Information on the number of required and proposed handicapped spaces must be provided. There are existing twenty foot (20') wide drainage easements on both proposed side property lines. The locations and sizes of existing pipes in these easements must be shown since existing drainage structures on and off site are indicated on the Survey. The ownership of these easements must be added to the plans. The project is proposing improvements which encroach upon these easements. The proposed westerly site access point may also encroach upon the corner of the adjoining property. Site Plan layout revisions should be considered. An existing tree preservation area is indicated in the northwest corner of the proposed project. The portion of the tree preservation area within the existing drainage easement can not be counted and must be removed. Survey information must be provided for the three hundred foot (300') riparian buffer shown in the northwest corner of the proposed project. Proposed building overhangs must be added to the Site Plans. The following information should be added and clarified on the Site Plans: A Legend must be provided. Existing improvements must be shown. More dimensions should be provided for the layout. A better selection of symbols and line weights chosen (it is difficult to determine proposed curb from proposed edge of pavement). Adding proposed circulation sidewalk is recommended at the northwest corner of the proposed new building. Architectural- Conceptual architectural floor plans and elevations of the two (2) three-story buildings were submitted for review. Per review of the submitted plans, the proposed new building will have an average height of forty feet four inches (40'-4") and the building with the proposed addition will have an average height of forty feet (40'), far less than the sixty-five foot (65') allowable height. Both structures will contain first floor warehouse, first

and second floor office space, and third floor schools. An area for proposed building signage is indicated on the building with the proposed addition. No signage is shown on the proposed new building. The rear elevation of the proposed new building has a different loading and delivery layout than the floor plans and site plans. Corrections are required to the square footages of the proposed floor areas. However, the changes appear minor enough to have minimal (if any) impact on the off-street parking requirements. Testimony should be provided on the status of the existing warehouse area of the building with the proposed addition since the loading dock is being removed. The applicant's professionals should provide testimony regarding the facades and treatments of the proposed new building, as well as the building with the proposed addition. We recommend that renderings be provided for the Board's review and use prior to the public hearing, at a minimum. Testimony should be provided as to whether any roof-mounted HVAC equipment is proposed. If so, said equipment should be adequately screened. More detailed architectural plans should be provided. Grading- Detailed Grading, Drainage, & Utility information is provided on Sheet 3. Virtually the entire site will be developed except for a tree save area in the northwest corner of the site. A storm sewer collection system is proposed to collect runoff throughout the site. The applicant should confirm whether fill will be imported to the site. It appears fill is to be imported, we recommend that the applicant perform analytical testing, in accordance with N.J.A.C. 7:26E-6.4(b)2.iii through iv, N.J.A.C. 7:26E-6.4(b)3, (d) and (e), on the fill at a frequency suitable to demonstrate that contaminants are not present within the fill soil at concentrations above the relevant NJDEP Soil Cleanup Criteria. A detention basin is proposed on the southeasterly portion of the proposed project site. The basin will be approximately five feet (5') deep and is shaped like a long trench. We recommend the basin be redesigned to have a flat sand bottom for infiltration, and have walls constructed to maximize volume. A means of access must be provided. The proposed grading will be reviewed in detail after recommended site plan changes have been submitted. Foot bridges are proposed to cross the proposed grassed swales designed between parking areas. Additional proposed foot bridges are required to provide pedestrian access throughout the parking areas. Stormwater Management - a proposed stormwater management system has been designed utilizing a combination of vegetated swales, inlets, and perforated high density polyethylene pipe to convey stormwater runoff into a proposed detention basin and two (2) proposed "Stormtrap" Systems. The proposed detention basin is located on the southeasterly portion of the site and the "Stormtrap" Systems below the proposed parking areas to the rear of the proposed new building. A two foot (2') vertical separation between the proposed bottom of the stormwater management system and the seasonal high water table has not been provided in all instances. The permeability test results are extremely varied, which can be expected since the soils are a mix from Hydrologic Soil Groups "A" and "D". A detailed review of the Stormwater Management will be conducted after receipt of review comments from NJDEP since an Individual CAFRA Permit is required for the project. The limits of the existing on-site drainage improvements to be abandoned must be clarified on the plans. We recommend providing full size Drainage Area Maps for ease of review. There appears to be a proposed storm sewer pipe conflict between the outlet pipe from proposed "Stormtrap" #1 and an inlet pipe to proposed "Stormtrap" #2. Storm sewer and utility profiles are required. Proposed storm sewer outfalls into the detention basin are shown to be flared end sections designed with rip rap aprons. However, the proposed rip rap aprons will not fit into the trench shaped detention basin bottom since they are required to be flat. Proposed bubbler basin outlets from the detention basin into a proposed swale east of the building with the proposed addition. Grading is proposed that encroaches into an existing drainage easement not shown on the plans. A revision to this proposed design is recommended. A more comprehensive design to include pipe sizes, slopes, and cleanouts is required for the proposed underground roof leader piping. A table of contents is needed to organize the Stormwater Management Report. A Stormwater Maintenance Manual has not been provided in accordance with NJ Stormwater Rule (NJAC 7:8) and Township Standards.

Testimony should be provided to confirm that the applicant will own and maintain the proposed stormwater management system. Landscaping- A comprehensive Landscape Plan has been provided on Sheet 6. The overall landscape design is subject to review and approval by the Board. The applicant has not provided a six foot (6') wide shade tree and utility easement along the property frontage, and sight triangle easements for the proposed site access driveways. Five (5) Pin Oaks are proposed within the right-of-way in front of the proposed detention basin. We recommend the proposed trees be moved out of the right-of-way. Trees are proposed within the designed vegetated swales. We recommend these trees be relocated onto proposed parking islands since there is a surplus to the number of proposed parking spaces. The designated tree save area has open areas void of trees. We recommend plantings in these areas so they may be counted towards the values required by CAFRA. Lighting- A detailed lighting design is provided on Sheet 7 along with a point to point diagram. Fifteen (15) wall mounted, nineteen (19) single pole mounted, sixteen (16) double pole mounted, and one (1) triple mounted pole fixtures are proposed. Four (4) single pole mounted fixtures are proposed along the westerly property line. These fixtures are proposed within an existing drainage easement and will conflict with an existing forty-eight inch (48") storm sewer pipe which is not shown. Revisions are required. The overall lighting design is subject to review and approval by the Board. The pole mounted fixtures are listed as twenty-five feet (25') in height, yet the detail only shows a mounting height of sixteen feet (16'). Proposed light poles are located within the designed vegetated grass swales. These conflicts must be resolved. The lighting notes shall be corrected and lighting shall conform to the requirements of the Township of Lakewood. The concrete for the Light Pole Footing Detail shall be 4,500 psi. Utilities- Public water and sewer services will be provided by the Lakewood Township Municipal Utilities Authority. General Note #5 shall be corrected. Proposed utility connections are shown for each building. Separate fire service lines are proposed for each building. Electric service is available from Jersey Central Power & Light. Gas service is available from New Jersey Natural Gas Company. Existing electric and gas facilities are indicated on the plans. Proposed gas service is shown for each building. The final design must be in full conformance with the Fire Commissioners' recommendations for this project. Signage -No free-standing site identification sign has been provided on the site plans. The architectural plans indicate a location for building signage on the existing building with the proposed addition. However, no zoning information has been provided. Testimony is required. All signage proposed that is not reviewed and approved as part of this site plan application, if any, shall comply with the Township Ordinance. Traffic- A traffic report has been provided for review. The traffic report concludes that redevelopment of the site can operate compatibly with future traffic conditions in the area according to the author. A minor traffic signal timing adjustment to the signalized intersection of New Hampshire Avenue/Swarthmore Avenue will permit this intersection to continue to operate within acceptable traffic engineering parameters for the build year. Other non-signalized intersections along Swarthmore Avenue including the site driveways will operate within acceptable traffic engineering parameters as well. Traffic testimony shall be provided at the forthcoming Public Hearing. Testimony shall be provided to address whether changes to the existing levels of services will occur from this project. Environmental-Site Description - per review of the site plans, aerial photography, and a site inspection of the property, the tract consists of developed properties fronting on the north side of Swarthmore Avenue in the Lakewood Industrial Campus. The site is rectangular in shape with nearly a thousand feet (1,000') of road frontage. Lot 2 contains a former plastics factory and parking area, while Lot 4 has operational businesses with parking area. The vegetation on site consists of forested pine/oak uplands in the west and north parts of the site. No freshwater wetlands or state open waters exist on-site, but are within three hundred feet (300') of the site. A riparian buffer intersects the northwest corner of the site. A county sewerage easement which must be added to the survey and plans is located directly north of the land for the project. CAFRA Compliance Statement - The applicant has submitted a CAFRA Individual Permit

