

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, Mr. Neiman, Mr. Akerman, Mr. Banas, Mr. Schmuckler

3. SWEARING IN OF PROFESSIONALS

Mr. Vogt was sworn in.

Mr. Kielt said there were 2 changes to the agenda. Item #1 SP# 1927 Four Corners Partners is tabled per the request of the attorney and there is no new date so it will be re-noticed. Item #3 SD 1727 Yeshoshua Frenkel is also tabled for insufficient notice and will be on the agenda of May 4, 2010.

4. PLAN REVIEW ITEMS

1. 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 a future meeting

2. SP # 1929 (Variance Requested)

**PLANNING BOARD MEETING
APRIL 13, 2010
MEETING**

**TOWNSHIP OF LAKEWOOD
PLAN REVIEW**

Applicant: Bais Rivka Rochel
Location: corner of 4th Street, Monmouth Avenue & Steckler Street
Block 160 Lots 1, 3, 5, 6, 13, 14 & 15
Preliminary & Final Site Plan for 2 story retail and office

Mr. Vogt prepared a letter dated March 18, 2010 and is entered in its entirety. The applicant is seeking Preliminary and Final Major Site Plan approval. This site plan proposes construction of a retail/office development. The site presently contains a fixed trailer building, two (2) one-story masonry buildings, and a two-story stucco building. The existing property consists of multiple lots totaling 55,980 square feet which would be consolidated as part of the site plan approval. The tract has existing frontages on three (3) municipal streets. Monmouth Avenue which has an eighty foot (80') right-of-way is located to the west, Fourth Street with a sixty foot (60') right-of-way is located to the north, and Steckler Street having a fifty foot (50') right-of-way is located to the east. The site is rectangular in shape. However, there is an out parcel with an existing parking lot (Lot 11) owned by the Lakewood Development Corporation. The existing two-story stucco building will remain while the other existing structures along with virtually all of the existing site improvements will be removed. A building complex with two (2) small parking lots is proposed for the site. The existing two-story stucco building fronting Monmouth Avenue is proposed to be used as ground floor retail and second floor office. The proposed ground floor retail use will be 4,745 square feet and the second floor office use will also be 4,745 square feet. A new 96' X 145' building section is proposed to front Fourth Street. This building section also proposes ground floor retail use and second floor office use. The proposed ground floor office use will be 12,801 square feet while the second floor office will be 13,885 square feet. The differences in floor area are the result of a proposed ground level walkway connecting the proposed parking lots at the northwest and northeast corners of the site. Another new building section fronting Steckler Street is proposed. The ground floor will be a supermarket with some mezzanine second floor office space. The proposed ground floor supermarket will be 16,257 square feet, while the second floor office space will be 3,111 square feet. The proposed two-story shopping center and office complex will total 55,544 square feet in gross floor area. The proposed shopping center design is based on Steckler Street being vacated. The half right-of-way width of twenty-five feet (25') would be added to the property's three hundred foot (300') frontage along Steckler Street. The additional seven thousand five hundred square feet (7,500 SF) would bring the total tract area up from 55,980 square feet to 63,480 square feet. Township Committee approval would be required for the street vacation. A total of forty-eight (48) parking spaces are proposed for the site. The proposed parking spaces are divided evenly among the two (2) proposed parking lots. The proposed parking lots are located at the northwest and northeast corners of the site. The proposed northwest parking lot located at the corner of Monmouth Avenue and Fourth Street will have access from Monmouth Avenue. The proposed northeast parking lot located at the corner of Fourth Street and Steckler Street will have access from a twenty-four foot (24') wide drive located on a vacated portion of Steckler Street. Each proposed parking lot will have a van accessible handicap space. The site is in a developed section of the Township. The surrounding area contains a mixture of various uses. We have the following comments and recommendations. Waivers- The following waivers have been requested from the Land Development Checklist: B2 - Topography within 200 feet thereof. B4 - Contours of the area within 200 feet of the site boundaries. B10 - Man-made features within 200 feet thereof. A significant amount of topography outside the boundary of the subject property is provided on the Survey. Some minor area east of the property and the railroad tracks does not extend for a distance of two hundred feet (200'). Therefore, waivers are requested from B2, B4, and B10. The applicant shall provide supporting testimony on the requested waivers as required. We believe that sufficient existing data is provided to review the application. Therefore, we support the waivers as requested. Zoning - The site is located in the