Compliance Statement. The document has been prepared by Trident Environmental Consultants and complies with Section 18-820 of the UDO. The report is a result of an Environmental Assessment and Inventory conducted on the site. To assess the site for environmental concerns, natural resources search of the property and surroundings was completed using NJ Department of Environmental Protection (NJDEP) Geographic Information Mapping (GIS) system data, including review of aerial photography and various environmental constraints data assembled and published by the NJDEP. The following highlights some of the documents and field inventories which were reviewed to evaluate potential environmental issues associated with development of this property: The New Jersey State Development and Redevelopment Plan. The site lies within the CAFRA Lakewood Mainland Coastal Regional Center. NJDEP I-map and site investigation for wetlands and wetland buffers. A Presence/Absence Letter of Interpretation was obtained for the project site verifying the absence of freshwater wetlands, waters, or transition areas on the property. The Natural Heritage Program for any threatened and endangered species. Northern Pine Snake, Bald Eagle, and Great Blue Heron habitat areas were evaluated. NJDEP Landscape Project Areas. The author of the CAFRA Compliance Statement concludes the proposed project will have a minimal adverse impact on the natural environment due to the proper planning and implementation of the proposed project. The majority of the site is developed in its current state and the proposed development will conform to the surrounding land use. Our office agrees with the author's findings. Tree Management Plan- The Existing Conditions Plan identifies five (5) tree plot areas. However, a Tree Protection Management Plan has not been provided and must be submitted (or waiver sought). Phase I/AOC's- If existing, a Phase I study should be provided to address potential areas of environmental concern (AOC's), if any within the site. Construction Details- Construction details are provided on Sheets 8 and 9 of the plans. All proposed construction details must comply with applicable Township or NJDOT standards unless specific relief is requested in the current application (and justification for relief). Details shall be site specific, and use a minimum of Class B concrete @ 4,500 psi. Construction details will be reviewed in depth after recommended plan revisions are submitted. Performance guarantees should be posted for any required improvements in accordance with Ordinance provisions. Outside agency approvals for this project may include, but are not limited to the following: Lakewood Township Industrial Commission; Lakewood Township Municipal Utilities Authority (water and sewer); Ocean County Planning Board; Ocean County Soil Conservation District; NJDEP CAFRA Individual Permit; and all other required outside agency approvals. We are available to discuss design revisions with the applicant's professionals prior to a resubmission of documents. A revised submission should be provided addressing the above-referenced comments, including a point-by-point summary letter of revisions.

Mr. Vogt said he has no problem granting the waivers the applicant requested and has spent time with the applicant to iron out the details. He said the Lakewood Industrial Commission has submitted a letter saying they have no objections to the proposed project.

Mr. Penzer Esq. appeared on behalf of the applicant and said this is the new wave of the future which is going to be schools by floor. This application will have the school on the 3rd floor and the rest of the building will be regenerating. There is a ratable plus a school. The UDO says there must be 100 ft. front yard setback but the Industrial Commission can relax the rule to 50 ft. but they are asking for 4 more feet because they are 24 ft. x 5 ft. and they have an extra stairwell for the students to be safe. The other variance is on the side of the building where the existing building is and it is 29.8 ft. which is .2 ft. off and they want to take 1 ft. more to make it look better and more decorative. The Industrial Commission endorsed both the variances in their letter. As far as the engineering report, Mr. Penzer said there are 3 items that need attention. Mr. Penzer said they do not want children to walk in the front of Swarthmore Avenue and want to

keep them in the back by the playground so that is why they do not want to install sidewalks and asked if it is better to put sidewalks there to encourage children to walk there or not to have it and have it screened closed so the kids are on campus and not in front. He said whatever the board chooses they will do but feel safety wise it is better not to have the sidewalks. Mr. Neiman asked if the other schools in the industrial park have sidewalks and Mr. Penzer said no. Mr. Penzer said the second thing is easements; they have agreed to go to Mr. Franklin and whatever Mr. Franklin says in regards to the swales they will be governed by. The third issue is something that was brought up by Mr. Vogt with regard to signs and Mr. Penzer said they feel they will need signs and they want to do 3 signs, not 2 and feel the ones that are eligible are the second tier which is 20 ft. high, 75 sf. Mr. Penzer said they can meet the remaining items in the letter.

Mr. Neiman said if there will be signs, they will put them on the plans and the board can address it at the public hearing and Mr. Penzer said yes. Mr. Penzer said Mr. Schreiber brought in what the building will look like. Mr. Neiman asked if this building will be built from scratch and Mr. Penzer said yes. He asked Mr. Hopkin to point out where the bump out is for the safety of the children (24ft.). Mr. Neiman asked if Mr. Penzer was going to provide testimony about the bus drop off and pick up and asked if there were any playgrounds and Mr. Penzer said there is 3 places where there will be playgrounds mostly in the rear. He said they are also in the middle of a CAFRA application so there are no endangered species but way in the rear is the eagle migratory bird so there is some nice acreage that no one can use which will be fantastic to play in. Mr. Neiman asked about parking and Mr. Penzer said there is more than enough. Mr. Penzer said the 1st floor is going to have approximately 35,000 sf of office and the other 45,000 will be 2 floors high of warehouse; the second floor is going to be 35 ft. high and the 3rd floor is going to be school-no one is going to do warehouse unless they are at least 18-20 ft. high so they are being very user friendly.

Mr. Neiman said as far as sidewalks go, he has been in the industrial park and the other schools really don't have sidewalks and he thinks that the children don't really congregate towards the front but he will see what the rest of the board says. Mr. Penzer said the garbage will be private pick up.

Mr. Schmuckler asked how large is the school area and Mr. Penzer said they are 2 different areas, 80,000 and 40,000 and he does not know how many children but would like to see 2 or 3 schools and Mr. Schmuckler asked if they had playground space for a school this big and Mr. Penzer said yes, they have at least 4 spots plus the entire rear. Mr. Schmuckler asked about the bus drop off and pick up and Mr. Penzer said bus drop off is completely separate and on the other side. Mr. Schmuckler asked if the playground areas will be gated off so the kids can't get to the parking lot and Mr. Penzer said there is a row that goes through it that will be gated to get there.

Mr. Akerman asked Mr. Hopkin to mark how much the combined playgrounds is and Mr. Hopkin said he does not have that with him but will mark it for the next meeting.

Motion was made by Mr. Herzl, seconded by Mrs. Koutsouris, to advance to the meeting of March 2, 2010

ROLL CALL: Mr. Herzl; yes, Mr. Franklin; yes, Mrs. Koutsouris; yes, Mr. Neiman; yes, Mr. Akerman; yes, Mr. Follman; yes, Mr. Schmuckler; yes

5. SD # 1713 (Variance Requested)
Applicant: Mark Friedman
Location: 11th Street, west of Lexington Avenue
Block 112 Lot 8
Minor Subdivision to create 2 lots