B-4 Wholesale Service Zone. Retail activities and service activities are permitted in the Zone. Testimony should be provided by the applicant's professionals regarding the proposed uses to confirm compliance with the UDO for this Zone. A front yard setback variance is being requested. A twenty-five foot (25') front yard setback is required. A zero foot (0') front yard setback is proposed for the portion of the proposed building fronting Fourth Street. It should be noted that the existing front yard setback for the existing two-story stucco building to remain is 7.48'. A rear yard setback variance is being requested. The plans have been designed on the premise that Steckler Street will be vacated and that the rear yard of the project will be along the vacated Steckler Street side of the site. A 15.66' setback from the new lot line based on the vacation of Steckler Street is proposed for the supermarket portion of the building. The Zoning requires a rear yard setback of thirty feet (30'). A side yard setback variance is being requested. A ten foot (10') side yard setback is required. A one foot (1') side yard setback is proposed for the supermarket portion of the building to neighboring Lot 10 to the south. The property owners list indicates the owner of Lot 10 is also the applicant on this project. It should be noted that the proposed supermarket portion of the building is also within ten feet (10') (dimension not indicated) of Lot 11 owned by the Lakewood Development Corporation. Furthermore, the existing two-story stucco building to remain is 0.3' from Lot 11 owned by the Lakewood Development Corporation. Two (2) access points to the existing two-story stucco building are shown along this side property line. A variance is being requested for the number of off-street parking spaces. The shopping center use requires one (1) space for every two hundred square feet (200 SF) of floor area and the office use requires one (1) space for every three hundred feet square feet (300 SF) of floor area. The proposed shopping center use of 33,803 square feet requires one hundred sixty-nine (169) parking spaces. The proposed office use of 21,741 square feet requires seventy-three (73) parking spaces. A total of two hundred forty-two (242) spaces are required and forty-eight (48) off-street spaces are proposed. Per communications with the applicant's professionals and as stated in the EIS report, the proposed Steckler Street parking lot is intended to supply the remaining additional off-street parking required for this project. This proposed parking lot is being designed by the Lakewood Township Development Corporation through our office. Confirming testimony is required from the applicant's professionals regarding use of the parking lot to satisfy needs of this project. The applicant must address the positive and negative criteria in support of the requested variances. Review Comments- Site Plan/Circulation/Parking - General Note #1 states that engineering documents for the vacation of Steckler Street were being developed by the Lakewood Township Engineering Department. The proposed road vacation must be approved by the Township as a condition of Planning Board approval if/when forthcoming. The proposed parking lots are situated at the edges of the right-of-way lines. Proposed lights for the northwest parking lot are within the right-of-way. The proposed location for the northeast parking lot is based on the premise of Steckler Street being vacated. As depicted on the current design, a twenty-four foot (24') wide access is proposed for Steckler Street (assumed to be vacated for design purposes). A six foot (6') width of the access is proposed west of the centerline and an eighteen foot (18') width of the access is proposed east of the centerline. These improvements as depicted vary from our current LDC project design. We recommend a coordination meeting with the LDC and the applicant's professionals to refine the proposed roadway design. The proposed interior portions of the parking lots are properly dimensioned. Offset dimensioning should be provided to assure the correct construction location. A loading area which should be dimensioned is proposed in the southeast corner of the site. It appears the loading area will accommodate three (3) trucks and a trash compactor. Confirming testimony shall be provided. Vehicular circulation plans must be provided to confirm accessibility for the loading area, delivery, emergency, and trash pickup vehicles that will need to access the site. The applicant should address whether what appear to be bollards are being proposed across from the loading area to protect vehicles in the future municipal parking lot. The proposed pavement tie-in at the southeast corner of the

site does not match existing conditions. The proposed disposition of Steckler Street south of the site, if any, should also be discussed. The plans indicate a slight encroachment of the existing parking lot on Lot 11 owned by the Lakewood Development Corporation onto the applicant's Lot 6. Since the property line is on a skew, we recommend a squaring off of the property line to correct the encroachment. The Demolition Plans indicate off-site items to be removed and/or relocated. An existing tree and part of an existing fence are shown to be removed from Lot 11 owned by the Lakewood Development Corporation. An existing fence on the east side of Steckler Street is shown to be relocated five feet (5') by others. Testimony shall be provided to address these issues. The plans are proposing sidewalk to be constructed adjacent the existing parking lot curb on part of Lot 11 owned by the Lakewood Development Corporation. The plans attempt to retain the bulk of existing curb and sidewalk on the Monmouth Avenue and Fourth Street frontages. Given the age of the existing concrete and the major nature of the proposed development, we recommend that all deteriorating curb and sidewalk be replaced. The existing curb radius at the intersection of Monmouth Avenue and Fourth Street will constrict pedestrian flow at the intersection should the project be constructed as proposed. We recommend a proper curb radius be installed along with the correct handicapped ramp. The existing handicapped ramps surrounding the site must be upgraded to current codes. At a minimum, utility and driveway paving restorations will be required as a condition of approval, if and when forthcoming. Proposed floor area calculations should be confirmed. Dimensions for the proposed ground floor retail area shall be added. There are building dimension discrepancies between the site plans and architectural plans. Signage shall be provided for van accessible spaces. The "street signs" shown in the legend shall be corrected to "directional signs". Architectural- Architectural Plans were submitted for review. Per review of the submitted plans, the buildings will be approximately twenty-six feet six inches (26'-6") in height. The plans show stairs and openings to basement areas. However, no basement floor plans have been provided. The applicant's professionals should provide testimony regarding the proposed building façade and treatments. 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 for the building complex. If so, said equipment should be adequately screened. The proposed building dimensions are not consistent with the site plan. In addition, access points do not match. Coordination between the architectural plans and site plans is required. The architectural plans indicate the existing building to remain contains predominantly classrooms. The site plans indicate the existing building to remain will become ground floor retail use and second floor office use. However, no interior improvements to the building are shown. Clarification of this discrepancy is required. Grading- Sheet C-04 is a detailed Grading, Drainage, & Utility Plan of the plan set. The proposed grading concept is to direct runoff to two (2) separate underground infiltration systems. Per review of the plan, the overall grading design is feasible as proposed. Proposed grading revisions are required in the proposed northeast parking lot. The parking lot should be graded to low points within the lot where catch basins could be installed to pipe runoff to a pretreatment device before it enters the underground recharge system. As presently designed runoff would escape from the site contrary to the proposed design concept. The proposed grading and limits of improvements to the Steckler Street portion of the project which is shown to be vacated needs to be addressed. Proposed spot grades are required at all building access points. We recommend that the applicant's engineer contact our office to coordinate necessary revisions. The Grading, Excavation, and Backfilling Note #5 should be revised to allow the proposed gutter grades to be designed at a 0.5%. Stormwater Management- A proposed stormwater management system has been designed for the site. The construction of two (2) separate underground infiltration systems is proposed to handle the increased runoff which will be generated by the project. The proposed underground recharge facilities will have pretreatment devices. Testimony is required

confirming private maintenance of the stormwater management system. The proposed project will reduce the proposed stormwater discharge to the surrounding streets. However, the design of some of the storm sewer system in the proposed northeast parking lot is missing from the plans. According to our review of the "Pond Reports" and the test pits, the bottom elevations of the infiltration systems require correction. The bottom elevation of underground recharge area #1 should be no lower than 58.00 and the bottom elevation of underground recharge area #2 should be no lower than 57.50. An excerpt from the Geotechnical Investigation has been included in the Appendix of the Stormwater Management Report. The infiltration rates used for design are acceptable. According to the soil borings, proposed Infiltration Basin #1 will not be two feet (2') above seasonal high ground water table. The design for the loading area drainage and the pedestrian corridor drainage is incomplete. Storm sewer profiles shall be provided. A stormwater management maintenance manual must be provided in accordance with NJ Stormwater Rule (NJAC 7:8) and Township standards. Landscaping- A landscaping plan has been provided for review. Red Maples are proposed along the northerly property frontages and rows of English Yews are proposed in front of the buildings. Final landscape design is subject to Board approval. Lighting- A detailed lighting design including a point to point diagram has been provided. The comprehensive lighting plan proposes five (5) low pole mounted fixtures and nineteen (19) wall mounted fixtures. The two (2) pole mounted fixtures proposed in the proposed northwest parking lot are located within the right-of-way. Relocation of these fixtures is recommended. Potential alternate locations could be on the proposed landscape islands of the parking area. There is an illumination diagram for a seventy watt (70W) Kim lighting fixture on the plans. However, no location for this fixture is evident. Utilities- The project is located in the New Jersey American Water Company franchise area. Public water and sewer service will be constructed by NJAWC. A fire suppression system is proposed for the buildings. Separate connections are proposed for potable water and fire protection measures. The water connections are being made on the Fourth Street side of the project. No additional fire hydrants are being proposed for the project. Proposed sanitary sewer is being connected to the existing system in Fourth Street. Easements for sanitary sewer mains and manholes may be required because of the size of the line and volume of proposed flows. Gas and electric service to the proposed buildings will be provided from the Fourth Street side of the project. Signage - The Site Plan proposes wall signs, but no freestanding signage. Wall signs will be limited to sixty square feet (60 SF) which is the maximum area allowed for a building having more than sixty feet (60') of length. The architectural plans indicate proposed wall sign locations over the front and rear access points of the grocery store which is permitted. No dimensions or details have been provided to confirm that the signs comply with the area requirements. All signage proposed that is not reviewed and approved as part of this site plan application, if any, shall comply with the Township Ordinance. Environmental- Site Description - per review of the site plans, aerial photography, and a site investigation of the property, the project site consists of a 1.46 acre tract. The site is currently developed as a mix of uses including auto service, retail, office, and vacant lots near the intersection of Monmouth Avenue and Fourth Street. The site is bordered on the north by Fourth Street with residential uses on the opposite side. Steckler Street is located on the east side. A school is located to the south. Monmouth Avenue is a wide collector street located to the west. Except for a two-story existing stucco building to remain, virtually the entire site will be renovated. The applicant has submitted an Environmental Impact Statement. The document has been prepared by L2A Land Design, LLC to comply with Section 18-820 of the UDO. The report is dated February 9, 2010. 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: 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. The author of the Environmental Impact Statement concludes given the few potential adverse impacts and the mitigation of these impacts as proposed by the development, the construction of the proposed retail and office building will be an improvement to the parcel and the surrounding areas. We agree with this conclusion. Tree Management Plan - A Tree Management Plan has been submitted for review. All of the existing trees will be removed. Ten (10) shade trees and forty (40) shrubs are proposed to replace the existing vegetation. Traffic- A Traffic Impact Assessment has not been submitted for review, and is recommended. The proposed development will bring additional vehicular traffic to the site. The Environmental Impact Statement recognizes the site will depend on the construction of a new municipal parking lot to assist in providing the shortfall of off-street parking proposed. Testimony should be provided by the applicant's traffic expert as to whether any improvements are warranted for safety purposes. Testimony will be necessary for the public hearing, at a minimum. Construction Details- Construction details are provided with the current design submission. We recommend that final construction details be revised as necessary during compliance review, if/ when this project is approved by the Board. Regulatory Agency Approvals- Outside agency approvals for this project may include, but are not limited to the following: Township Committee (Street Vacation) Ocean County Planning Board; Ocean County Soil Conservation District; all other required outside agency approvals. New Jersey American Water Company will be responsible for the construction of sanitary sewer and potable water service for the proposed project.