Mr. Vogt prepared a letter dated January 27, 2010 and is entered in its entirety. The applicant seeks minor subdivision approval to subdivide an existing rectangular 18,750 square foot lot known as Lot 8 in Block 112 into two (2) proposed residential lots. All existing improvements on the property, including a two-story frame dwelling and an existing shed would be removed. Two (2) new single-family lots (Lot 8.01 and 8.02) are proposed, each 9,375 square feet in size. The site is situated within a residential area. Curbing and sidewalk exist along the property frontage, but are in deteriorated condition. New curb and sidewalk are proposed. We have the following comments and recommendations: Zoning- The parcels are located in the R-10 Single-Family Residential Zone District. Single-family detached dwellings are a permitted use in the zone. Per review of the Subdivision Map and the zone requirements, the following variances are required: Minimum Lot Area (proposed Lots 8.01 and 8.02, 9,375 SF each proposed, 10,000 SF is required) – proposed conditions. Minimum Lot Width (proposed Lots 8.01 and 8.02, 62.5 feet is proposed for both, 75 feet is required) – proposed conditions. The applicant must address the positive and negative criteria in support of the requested variances. *At the discretion of the Planning Board, supporting documents may be required at the time of Public Hearing, including but not limited to aerials and/or tax maps of the project area and surroundings to identify the existing character of the area.* Review Comments- As depicted on the subdivision plans, each lot will be developed including one (1) 18'x36' paved driveway, each providing the equivalent of four (4) 9'x18' parking spaces. Testimony should be provided as to whether basements are proposed. As stated previously and observed during our site inspection, existing sidewalk and curbing along the property frontage are in a deteriorated condition. The applicant proposes in-kind replacement of all curb and sidewalk along the frontage. No proposed lot grading information is depicted on the subdivision plans. We recognize that detailed lot grading plans would be provided prior to building permits if/when this subdivision is approved. However, we recommend that finished floor elevations and proposed driveway grades be provided, at a minimum. The proposed lots should be graded to direct post-development stormwater runoff towards Eleventh Street and away from adjacent lots to the maximum extent possible. The subdivision plans show the locations of several mature oaks present within both lots. Tree protection measures (snow fencing, other) should be provided for mature trees that can be preserved. The plans indicate proposed water and sewer service will be provided by the New Jersey American Water Company (NJAWC). Existing water and sewerage is within Eleventh Street as shown on the plans. The existing water service (only) to the existing dwelling is depicted. Proposed water services and sewer laterals should be shown as well. Additionally, trenching and road repair construction details must be added to the plan. A six foot (6') wide shade tree and utility easement has been provided on the plan along the property's frontage. No shade trees are provided. Landscaping should be provided to the satisfaction of the Board (or a design waiver sought). Proposed lot numbers must be assigned by the Tax Assessor and the plat signed by the Tax Assessor. Compliance with the Map Filing Law is required. Outside agency approvals for this project may include, but are not limited to the following: Ocean County Planning Board; Ocean County Soil Conservation Water and Sewer Approvals (NJAWC); and all other required outside agency approvals. *A revised submission should be provided addressing the above-referenced comments, including a point-by-point summary letter of revisions.*

Mr. Lines appeared on behalf of the applicant and said they will provide testimony on the lot area and lot width variances and Mr. Neiman asked him to provide a map with the area to see if there are any other lots that size. Mr. Lines said he has a full size tax map to show the board.

Motion was made by Mrs. Koutsouris, seconded by Mr. Akerman, to advance to the meeting of March 16, 2010

ROLL CALL: Mr. Herzl; yes, Mr. Franklin; yes, Mrs. Koutsouris; yes, Mr. Neiman; yes, Mr. Akerman; yes, Mr. Follman; yes, Mr. Schmuckler; yes

Mr. Neiman went to correspondence next.

5. PUBLIC HEARING ITEM

1. SD # 1509B (No variance Requested)
Applicant: Majestic Contracting
Location: Massachusetts Avenue, south of Prospect Street
Block 445 Lot 18
Preliminary & Final Subdivision & Site Plan for 17 two family townhouses

Mr. Vogt prepared a letter dated October 20, 2009 and is entered in its entirety. The applicant proposes to develop this property for multi-family development, including seventeen townhomes within three (3) proposed on-site buildings. Proposed amenities include but are not limited to a privately-owned cul-de-sac (Alpine Court), seventy-five (75) parking spaces, a proposed tot lot, an underground detention systems and an above-ground recharge basin. The property is located in the Residential Multifamily (RM) Zone. Per our interpretation of the submitted documents, including the Final Major Subdivision Plan, the property will be maintained through a future Homeowners' Association with the proposed lots being Fee Simple. Per our review of the documents, an earlier version of this application was denied by the Planning Board at its November 21, 2006 meeting due to Board and public concerns expressed including but not limited to three (3) primary issues: Parking – Due to the potential for basements proposed within the development being converted into inhabited basements, the Board expressed concerns regarding the number of parking spaces (75) proposed. Buffer – The Board felt that Lakewood buffer ordinance for multi-family or townhouse development adjacent to single-family development/zoning, Section 18-803(E)(2)(b) should be applied to the project. Cul-de-sac – The Board requested a Cul-de-sac turnaround for the proposed Alpine Court terminus in lieu of “other suitable means” such as hammerheads allowed by RSIS standards for multifamily cul-de-sac stems (NJAC 5:21-4.5(m)). Per review of the Findings in Judge Vincent Grasso’s March 5, 2009 (written) Court decision, the Court found that the Board’s denial of the proposed seventy-five parking spaces was “arbitrary and not based on credible evidence in the record”. However, our interpretation of the Findings indicates that the Court found that the Planning Board was entitled to request a cul-de-sac turnaround for Alpine Court, as well as the landscape buffer to single family-development/zoning stipulated in Section 18-803(E)(2)(b) of the UDO. The following design revisions were made per site plan review at the June 2, 2009 hearing: Proposed handicap spaces have been shifted closer to the main building units on both sides of Alpine Court, and are accessible to proposed sidewalks (via ramps that are also necessary). Proposed parallel parking on Alpine Court has been reduced to three (3) spaces,

and the minimum 24' wide access aisle from the Alpine Court 90 degree parking spaces is now provided per RSIS standards. A separate lighting plan has been provided with design data as requested. Soil test data has been provided as requested. Various plans revisions and clarifications per our initial site plan review. *In response to our previous review letter dated July 16, 2009, and comments received at the September 1, 2009 public hearing, the applicant has made a revised submission including but not limited to the following revisions: The cul-de-sac bulb has been revised to provide the minimum 40' wide turnaround prescribed in RSIS, per discussions at the September 1, 2009 hearing. The handicap spaces originally proposed have been removed from the current design, and replaced by two (2) 8' x 12' refuse pads as depicted on the revised plans. A "typical front yard" detail has been provided on the revised Layout Plan (Sheet 3), indicating enlarged, 6'x6' individual trash enclosure pads now proposed for each residential unit. The number of parking spaces proposed tangential to the cul-de-sac bulb has been increased to six (6). Two (2) spaces were deleted from the parking area proposed immediately east of the bulb. Miscellaneous plan design revisions per our previous review letter.* We offer the following comments and recommendations per review of the current application, the above referenced Planning Board resolution of denial, the Findings of the Court, prior engineering and planning review letters by T&M Associates dated September 15, 2006, and comments from our review letters dated May 26, 2009 and July 16, 2009, respectively: Zoning- The property is located in the Residential Multifamily (RM) Zone. Townhouses are a permitted principal use in this zone. *Fact.* No variances are requested with this application. *Fact.* In response to Code Section 18-900(H)(10) requiring structures with more than two (2) units having a variation in offset of at least two (2) feet, the architectural drawings were revised to show an offset of two (2) feet per unit (as scaled from the First floor Plan provided on Sheet P2). Testimony should be provided from the applicant's professionals indicating that the two-foot minimum standard will be met. *Testimony is required.* Review Comments- General- As indicated on the site plans, and as upheld by the Court's decision, a Cul-de-sac bulb is now proposed at the terminus of Alpine Court. *Fact.* - The proposed Cul-de-sac bulb has a design radius of only 30 feet as depicted on the submitted plans. Per RSIS standards for Cul-de-sacs for "Multifamily access" (NJAC 5:21-4.5(m)), "Cul-de-sacs shall provide for a cartway turning radius of 40 feet or other suitable means for vehicles to turn around, such as hammerheads". Since the applicant is providing a Cul-de-sac are required by the Board, and upheld by the Court's decision, vs. "other suitable means", our interpretation of the design requirements is that the Cul-de-sac bulb must meet the minimum 40' cartway turning radius identified in the RSIS. The road should be redesigned accordingly. *Per testimony at the 6/2/09 workshop hearing and the 9/1/09 public hearing, the applicant now proposes a compliant (40 foot radius, right-justified) cul-de-sac terminus. This item has been addressed.* We defer detailed review of the road design, including proposed grades and alignment, until review of the above referenced design revision. *Fact.-* The applicant proposes seventy-five (75) parking spaces to serve seventeen (17) townhomes, or 4.4 spaces per unit. These are the same numbers and ratios proposed in the prior application. The Court Findings (page 28) indicated that the Board's denial of the proposed parking was arbitrary. Therefore, our interpretation of the Court findings is that the proposed number of parking spaces (75), or 4.4 parking spaces per unit is adequate for the project. *Fact.* We note that the requested cul-de-sac bulb cartway width revision could impact parking proposed along the northwesterly portion of Alpine Court, providing 75 spaces as proposed may not be feasible. *Fact.* As indicated previously, parking space locations have been revised to accommodate the larger terminus. The plans show four (4) proposed parallel spaces proposed within the northerly cartway portion of Alpine Court, across from 90-degree spaces proposed for units in Buildings One and Two. Based on a scaled cartway width of 28 feet, and (minimum) 7-foot wide parallel spaces, an aisle width of only 21 feet would be provided for the Alpine Court parking spaces across from these parallel spaces. Per RSIS (NJAC 5:21-4.16) Table 4.5, "Parking Angles and Aisle Widths", a minimum 24' wide aisle width must be