Mr. Vogt said there are waivers requested for topography, contours and man made features and said it is his opinion they have sufficient data on the plans to review them.

Motion was made by Mr. Herzl, and seconded to grant the waivers

ROLL CALL: Mr. Herzl; yes, Mr. Franklin; yes, Mr. Neiman; yes, Mr. Akerman; yes, Mr. Banas; yes, Mr. Schmuckler; yes

Mr. Vogt mentioned the variances requested and Mr. Neiman asked him if they should even listen to the application tonight with all the variances; they are quite large variances, over 100 parking spots etc. and Mr. Vogt said they should hear it because it is a workshop hearing only. They can hear what is being proposed and then give input.

Mr. Ray Shea Esq. appeared on behalf of the applicant with Bill Vogt as the engineer. Mr. Shea said they have been working on this for over a decade and at the public hearing they will discover is there is an action to vacate Steckler right of way and Lot 11 will be utilized for parking which is owned by the LDC and said the large variance for parking is because the property to the north is a triangular piece of property (when Steckler is vacated) which will have an additional 90 spaces provided. The application is to remove all the buildings on Steckler Street and the existing 2 story building on Monmouth remains and there are plans to create a supermarket space, retail space and office space fronting on Monmouth Avenue.

Mr. Neiman said there is a school there now, furniture store, and asked what was going to remain. Mr. Shea pointed to an exhibit, sheet C-02, and said the large trailer on Steckler Street and the one story mason building will be coming down- every building on Steckler Street is coming down. Mr. Shea said the only building that will remain is the existing 2 story stucco building on Monmouth Avenue and Lot 11 is owned by the LDC and said that will be available

for parking. He said the proposed conditions shown on sheet C-03 show a 2 story building proposed for Monmouth and 4th and Steckler.

Mr. Neiman asked Mr. Shea to show him where the triangular 90 spot is and Mr. Shea showed them sheet C-01 lot 161 and Mr. Neiman asked who owns that property and Mr. Kanarek said that is owned by the Township and said the LDC said they would make it a parking lot. Mr. Neiman asked if they will be providing testimony from someone in the Township that they will be doing that. Mr. Shea said they can also make that a condition of approval that there be a vacation of Steckler Street, agreement from the LDC on Lot 11 and the information that Rabbi Kanarek shared with regard to the triangle.

Mr. Neiman said even with these 90 spots, they are still short another 90 parking spots and Mr. Kanarek said he does own another parking lot on the other side of 299 Monmouth Avenue which is another 30-40 spots. Mr. Kanarek said one building (he pointed to the exhibit) and said most of it will be one story with a high ceiling. Mr. Vogt asked if that had any impact on the parking number shown on the plans and Mr. Shea said he did not do the calculations.