provided to for all of the 90-degree parking spaces. Design revisions are necessary. *As noted previously, the plans have been revised to provide the minimum 24-foot aisle width. This item has been addressed.* The revised plans depict two (2) proposed handicap accessible spaces across from Building #2. Unfortunately, there would be no sidewalk access from these spaces to any of the proposed units. We recommend that the applicant consider relocating these spaces to be directly in front of one of the proposed Buildings. If the design could accommodate, providing one accessible space for Building #3, and one accessible space for Buildings #1 and #2 would be an improvement. *As noted previously, the plans have been revised to provide to eliminate the originally-proposed handicap spaces in favor of two (2) 8'x12' trash enclosure pads, one on each side of the road. Per Board comments expressed at the 9/1/09 hearing, the above referenced trash enclosure pads are now proposed, as well as 6'x6' individual pads proposed for each residential unit. Testimony should be provided from the applicant's professionals regarding the proposed design, and who will be collecting trash from the development (HOA or Township). If Township pickup is proposed, Department of Public Works approval is necessary.* Sidewalks are now proposed along Massachusetts Avenue, as well as in front of the residential units. *Fact.* As requested in T&M's 9/15/06 engineering review letter, the Alpine Court Access is proposed to be right-in, right-out. This is satisfactory. *Fact.* As requested in T&M's 9/15/06 engineering review letter, the Alpine Court Access turning aisle widths were recommended to be a minimum of sixteen (16) feet, vs. 14 feet as proposed unless the design engineer could provide a turning plan indicating the proposed width's adequacy for trash truck access. This issue must be addressed by the applicant's engineer. *This item remains outstanding. Testimony is required.* The proposed Alpine Court access design is subject to Ocean County approval. *Fact.* One (1) new road name, Alpine Court, has been proposed for the project. The proposed road name is subject to approval from the Township and proof of approval shall be provided. *Fact.* The applicant must provide proof that all proposed Block and Lot numbers have been approved by the Lakewood Tax Assessor. *Fact.* Plan Review- If this project is approved by the Planning Board, metes and bounds will be necessary for the proposed Sight Triangle Easements dedicated to the Township of Lakewood as shown at Alpine Court's intersection with Massachusetts Avenue. This easement should be depicted on the Subdivision Plan as well. *Fact.* A fifteen-foot (15') drainage easement is proposed along the property's Massachusetts Avenue frontage as depicted on the Subdivision Plan. *Fact.* A tot lot is proposed immediately west of Building #3. A detail is provided on Sheet 5 of the plans. All play equipment must be installed over an impact-absorbing surface. We recommend that a CPSI (Certified Playground Safety Inspector) certify that the equipment is installed properly prior to project release by the Township, and that the tot lot is ADA-accessible. These conditions shall be met prior to issuing a certificate of occupancy. *Fact.* Homeowners documents must be provided for Township review in accordance with UDO requirements if/when this project receives Board approval. *Fact.* Grading- Proposed grading is provided in sufficient detail on Sheet 4, "Grading and Drainage Plan. The grading design as indicated is generally acceptable for preliminary approval purposes. *Fact.* Five (5) retaining walls are proposed along the property perimeter as part of the grading design. If this project is approved by the Board, design information for each of the wall systems will be required during compliance review. *Fact.* Additionally, grading easements are likely necessary with adjacent owners/properties for construction of several of these walls as designed. Per further review of the proposed grading at the intersection of Alpine Court and Massachusetts Avenue, there is a proposed cross-slope of over 2 feet at the end of the Court as currently graded. Revisions will be necessary, at a minimum, as a condition of Planning Board approval if/when forthcoming. Stormwater Management- As depicted on the plans and in the stormwater report, two (2) proposed basins will provide stormwater management for the facility. An underground detention system, consisting of a network of 36" diameter HDPE perforated piping is proposed underneath of the Cul-de-sac, with an overflow discharge to a "bubbler" inlet to be constructed along the southern

edge of Prospect Avenue. A “Stormceptor” pretreatment unit is provided to meet the NJ Stormwater Rule’s Total Suspended Solids (TSS) removal requirement. In addition, an above ground retention basin is proposed in the southeast corner of the property, along the Massachusetts Avenue frontage. *Fact.* A stormwater management report is provided, indicating that the two (2) proposed basins are designed per the NJ Stormwater Rule. *Fact.* No site-specific soil information is provided for the proposed stormwater design. Soils information must be provided via borings or test pits, including information on soil lithology, percolation rates, and depth to seasonal high water table (SHWT). *As indicated previously, soil data has been provided in the vicinity of both proposed stormwater systems. Existing depths to water table and permeability rates appear favorable. This item has been addressed.* An impact analysis of the proposed “bubbler” discharge onto Prospect Avenue must be provided by the applicant’s engineer. A drop manhole should be considered in lieu of the proposed 15” diameter outfall pipe slopes for energy dissipation purposes. *Fact.* An overflow weir should be provided for the proposed above ground basin. *Fact.* A stormwater maintenance manual will be required in accordance with NJ Stormwater Rule (NJAC 7:8) and Township standards. *Fact.* A final review of the stormwater design will be performed upon receipt and review of forthcoming soils information and design revisions. *Fact.* Landscaping- Proposed landscaping is depicted on Sheet 5, “Lighting and Landscape Plan” of the revised submission. The proposed design includes evergreen trees along the majority of the property’s perimeter, to consist of White pines, Norway spruces, Leyland Cypress, interspersed with Littleleaf lindens, Red oaks and Red Maples. A double row of evergreens is proposed along the southerly property line, and residentially zoned Lot 2. *Fact.* *In addition, the revised plans also indicate one (1) shade tree proposed behind each of the 8’x12’ trash enclosure pads.* The applicant’s engineer should testify whether any mature vegetation with this site can be preserved. If so, tree protection measures should be provided on the plan. Additionally, final plans for this project (if approved by the Board) must include proposed root protection for trees to remain at the property line with adjacent Lot 2. *Testimony is required at the public hearing. Shade tree easements are depicted on both sides of Alpine Court. While we recognize that these easements are proposed by the applicant in an effort to comply with the Township ordinance, they are not functional for shade trees as proposed since the underlying areas will be occupied by paved and/or developed areas as currently designed. It may be more appropriate to limit these easements as utility (only) and waive the Shade Tree easement requirement.* As evidenced in the Board’s resolution and Court Findings, the issue of the proposed buffer provided to adjacent (residential) Lot 2 was discussed in detail. Our interpretation of the Court Findings (Page 24) indicated that the Board has a right to require buffer to adjacent (residential and residentially zoned) Lot 2 as referenced in Section 18-803(E)(2)(b), specifically: “Multi-family or townhouse adjacent to an existing single-family residential development or an area zone for single-family residential land uses shall provide a buffer area of at least thirty (30) feet in width, as measured from the property line toward the proposed use. The Board may reduce the required buffer to fifteen (15) feet in width if the developer provides a dense landscape screen.” Per review of the plan, a 10-wide buffer (as scaled) is proposed along the southerly property line abutting Lot 2. Unless a design waiver is requested and granted by the Board, this buffer must be widened to at least 15 feet (if the Board is satisfied with the proposed buffer), or the buffer must be revised to a minimum 30 feet in width. *Fact.* *Additionally, per further review of the plan and the Court decision (Page 24), it appears that the same (15 foot or 30 foot landscape) buffer requirement may also apply to adjacent Lot 1 to the west of the site, since it is in the same (RM) zone as Lot 2. Testimony is required from the applicant’s professionals regarding this issue. If applicable, additional relief will be necessary for the current design.* Landscaping should be provided to the satisfaction of the Board. Additionally, compensatory tree plantings for specimen trees that will be lost (or equivalent monetary contribution) must be provided in accordance with the Township’s Tree Protection Ordinance. *Fact.* Lighting- *A separate Lighting Plan (Sheet 6) has been provided as*

requested with supporting data. Ten (10) lantern pole lights appear to be proposed along portions of Alpine Court and the proposed Tot Lot. Light intensities as depicted appear generally adequate. Shielding of several of the proposed lights along Lot 17 appears necessary to minimize spillover. A light pole and foundation detail(s) must be provided, including the proposed pole height(s). Several of the lights proposed along the southerly curb line of Alpine Court appear to be in conflict with the underling parking spaces. Design revisions appear necessary. Utilities- Existing and proposed water and sewer utility services are provided on the Grading and Drainage Plan. If this project is approved by the Board, more detailed utility information, including individual water and sewer services proposed (per unit) will be required during compliance review. *Fact.* Similarly, additional services (telephone, gas, cable, electric) will be required during compliance review if this application is approved. *Fact.* Signage- Traffic, parking and directional signage details are provided on the plans. *Fact.* Per further review of the design, one of the proposed "Fire Lane signs is proposed between the edge of the cul-de-sac bulb and the four (4) adjacent parking spaces, and must be relocated. The applicant should indicate whether any additional signage is proposed for this project. If so, details must be provided. *Fact.* Environmental Impact Statement. An Environmental Impact Statement was provided for review, and is generally satisfactory. Additionally, locations, sizes (diameters) and types of mature trees are provided on the plans. *Fact.* To assess the site for environmental concerns, our office performed a limited natural resources search of the property and surroundings using NJ Department of Environmental Protection (NJDEP) Geographic Information Mapping (GIS) system data, including review of aerial photography and various environmental constraints data assembled and published by the NJDEP. The following data layers were reviewed to evaluate potential environmental issues associated with development of this property: Known Contaminated sites (including deed notices of contaminated areas); and Bald Eagle foraging and Urban Peregrine habitat areas; and NJDEP Landscape Project areas, including known forested wetlands, emergent wetlands, forest, grassland and wood turtle habitat areas. Per NJDEP mapping, the wooded area in the northwest corner of the site, and along the northerly property line is mapped as potential state-threatened species habitat. While this wooded area is not likely "critical" habitat due to surrounding development, we recommend that the applicant retain a qualified consultant to investigate the site habitat based on a request for NJDEP natural heritage database information, and provide a summary report of findings. *This information is still required.* Phase I/Areas of Environmental Concern (AOCs) As depicted on the plans, there is an existing well near Massachusetts Avenue that will be sealed per NJDEP requirements. The applicant's professionals should testify whether there are any known areas of environmental concern (AOCs) within the site (e.g., underground or above ground fuel tanks). A Phase I study for the property, if existing, should be submitted for review. *Fact.* At a minimum, Board approval for this project should be conditioned upon the applicant removing and disposing of all on-site structures, materials and debris in accordance with applicable State and Local requirements, including on-site septic systems (if any). *Fact.* Construction Details- Construction details are provided on the plans. *Fact.* Except for inverts, which may be constructed of Class S concrete, any concrete shall be a minimum of Class B. The strength of Class B concrete is 4,500 psi. All references to Class C and D concrete shall be removed from the details as these mixes are no longer used by NJDOT. Bicycle safe frame and grate number shall be 2618. A drainage manhole detail must be added. *Fact.* Details for Handicap Ramps must conform to the NJDOT Standard Details. *Fact.* All details must be revised to conform to applicable NJDOT, County or Township standards (as necessary). If this project is approved by the Board, a more detailed review of construction details will be performed during compliance review. *Fact.* Outside agency approvals for this project may include, but are not limited to the following: Ocean County Planning Board; Ocean County Soil

Conservation District; New Jersey American Water Company (water); and all other required outside agency approvals.

Mr. Neiman said he would like to continue from last time. They heard from both attorneys, heard testimony from the applicant's witness.

Mr. Alfieri Esq. appeared on behalf of the applicant and said the applicant concluded the direct testimony at the last meeting and Mr. Gasiorowski was going to start with his witnesses in opposition to the application.

Mr. Gasiorowski called his first witness.

Michael LaMona, a forester at Heartwood Consulting Services in Toms River was sworn in. He gave his qualifications and was accepted by the board. Mr. Gasiorowski asked if Mr. LaMona was present when Mr. Panek was testifying and Mr. LaMona said he was. Mr. LaMona said he visited the site at the request of Mrs. Payne and he also reviewed a set of plans. Mr. Gasiorowski asked if he was familiar the discussion about the buffer and Mr. LaMona said he was and had an understanding of what a buffer was. Mr. Gasiorowski said it is the objector's opinion that in this case a 30 ft. buffer is required wherein the present plan shows 10 ft. and Mr. LaMona said that is the testimony he recalled. Mr. Gasiorowski said Mr. Panek described what he observed when he walked that line and testified that there were 3 trees that were in distress and Mr. LaMona said he recalled Mr. Panek's testimony was that there were 3 trees that he observed that were reasonably likely to be impacted by the proposal. Mr. Gasiorowski asked if Mr. LaMona did any evaluation of what impact, if any, this proposed retaining wall and the cuts in the land would create as to those trees that are located on Mr. & Mrs. Payne's property and Mr. LaMona said yes and said in early December he went to the site, found survey stakes that he believes indicate the property corners on this property line and he stretched a line from every one of these property stakes and he assessed every tree in proximity to the property line to the south of it i.e. the Payne trees that are in proximity of the property line to try to ascertain what the impacts are likely to be-whether direct or indirect, based on the proposal he reviewed. He looked at the trees, identified the species, assessed the condition, measured the trees, and then he derived what a tree protective zone about these trees. What he didn't ask what impact the proposal is likely to have on the trees but he did ask what is the best way to preserve them and then he worked backwards and said if this is the way to preserve them, how would we abrogate those protection measures by the proposal that he saw. Mr. Gasiorowski asked if Mr. LaMona was aware that the proposed retaining wall is 10 ft. away from the Paynes property line and Mr. LaMona said yes and he feels the Paynes trees would still be impacted because there are going to be direct negative impact to some of the trees on the Paynes property from the proposal and it is his professional opinion that there is very likely to be indirect impacts from the things that are going to happen to the property to the north. Direct impact, as the last tree expert testified, are things like cutting roots, crunching roots, adding fill to soils, those sorts of direct damages or direct impacts that they have on trees and said more concerning to him is given the context which the Payne property occurs, there is likely to be indirect impacts to the physiology to the health of these trees, the property at issue here is on top of a high hill composed of sand, it is the highest point in Lakewood which is why the Forest Service put a tower there, and what happens when they do things like cut roots, regrade, alter drainage, alter infiltration percolation is that the moisture levels that trees have become accustomed to are no longer the same. That is a cause of an indirect decline that is often seen and those indirect effects are synergized by the direct things like the root cutting or root surgery and when you have both of these things going at the same time it is very likely to have the synergistic effects that will cause the demise of trees. He said the other thing that is likely to occur is because the property to the north of

Payne is heavily wooded of trees of the same height, they are shielding the trees on the Payne property from wind so given these sorts of things and with the loose sandy soil he feels there is a real probability that these negative effects are going to come to visit on the Payne property. Mr. Gasiorowski said assuming that a 30 ft. buffer is required or desirable, with the forestation on the Payne property, they would have an additional 20 ft. on their property of their own trees which could serve as a buffer and when Mr. LaMona said he did not understand the question, Mr. Gasiorowski repeated it and asked if the trees on the Payne property would likely be denigrated and Mr. LaMona said yes, especially with the grading proposed. Mr. Akerman said he did not hear the last of Mr. Gasiorowski's question so Mr. Gasiorowski repeated it again. Mr. Gasiorowski said the Payne property is located to the south and the applicant's property is located to the north and he asked, assuming that a 30 ft. buffer between the 2 uses, which is either required or desired, and he knows that the applicant is proposing to have a 10 ft. buffer, the trees located in that 10 ft. buffer will be removed and there will be some plantings and the land to the north of these 10 ft. buffer will also be cleared because that is going to be the backyards of the houses and there will be a reduction in the grade. He said they also know that there are a line of trees located to the south of this property which is the Payne property which also serves as a natural buffer for the Payne's and his question is what is the likelihood or possibility of those trees located within that 20 ft. stretch along the southside of the property line be denigrated by the actions of the applicant. Mr. Akerman asked if he was talking about the 3 trees that Mr. Panek was talking about in his testimony and Mr. Gasiorowski said he believed Mr. Panek testified that those trees located on the Payne property will not be affected and Mr. Gasiorowski's witness is testifying that based upon his opinion they will be denigrated. Mr. Neiman asked if they were agreeing it was 3 trees that are going to be affected or is there more than 3 trees and Mr. LaMona said it is his opinion they are talking about more than 3 trees for an array of reasons and said if they speak about the direct damage likely to be done by cutting roots and building walls, that is relatively easy to determine-you go out and measure but based upon his work he believes he located 23 trees that have some of their roots on the applicant's property and the Payne's trees, based upon industry standards, there are 23 trees that have roots over there, so we are talking about more trees just by virtue of direct damage and if they take the other question-changes the grading, more dryness, increased wind exposure, increase risk of tree fall and tree failure, they are talking about a higher number of trees and certainly different trees than the ones he is examining on this issue.