Mr. Vogt said they have met with the applicant this afternoon and RVV is doing the parking lot design on behalf of the LDC and they have talked about the issues such as how many spaces will be dedicated to this project and if the township opts to do the Steckler vacation they have to massage their plan and he said he told the applicant they will have to have that proof for the public hearing and possibly doing a parking study to see how the whole area reacts with this influx of traffic.

Mr. Kanarek said the office on the second floor requires 73 spots and said the majority of shopping is done when the offices are closed. Mr. Neiman said the board would not want to grant an approval based this-they waited 10 years so he thinks it is best if they have everything at a meeting instead of saying grant it with conditions. Get the testimony from Lakewood Township about the parking, Mr. Kanarek's lot with 30-40 spots because that is what the board would like to see.

Mr. Shea requested they be scheduled for the June meeting so they can get all the information together.

Mr. Banas had 2 serious questions- he asked if Block 162 Lot 2 was the Community Center and Mr. Kanarek said it is and he said from the back of the Community Center there is a triangle and that is the parcel. Mr. Banas said they have had a lot of "give me's" when property was developed in the Monmouth Avenue area by the school- they were using Steckler Avenue as a bypass and they always said that is not a real street but yet it was used for other applications that were already granted and asked if this will infringe in any way if they remove all those applications. Mr. Kanarek said Mr. Banas' memory is amazing and the girls' high school used to be there and he did use Steckler Street but it moved 4-5 years ago so the buses no longer use it and the mechanic shop is being demolished. Mr. Banas wonders if there is anything else they may have granted because he thinks there might be one more so he would like to see that this is all clear and there is no "give backs" or come backs to the board and Mr. Shea said the next time they appear the roadway should be vacated. Mr. Banas also agreed that they should get more of the information together and a month would be beneficial.

Mr. Neiman asked if it would go to a public meeting and Mr. Franklin said it should come back to a technical meeting with all the things they have to add to it, this way the board can see all the pieces because there are many pieces to this. Mr. Neiman said the board is asking for it to

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come back to a technical meeting. Mr. Vogt said they could come back to the June tech meeting and then go to the June public meeting.

Mr. Jackson made the announcement.

3. **SD # 1727 (Variance Requested)**
Applicant: Yeshoshua Frenkel
Location: northwest corner of Towers Street & Albert Avenue
Block 826 Lots 3 & 4
Minor Subdivision for 2 lots

Tabled to the meeting of May 4, 2010

4. **SD # 1728 (Variance Requested)**
Applicant: MAZ Properties LLC
Location: Ocean Avenue between Linden and North Oakland
Block 189.05 Lots 138-142, 144-146
Preliminary & Final Major Subdivision – 25 single family lots

Mr. Vogt prepared a letter dated March 24, 2010 and is entered in its entirety. The applicant proposes to subdivide eight (8) existing lots into twenty-five (25) single-family residential lots, one (1) of which will contain a basement community center. The proposed subdivision would also create an open space lot for a tot lot, and an open space lot for a Homeowners Association. The applicant is seeking Preliminary and Final Major Subdivision approval with variances. The subject property is located on the northerly side of Ocean Avenue (Route 88), a State Highway, in the northern portion of the Township. The tract also has some frontage on Linden Avenue, Bergen Avenue, and Somerset Avenue. All the existing land proposed for development is currently residential uses. The applicant proposes to remove all existing dwellings and improvements and construct a new higher density subdivision. The existing eight (8) lots known as Lots 138-142 and 144-146 in Block 189.05 are proposed to be subdivided into twenty-seven (27) lots shown as proposed Lots 140.01-140.27 on the Major Subdivision Plan. Four (4) parking spaces are proposed for each single-family unit. A privately owned off-street parking lot will contain most of the off-street spaces proposed. Only the northernmost proposed lot with frontage on Somerset Avenue will have a couple of individual off-street spaces. The proposed off-street parking lot creates a loop through the subdivision. The proposed access drives are along Bergen Avenue and at the curve where Bergen Avenue meets Somerset Avenue. The project will not have vehicular access from any other adjoining streets, such as Route 88 and Linden Avenue. All existing streets adjoining the property that do not have a half right-of-way width of twenty-five feet (25'), propose road widening dedications to attain the proper half right-of-way widths. The tract area is listed as 3.44 acres. Associated site improvements are proposed for the major subdivision plan. These improvements include a proposed tot lot, parking area with curb and sidewalk, drainage, sewer, water, and utility connections. The adjoining roads have existing curb and existing sidewalk in most locations. In locations where curb and sidewalk does not exist it is being proposed. The site is situated within a predominantly residential area. We have the following comments and recommendations: Waivers - The following waivers have been requested from the Land Development Checklist: B2 - Topography within 200 feet thereof. B4 - Contours of the area within 200 feet of the site boundaries. B10 - Man-made features within 200 feet thereof. C14 -Tree Protection Management Plan. A partial design waiver is requested from providing topography of the area within two hundred feet (200')