Mr. Neiman said they have 2 expert foresters and there seems to be a major contradiction here between the testimony of one saying 3 trees and the type of sand there the roots go down and not out and said he is saying there are 23 trees with roots on the other property-that is a major difference and it seems factual that they can go look at it and test it. Mr. Akerman asked if anyone actually checked or are these assumptions and why does one expert say the roots are growing down and another expert say they are growing 25 ft. to the side and Mr. Gasiorowski asked Mr. LaMona when he did his observations on the Payne property did he make them on the types of trees that were there and Mr. LaMona said he determined what species of trees there were there and said the species were upland oaks, white oak, black oak, scarlet oak, chestnut oak, pitch pine, short leaf pine, eastern red cedar, and a variety of trees that appear to have been planted that are exotic or ornamental trees. Mr. Gasiorowski said the question posed by the board member about the roots and asked if different species of trees have root growth determined by the species of the tree and the soil conditions and Mr. LaMona said species of trees have a genetic propensity to do stuff based upon the soils, in moist soils some tend to have broad spreading roots and trees that are native to dry soils tend to have roots that go a little bit deeper and not as broad but those are genetic tendencies and those are heavily modified by site conditions, history, accidents of nature where the rock is etc. so these trees

have tendencies they can plan for and they do when they do tree preservation so the answer would be yes and yes.

Mr. Jackson said the question posed is something judges have to grapple with. When you have witnesses giving different accounts, different information, it is up to the tryor of fact to make a determination as to what witness it believes and what a judge would charge a jury when you have competing expert witnesses is that an expert is someone who has knowledge and experience in a field so you have to look at the credibility of the witness just like any witness.

Mr. Neiman said this is something that is happening now so they can go down and measure the roots and asked if the roots do go onto the applicant's property or don't they. Are there 3 trees like they heard the last time or are there 23 trees? This is something that should be factual. Mr. Gasiorowski said they are at the fact where he described species of trees, soil condition, etc. and asked Mr. LaMona what conclusions did he come to with regard to the trees he observed at the property line and his opinion as to if they are shallow rooted or deep rooted etc. and Mr. LaMona said he did not reach a conclusion because by nature he didn't do an investigation because when you investigate roots you destroy them so they reach logical educated instances based upon what they see and what they know. Generally speaking the majority of trees are going to be more deeply rooted than more shallowly rooted and he thinks this is especially true with sandy soil. The other thing he observed is that given the topography of Payne's property and the property to the north, and given where Payne's house is relative to this tree line and the steep drop off, one of the things that may have gotten lost is the fact that even though these trees may not be stellar landscape specimens, the northern boundary of the Payne's property isn't a botanical garden, it is serving a functional purpose which is that the 60 and 70 ft. tall trees are screening the foundation and porch of the Payne house because of the difference in topography so they are serving a vital functional role and sadly the trees that are more likely to be negatively affected during construction are the biggest and oldest trees and it is exactly the biggest oldest trees in this case that are serving a function that has the Paynes upset. Mr. Gasiorowski asked why the biggest and oldest trees are affected and Mr. LaMona said a variety of reasons, they have lost their juvenility, plants retain juvenile tissues, middle age tissues and older tissues and as they get older they loose their juvenileness and that decreases its ability to grow new roots in the face of destruction. Trees live a long time and they have been picking up infections, fungal decay, viruses, all the things that zap some of its energy and occasionally what will happen is an insult from a removed root or being run over by a bulldozer could be the pneumonia that kills the cancer patient-the cancer patient could have held on for another ten years.

Mr. Schmuckler said there is a waiver in this case, but if there was not a waiver, he asked Mr. Jackson would they take in any of this tree testimony and Mr. Jackson said you have somebody that wants to do something on their property that might affect the characteristic of your property and one of the factors they have to weigh in their analysis is whether variances are required. They heard testimony from the previous expert that you go to the property line and there may be some trees affected but maybe it is not that simple and maybe we haven't heard any testimony from any planner as to why there is a buffer and is the buffer being diminished and a component in allowing a buffer is to serve not only the protect peace and tranquility and provide some space but maybe that also in part is to protect what is growing on the other property. There are a lot of things the board has to assimilate and come to a conclusion and there is a competing interest that they have to weight and he thinks they might want to hear further from the 2 attorneys on the issues and think the board is on the right trail and the attorneys have to argue their case and persuade the board what the more important of the competing interest.

Mrs. Koutsouris made a comment and said something she is struggling with the tree issue is that there is supposed to be a 30 ft. buffer on the applicant's side, they are only wanting 10 ft. and they are seeking a credit from the objectors for trees on their side and if there is any question as to saving a tree, to her that goes against the applicant because they are seeking a credit of those trees and functionally the testimony from the objectors' expert stated that to truly test the roots you would have to destroy the roots to see where they are (or possibly) and the applicant's expert testified there were only 3 trees that would be affected and Mr. Alfieri said first of all the applicant has never said they are seeking a credit for what is on the applicant's property, they are seeking a waiver of the 30 ft. requirement to bring it to 10 ft. They have said that the neighbor's property is not a residential use, there is a commercial use on the site and therefore they don't believe they need any buffer but the ordinance says what it says. Secondly, Mr. Alfieri said the reason they identified the 3 trees is because their expert indicates that those 3 trees are the only ones that could potentially be impacted if there is uncontrolled development on their side and that is why they agreed to have the tree expert present when the retaining wall was dug so they can make sure if there are any roots from those trees on their property they can save them and not damage them. Mrs. Koutsouris asked wasn't part of the argument that they should have the waiver because there are a lot of trees on the other side and Mr. Alfieri said no, that was not the argument to support it, the argument to support it was that there is a commercial use next to the property that justifies the elimination of the buffer. Mrs. Koutsouris asked if the commercial use justifies the damage of the trees and Mr. Alfieri said they are not going to damage the trees and said assuming the testimony from their expert that says they will not damage the trees and the objectors expert has not submitted sufficient evidence to demonstrate that they would but he needs to cross examine him. Mr. Gasiorowski said part of what Mr. Alfieri says is that it is a commercial use and Mr. Gasiorowski said his reading of the ordinance is even if it is fact a commercial use, there is still a 30 ft. buffer separating the 2 uses.

Mr. Alfieri cross examined Mr. LaMona and said he testified there are 23 trees and asked if he had a map showing the 23 trees and Mr. LaMona said he does not, but he has a roster of the trees a list of the distances from the property line. Mr. Alfieri asked him to run through the list on how far they are from the property line and Mr. LaMona said they range anywhere from .1 ft. from the property line for 1 tree to nominally greater than 30 ft. from other trees and Mr. Alfieri asked what makes him think that the tree that is 30 ft. from the property line has a root system that extends onto the applicant's property and Mr. LaMona said in his trade there are standards for tree preservation that they call tree protection zones of TPZ and he believes the applicant's expert talked about or alluded to it-but in his trade, a standard supposition about the extent of root systems is predicated on the diameter of a tree. Sometimes they will look at the drip line of a tree where they look at the tips of the branches and infer that the roots extend to the tips of the branches but that is difficult to implement in practice because a tree top can be misshapen and it is also very difficult to verify so the trade has generally gone to the use of TPZ's which are predicated on the trunk diameter and for every inch of trunk diameter measured at 4 ½ ft. above the ground they allocate anywhere from 10 inches to 1 ½ ft. in radius of tree protection zone in the assumption that that is where most of the vibrant roots is going to be. For the sake of his work, he assumed that for every inch of trunk diameter for a tree that he examined, he would allocate 12 inches (middle of the road) of tree protection zone from the center point of the tree and if you go through and look at this it works at to be nominally equivalent to the drip line thing that you hear about in your applications. Mr. Alfieri asked if the tree that is 30 ft. from the property line has roots on his client's property and Mr. LaMona said they don't. Mr. Alfieri wanted to talk about the direct effect and said looking at the direct effect of this development on the trees, how many trees are directly impacted by this development and Mr. LaMona said based on his understanding of the plans, there are 23 trees. Mr. Alfieri said of the 23 trees that are