of the site boundaries due to the existing topography of the site sloping towards Route 88. Therefore, waivers are requested from B2, B4, and B10. A waiver is requested from providing a Tree Protection Management Plan due to the existing development on the site. Therefore, a waiver is requested from C14. The applicant shall provide supporting testimony on the requested waivers as required. The Environmental Impact Statement states that a Tree Protection Management Plan shall be submitted to the Environmental and Shade Tree Commissions for review. Zoning - The site is situated within the R-10, Single-Family Residential Zone District. Per Section 18-902 F. 1. a., of the UDO, "Single-Family Detached Housing" is listed as a permitted use. Testimony shall be provided as to how the basement community center, proposed for one (1) of the units, conforms to the Zoning. Minimum Lot Area variances are required for all proposed residential lots. The minimum required lot area is ten thousand square feet (10,000 SF) and only the proposed open space lots exceed the minimum required lot area. The proposed minimum lot areas range from 3,343 – 6,510 square feet. Minimum Lot Width variances are required for all proposed residential lots. The proposed minimum lot widths for the residential lots range from thirty-three feet (33') to sixty-five feet (65'). The minimum required lot width is seventy-five feet (75') and only the proposed open space lot for the tot lot exceeds the minimum required lot width. The proposed lot width for the open space lot for the Homeowners Association is sixty feet (60'), which also requires a variance. Minimum Front Yard Setback variances are required for most of the proposed residential lots. The minimum required front yard setback is thirty feet (30') and front yard setbacks proposed range from ten feet (10') to thirty-five feet (35'). In accordance with our review, minimum front yard setback variances are required for proposed Lots 140.01-140.03, 140.05-140.13, 140.15-140.20, and 140.22-140.26. The proposed front yard setback of Lot 140.05 is measured to the wrong side of the covered porch; therefore the 21.6' dimension listed must be reduced. The proposed front yard setback of Lot 140.13 should be measured from the parking lot corner and is therefore less than the required thirty feet (30'). A Minimum Rear Yard Setback variance is required for proposed Lot 140.15. The minimum required rear yard setback is twenty feet (20') and the distance between an outbound corner marker and the rear of the unit is less than twenty feet (20'). Minimum Side Yard Setback variances are required for all of the proposed residential lots except for proposed Lot 140.01. The minimum required side yard setback is ten feet (10'). A zero foot (0') side yard setback is proposed for all lots requiring variances with the exception of proposed Lot 140.26 which proposes a side yard of seven feet (7'). Minimum Aggregate Side Yard Setback variances are required for all of the proposed residential lots except for proposed Lot 140.01. The minimum required aggregate side yard setback is twenty-five feet (25'). The proposed aggregate side yard setbacks for all lots requiring variances range from seven feet (7') to twenty-four feet (24'). Maximum Building Coverage variances are required for all of the proposed residential lots except for proposed Lot 140.01. The maximum allowable building coverage is twenty-five percent (25%). The proposed maximum building coverage for all lots requiring variances ranges from twenty-six percent (26%) to forty-seven percent (47%). The proposed building coverage for proposed Lot 140.05 is actually thirty-seven percent (37%). The proposed decks shown on the architectural plans have not been included in the building coverage calculations. Testimony is required on whether the proposed building coverage percentages will be increased. A waiver is requested from providing a buffer along Route 88 in accordance with Section 18-803E. 2. e., of the UDO. A buffer is required and no buffer is proposed. A waiver is required from Section 18-821 of the UDO for Building Uniformity in Residential Development. One (1) basic dwelling design is proposed where normally five (5) designs are required for a twenty-five (25) lot subdivision. The applicant must address the positive and negative criteria in support of the requested variances and waivers. Review Comments-General/Layout/Parking-The General Notes refer to a Survey that the outbound and topographic data has been taken from. A copy of this Survey has been submitted. The Existing Conditions Plan does not accurately reflect existing curb, sidewalk, poles, and trees. This has

an impact on the proposed improvements plans. We recommend replacement of existing curb and sidewalk along the frontages of the property because of the deteriorated condition. A few existing trees which will be located within the proposed shade tree and utility easement are worth saving, but most of the existing trees are in poor condition and should be removed. The Existing Conditions Plan indicates a fence encroachment from adjoining Lot 143 and various gores and overlaps along the eastern boundary of the tract. Testimony is required on the disposition of the encroachment, gores, and overlaps. None of these lands may be incorporated in the proposed subdivision unless the discrepancies are resolved. Many corrections are required to the Schedule of Bulk requirements. We believe our synopsis of the variances required under the Zoning section above accurately depicts the proposed project. Off-street parking: According to the architectural plans provided, each dwelling will have an option to be a four (4) or five (5) bedroom unit with a basement. The applicant is proposing four (4) off-street parking spaces per unit which is enough to be in compliance with the RSIS standards of three (3) off-street parking spaces for five (5) bedroom units. Based on the twenty-five (25) single-family dwellings proposed, seventy-five (75) off-street parking spaces are required and one hundred (100) off-street parking spaces are being proposed. The applicant should also provide testimony regarding basements since the architectural plans indicate that each unit will have a basement. The General Notes and Parking Requirements contain information regarding an apartment unit. Communications with the applicant's professionals indicate that an apartment unit was included on an earlier version of the plans. Communications also indicate that the proposed dwelling to contain the basement community center will be located on proposed Lot 140.13, next to the open space lot for the tot lot. The proposed off-street parking consists of a minimum of 9' X 18' parking spaces. The proposed parking configuration consists of perpendicular spaces on a looped drive through the development consisting of a two-way, twenty four foot (24') wide aisle with spaces on both sides. Ninety-eight (98) off-street parking spaces are proposed, four (4) of which are handicapped spaces with van accessibility. Two (2) additional off-street spaces are proposed for Lot 140.21, the northernmost proposed lot for the project, which fronts on Somerset Avenue. Interior sidewalk is proposed throughout the development. We recommend the proposed sidewalk be butted against the proposed curb to eliminate the trampling of the grass strip from constant pedestrian traffic. The proposed sidewalks will be located on individual lots. Therefore, easements will be required. The plans do not differentiate between existing and proposed sidewalk and curb. This is required because the plans propose areas of new curb and sidewalk construction, as well as retaining areas of existing curb and sidewalk along the surrounding road frontages. Testimony shall be provided by the applicant's professionals on disposal of trash and recyclables. This matter is not addressed on either the site plans or architectural plans. Proposed handicapped curb ramp locations must be added to the site plan. No Sight Triangle Easements are shown at the proposed access drives or at the intersection of Linden Avenue and Bergen Avenue. Vehicular site access is almost exclusively proposed by the looped drive and parking lot. Only the northernmost proposed lot allows vehicular access for two (2) off-street parking spaces perpendicular to Somerset Avenue. Vehicular access to the adjoining streets is being prohibited from all the other proposed lots. Proposed curb radii must be added at the intersections of Linden/Bergen Avenues and Bergen/Somerset Avenues. Curb replacement is required for handicapped ramps and site access driveways. Architectural- An architectural plan for the proposed single-family unit to be constructed throughout the project has been provided. The proposed dwelling type is a two-story unit with a basement. The proposed maximum ridge height is thirty-three feet nine inches (33'-9") which is less than the allowable thirty-five foot (35') maximum building height. We recommend that color renderings be provided for the Board's review at the time of Public Hearing. A rear deck is indicated on the proposed first floor layout which has not been counted as part of the building coverage. The proposed rear decks are slightly smaller on the architectural plans than the areas shown on the site plans. No steps