identified, how far away are they from the property and Mr. LaMona said they range from .1 ft. to 6.8 ft. Mr. Alfieri said do those 23 trees include the 3 trees that his client's expert identified and Mr. LaMona said he has no way of knowing that because he doesn't know what trees he is talking about- he would have to look at the map. Mr. Alfieri showed him the marked exhibit and Mr. LaMona said anything that is marked in the orange and Mr. Neiman interrupted and asked if there are 23 trees within 6 ft. of the property line and Mr. LaMona said of the 110 trees he looked at on the property line, 23 trees have critical root zones (under his definition) that physically overlap the property line. Mr. Neiman asked if the furthest one is 6 ft. away and Mr. LaMona said it looks like the furthest one is 16.1 ft away and that particular tree is a 17 inch diameter tree, hence the large tree protection zone. Mr. Alfieri asked how many of the 23 trees have roots that extend past 10 ft. into his client's property and Mr. Neiman said he can't answer that because he doesn't know if any tree goes into his clients property line, he didn't go dig and Mr. Alfieri said he testified that it is likely that the roots of those 23 trees and Mr. Neiman said likely; he doesn't know for sure if any trees go onto the property line. Mr. Alfieri asked him how many trees are likely to extend past the buffer or retaining wall which is 10 ft. into the property line and Mr. LaMona said based on his tree protection zone protocol there are 4 of the 23 that are greater than 10 ft. away and Mr. Alfieri said it is clear then that out of the 23 trees there is no disturbing or digging of the land 10 ft. from the retaining wall to the property line so therefore there are only 4 trees that the roots may be affected and Mr. LaMona said yes and Mr. Alfieri said out of those 4, 3 of them are what his client's expert identified. Mr. Alfieri said he heard Mr. Panek testify that if the root does extend to the retaining wall he could be on site to make sure that there is no digging where those root systems are and instead of digging they could put in a retaining wall without a footing or foundation so it doesn't disturb the roots and asked if that protection could help with construction and Mr. LaMona said conceivably it could. Mr. Neiman wanted to check with the board engineer and asked Mr. Vogt if there are retaining walls that do not need a footings and Mr. Vogt said it is his recollection that they are not talking about a very large wall- it is between 3-5 ft. and they had testimony at the last hearing that they were going to explore, as they were digging, for the roots in that area and if they encountered roots, they would go to the alternate wall system and the alternate wall design would be part of the approved plans. Mr. Alfieri agreed and Mr. Neiman asked if this alternate plan can protect these roots and Mr. Vogt said he can't state for sure and doesn't believe that the applicant or his expert knows for sure, but what he is hearing is that it is an important to say the wall in 10 ft. off the property line and they can't say for sure that after construction that there could be trees that are going to be stressed because they are now exposed.

Mr. Jackson asked Mr. Neiman if he could ask a question of the expert and Mr. Neiman said yes. Mr. Jackson asked Mr. LaMona if there have been any studies or standards or tests that have been done where there has been a retaining wall put in a forested area to see how far back you can expect the woods to die. He remembers visiting a site (Ralph Zuckers) where there was a retaining wall close to the woods and Mr. Vogt said there could be factors where they get more water from a system etc. and Mr. LaMona said that is exactly what he observed in the development to the west-the retaining wall was put in there in the old quarry and if you look at that retaining wall now and it was weeping in relatively dry weather. Mr. Jackson asked if there were any studies that have gone out and if there are any studies how far you should put a retaining wall from forested areas and Mr. LaMona said he believes he has seen them but he doesn't have expertise in that. It is more of a civil engineering question because it is all predicated on soil texture- with soil texture and grade you can figure out what the soil moisture profile is going to be. Mr. Vogt asked about the wall he observed at the quarry and if there was any vegetation in the vicinity of the wall and Mr. LaMona said very little. Mr. Vogt asked what his observation is on that and did he think the wall had any impact on the vegetation and Mr. LaMona said he did not look at it that closely, it was not what he was there to do, he could

render an additional opinion but he doesn't know. Mr. Vogt said he is not an expert in trees and he would be more concerned if they had some kind of a lense underneath and it was acting as a pathway for any water that may be collecting but if you have a sandy soil your water flow is going to be predominately vertical even if you have an opening and Mr. LaMona said that is the concern, especially in a sandy soil, the relatively larger pore spaces in sandy soil allow rapid through flow and trees grown in sandy soil have developed root systems and physiologies to capture the moisture that is there now and gone tomorrow. If they have a situation where they are dropping soil moisture levels or changing them appreciably there is a chance that trees may not be able to respond fast enough and trees do respond to this-they grow new roots, they send them deeper, they send them higher, they move them sideways. Mr. Vogt recollects hearing testimony at the last hearing that in the sandy conditions the roots tend to grow vertically downward as opposed to spreading and Mr. LaMona said the root system does grow deeper, the tree still retains shallow roots but they also tend to send roots more deeply as well, it is a physiological growing response to rapid moisture changes.

Mr. Alfieri continued questioning Mr. LaMona and said the 4 trees that they identified that is theory may have roots that extend past the buffer that is provided and asked him to identify the type of tree and where they are located on the site and Mr. LaMona said at greater than 10 ft. it is his tree #3 (for reference) which is a pitch pine in fair condition and has a trunk diameter of 13.9 inches and it is growing 0.1 ft. – it is basically on the property line; the next one is his tree #21 which is a black oak, 11.5 inches in diameter growing 0.2 ft. from the property line; the next one is his tree #39 which is a white pine in very good condition, 12.1 trunk diameter growing 0.1 inches from the property line; his tree #41 which is a sassafras double trunk, 8.7 & 9.3 inches, growing 2.2 ft. from the property line; and said there are actually 5 trees, so the last one is his number #49, a chestnut oak in very good condition, with 3 stems, 8.9, 10.9 + 11 inches and he has amalgamated the critical root zone which is an underestimate, that is growing 12.7 ft. from the property line and that is it. Mr. Alfieri said those are 5 different types of trees, root systems, do they grow down, out, or both and Mr. LaMona said all but the white pine will have roots that grow more deeply than shallow, white pine will have roots that will grow somewhere between moderate and shallow. Mr. Alfieri said the indirect impact, the long term impact, isn't that true that the disturbance of the land and its potential to shift drainage issues etc. will have potential long term impact on the trees and said isn't that true of every development and Mr. LaMona said developments that take away all the trees and change grade, yes. Mr. Alfieri said if his client provided a 30 ft. buffer and stripped the entire balance of the property would there still be a long term impact as he described and Mr. LaMona said it would be less of a long term impact because a 30 ft. buffer, among other things, would very likely buffer the forces of a wind that are likely to induce wind throw on now the shear north facing wall of trees where now you are going to have a bunch of residential properties and people playing around. Mr. LaMona said in terms of 30 ft. buffer being able to mitigate changes in soil moisture probably not as dramatic and said he would expect that the buffering of wind forces to be more dramatic and beneficial to the Payne property. Mr. Neiman asked if the homes provided that buffer for the wind as opposed to the trees and Mr. LaMona said not really, the problem with houses is that they don't move and the reason that strips of trees act as buffers is they act as a dynamic counterbalance and they absorb energy as they are swinging back and forth on a windy day, they are actually slowing the wind down. Solid structures tend to redirect wind force. Mr. Akerman asked if it wouldn't direct it around those trees along the whole line and Mr. LaMona said what they see happen in pocket developments and forest is that these developments tend to generate border sees, wind will come in and it tends to hit houses or wood lines, sweep around in a circle, regenerate a vortex that jumps up over the top and it does strange things. Mr. Alfieri said out of the 5 trees, 4 of them have a deep root system and one of them not as deep (white pine) can he estimate how

deep the white pine root will be on the applicant's property and Mr. LaMona said no, not without excavating.

Mr. Gasiorowski had a follow up to the question proposed by Mr. Alfieri and said the testimony given by Mr. LaMona is predicated on there being a 10 ft. buffer adjacent to the Payne property line and then of course a cut in the elevation along with the installation of a retaining wall and Mr. LaMona said yes. Mr. Gasiorowski said let's assume that there were in fact a 30 ft. buffer adjacent to the Payne property line and then there was the cut in elevation and the retaining wall: as a follow up to what Mr. Alfieri was getting into, is it Mr. LaMona's testimony that if a 30 ft. buffer were honored there would be less of a denegation of a tree line of the Payne property and Mr. LaMona said yes, emphatically. Mr. Akerman asked Mr. LaMona, when the roots go down, do they go straight down, so does that mean they go directly under the tree or how far out would they spread even if they go straight down and Mr. LaMona said it is hard to estimate, but he has actually excavated large trees to determine this in the past life and said what he has found in sandy soils is both, it is not an either or situation. Even trees in a dry condition will sink roots straight down to get that long term water but there is a problem with that, it is almost a bad bet because roots need gas exchange, they need carbon dioxide and oxygen to move back and forth which is why trees in swamps are shallow rooted-there is no oxygen in standing water so even when trees set roots deep, they also have a substantial portion of fine feeder roots up high to do the gas exchange part. Mr. Akerman said he gave them a worst case scenario with the tree protection that is going to uproot the trees on the other property but he asked Mr. LaMona what the best case scenario, where would it be contained, would it be in a 3 ft. radius or would they go 5-10 ft. out and Mr. LaMona said what he has seen in practice in the trade is that the rule of thumb is anywhere from 1 ½ ft. to 1 ft. or 10 inches of tree zone for every inch of tree is what they wind up doing and the only place or thing that could get away with a 3ft. protection zone are with palms because they don't have roots. Mr. Akerman said assuming they go straight down, without the tree protection zone, could it be that they go out 3-4 ft. and then go straight down, they wouldn't spread out and Mr. LaMona said that was profoundly unlikely with the trees at issue here and Mr. Akerman asked what he feels is a minimum and Mr. LaMona said anywhere from .8 of a foot to 1 foot per inch of tree. Mr. Akerman asked again, assuming they go straight down and conditions are ideal and Mr. LaMona said he has never seen them go straight down so he can't answer the question.

Mr. Gasiorowski had a question and asked where are all the exhibits because he intended to refer to something on his client's testimony and in addition to that, he said they are supposed to be part of this board's deliberation because they are exhibits and asked again where they were and Mr. Alfieri said they were either here or Ray Carpenter has them and he does not know where Mr. Carpenter is. Mr. Neiman asked if Mr. Gasiorowski had any other witnesses and Mr. Gasiorowski asked for a response to the exhibits or are they to proceed without exhibits and Mr. Neiman asked Mr. Jackson who said he thinks Mr. Gasiorowski is at a severe handicap not having exhibits that are part of the case and part of the record and his cross examination and he knows he has his planner who he is guessing was going to refer to the exhibits. Is it an insurmountable handicap? That is up to the board. Mr. Alfieri asked Mr. Gasiorowski which exhibit does he need in order to cross examine and Mr. Gasiorowski said the ones that are marked into evidence and Mr. Alfieri said which ones specifically and Mr. Gasiorowski said he does not have a list of all of them-they had plot plans, they had aeriels, grading plans etc. and said there is a number which he took Mr. Carpenter through with great detail the last time he was here. Mr. Alfieri said he cannot justify why the exhibits are not here, they thought Mr. Carpenter was coming and he was here the last meeting and he took the exhibits but Mr. Alfieri doesn't think there are any exhibits that were marked that cross examination could take place. Mr. Jackson said maybe they can replicate them-one was the site plan and everyone on the dais

has a site plan. Mr. Gasiorowski said they can proceed forward if the board wishes but he really finds it difficult to comprehend as they can possibly decide the case without having the evidence. Mr. Jackson said he agrees but just the same, if the main exhibit was the site plan, maybe they have a site plan here which is the exact copy of what was marked and Mr. Gasiorowski said he has noted his objection on the record and he is ready to go forward if the board chooses to do so. Mr. Neiman asked Mr. Jackson what to do and they conferred. Mr. Neiman told Mr. Gasiorowski he brought up a very good point and he thinks if they cannot have the plans, they will have to adjourn and come back, unless he can bring them quickly because if this goes to court the judge will look at the board like they are crazy for continuing a case without exhibits that the attorney refers to. Mr. Neiman said he wanted to finish this tonight but Mr. Alfieri said they all felt the same way but feel they have the opportunity to finish considering the hour but he has no idea where Mr. Carpenter is and can't reach him. Mr. Jackson asked if they can cover any ground without the exhibits and Mr. Gasiorowski said they should try to cover something. Mr. Neiman said he doesn't know-is it going to come back and bite us if Mr. Gasiorowski brings up another witness now and Mr. Gasiorowski said he knows that Mr. Alfieri wants to finish this case as well as he does but the evidence is clear and Mr. Neiman said he agreed and said he doesn't feel comfortable continuing this case without the exhibits unless Mr. Gasiorowski is not going to be referring to them. Mr. Jackson said that would mean they can't decide the case tonight. Mr. Gasiorowski asked if they adjourned, when would be the next date be and Mr. Kielt said he is not sure because he has many application scheduled but he can pick one out of the air and Mr. Gasiorowski said his problem is there is a difficulty with his schedule and Mr. Chadwick's schedule so he thinks they should have some idea about getting a date they can live with. Mr. Kielt said the earliest would be April 27th which is the last Tuesday. Mr. Alfieri said before he gives them a date he wanted a 2 minute break and Mr. Neiman said the tech meeting in April is the 13th of April and they could put it on that date.

Mr. Gasiorowski said he wanted to call Mrs. Payne as a witness since she is a resident and they can dispose of her testimony and that would make the next meeting short. Mr. Neiman said he is fine with that. Mr. Alfieri asked for a special meeting and Mr. Neiman said he is not making a special meeting and the March tech meeting is full.

Mr. Gasiorowski called Mrs. Payne to testify. Janet Payne was sworn in and Mr. Neiman said he wanted to make sure the 5 members are here for the next meeting or else get the disc. Mr. Kielt said let them call him, he can't provide discs for everybody, whoever needs a disc, let them contact him. Mr. Gasiorowski said her testimony will take 5-10 minutes tops and said he would wait and then come back and Mr. Neiman agreed. Mr. Jackson made to announcement to continue to the 13th of April. Mr. Alfieri apologized on behalf of the applicant to the board and Mr. Gasiorowski and the public- there is not excuse for not having any exhibits here and they will find out why that happened.

Mr. Neiman said Mr. Kielt will send an email out tomorrow to the members who missed the meeting tonight to get a copy of the disc so they can be part of the next meeting.

6. CORRESPONDENCE

SD 1678 –David & Robin Sneddon – clarification of resolution that was memorialized on September 15, 2009. regarding water and sewer.

Mr. Kielt said there was a minor change that needed to be made and the applicant's attorney was not present so Mr. Jackson said that public sewer is not available and although the resolution made reference to public sewer and water and the applicant wants to clarify that they could build it without public sewer and water but with septic and wells and this resolution makes it clear that that was not a lynchpin solution. Mr. Neiman asked if the lot can handle septic and Mr. Jackson said that would be up to the licensing authority (Board of Health).

Mr. Kielt said he thinks what happened is when the surveyor drew the map, he indicated that public sewer was available and all along it was the testimony and it turns out that was in error. There was not public sewer available so that is what prompted this; when he went to sell the lot the question came up. Mr. Vogt said they would have to get approval from the Board of Health and if they didn't approve it, he would have to come back here for something else.

Motion was made by Mr. Akerman, seconded by Mr. Herzl, to make the minor change in the resolution

ROLL CALL: Mr. Herzl; yes, Mr. Franklin; yes, Mrs. Koutsouris; yes, Mr. Neiman; yes, Mr. Akerman; yes, Mr. Follman; yes, Mr. Schmuckler; yes

**SP 1892A – Princeton One LLC –corner of Princeton Avenue & 4th Street-
Discussion on concept sketch relating to litigation of prior Planning Board denial**

Tabled to February 16, 2010

7. PUBLIC PORTION

- no one at this time.

8. APPROVAL OF MINUTES

- Minutes from January 19, 2010 Planning Board Meeting

Motion was made by Mr. Herzl, seconded by Mr. Akerman, to approve

ROLL CALL: Mr. Herzl; yes, Mr. Franklin; yes, Mrs. Koutsouris; yes, Mr. Neiman; yes, Mr. Akerman; yes

9. APPROVAL OF BILLS

Motion was made by Mr. Akerman, seconded by Mrs. Koutsouris, to approve

ROLL CALL: Mr. Herzl; yes, Mr. Franklin; yes, Mrs. Koutsouris; yes, Mr. Neiman; yes, Mr. Akerman; yes

10. ADJOURNMENT

The meeting was hereby adjourned. All were in favor.

**submitted
Johnson
Board Recording Secretary**

Respectfully

**Chris
Planning**