are shown on either the architectural plans or site plans to ground level. Testimony must be provided since the disposition of the deck area will affect the variances being requested. The proposed second floor plans have a four (4) bedroom layout and a five (5) bedroom layout as options. Basements are proposed with exterior access from stairwells leading beneath the front porch. No floor plans have been provided for the basements. The architectural plans indicate the basement floor elevation to be nine feet (9') below the first floor elevation. The site plans show a nine and a half foot (9.5') difference between the floor levels. This discrepancy must be addressed. We recommend that location of air conditioning equipment be shown. Said equipment should be adequately screened. Grading- A detailed Grading and Drainage Plan is provided on Sheet 4 of 12. A storm sewer collection system is proposed to collect runoff and convey it to underground recharge systems. Proposed spot grades are required at the bottom of the building steps. The architectural plans indicate a four foot (4') difference between the proposed porch elevation and the bottom of the steps. Adjustments to the proposed grading and/or finished floors are required. Review of the existing and proposed gutter grades along Bergen and Somerset Avenues reveal they are too flat to properly drain runoff. Evidence of standing water along this stretch of property frontage was also observed. An alteration to the roadway, like providing a gutter, or the addition of storm water collection pipes is required. Overland swales shall be designed with a minimum slope of one percent (1%). Additional catch basins shall be added in areas where this cannot be accomplished. The proposed grading on the open space lot for the tot lot should be designed flatter to maximize the usefulness of the site. Soil borings locations must be provided to determine whether a two foot (2') separation from the seasonal high water table to proposed basement elevations is maintained. Stormwater Management the Storm Water Management Report submitted must be revised. The report submitted is based on an older plan version that included existing Lot 153 which is no longer part of the proposed project. A proposed storm sewer collection and recharge system has been designed utilizing high density polyethylene (HDPE) conveyance pipe and perforated twenty-four inch high density polyethylene (24" HDPE) pipe in stone recharge trenches. Along with the proposed collection system, seven (7) separate recharge trenches are proposed throughout the project. We suggest perforated pipe also be considered for the conveyance piping unless there is a concern for constructing the perforated pipe under proposed improvements, such as the parking lot. Much of the storm sewer is proposed on individual lots. A Blanket Drainage Easement has been proposed on all the residential lots to be created by the subdivision instead of proposing individual drainage easements. Confirming testimony shall be provided that the Homeowners Association will own and maintain the entire storm sewer system whether it is located on the open space or privately owned lots. Testimony shall also be provided on the accessibility of the system for future maintenance and replacement purposes. A recharge rate of twenty inches per hour (20 in. / hr.) is being used for the calculations. This is based on using a permeability rate of forty inches per hour (40 in. / hr.) with a safety factor of two (2). However, the permeability testing is too inconsistent to warrant this figure in all cases. It shall be noted on the plans that permeability testing will be required during construction and soils replaced where necessary to attain the forty inch per hour (40 in. / hr.) rate required. A map indicating the soil boring locations shall be provided to confirm the required two foot (2') separation between the bottom of the proposed recharge trenches and the seasonal high water table. Most of the proposed recharge trenching consists of multiple pipe runs. The proposed system should be shown to scale in order to be properly constructed and connected to the proposed drainage structures. The proposed storm sewer system must be coordinated between plan and profile views. Discrepancies need to be corrected. A design meeting is recommended to review the proposed storm water management system. A Storm Water Management Operation & Maintenance Manual has been submitted per the NJ Storm Water Rule (NJAC 7:8) and Township Code. The manual needs to be revised to be specific with respect to the latest proposed design and must outline how the HOA will maintain the system. Landscaping- Ten (10) Red Sunset

Maples are proposed along the Route 88 property frontage. Three (3) Shingle Oaks are proposed along the Linden Avenue property frontage. Nine (9) Greenspire American Ashes are proposed along the Bergen Avenue/Somerset Avenue property frontage. Ten (10) Green Vase Zelkovas are proposed around the interior parking area. Corrections are required to the Deciduous Tree Planting Detail. Either an additional Tree Guying Detail shall be added of reference to the detail removed. Proposed sight triangle and shade tree/utility easements shall be added to the Landscape and Lighting Plans to evaluate the proposed tree planting locations. The overall landscape design is subject to review and approval by the Board. Per our site inspection of the property and review of the Environmental Impact Statement, preservation of some large trees is encouraged. Testimony should be provided regarding specimen trees. Compensatory plantings should be required unless waived by the Board. Lighting- Proposed lighting has been provided for the interior parking area. Twelve (12), twelve foot (12') high "colonial" pole mounted fixtures are proposed. A point to point diagram should be provided to verify the adequacy of the proposed lighting. Review of the illumination patterns provided is inconclusive. Confirming testimony shall be provided that the proposed site lighting will be privately owned and maintained by the Homeowners Association. 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. Existing on site septic systems will be excavated and disposed of in accordance with all applicable municipal, county, and state standards. The General Notes shall be modified accordingly. Testimony should be provided regarding other proposed utilities. Additional underground connections will be required if gas is proposed. Signage- Proposed signage needs to be added to the Site Plan. Regulatory sign details have been provided. No project identification signs are proposed. Environmental- Site Description- Per review of the site plans, aerial photography, and a site inspection of the property, there are seven (7) single-family residences located on the tract. Inhabited residences exist upon Lots 139, 141, and 144-146. Uninhabited residences exist upon Lots 138 and 140; Lot 142 is vacant. The developed lots include impervious asphalt, gravel, and dirt driveways as well as appurtenances such as sheds and garages. The lots also contain both native vegetation and non-native ornamentals. Sporadic miscellaneous debris and dilapidated appurtenances can be found upon the project site. Access to the site is currently gained from the surrounding roadways. The existing on-site topography is relatively flat, with strong sloping located off-site to the south toward Lake Shenandoah. Environmental Impact Statement- The applicant has submitted an Environmental Impact Statement. The document has been prepared by Trident Environmental Consultants to comply with Section 18-820 of the UDO. The report is a result of an Environmental Assessment and Inventory conducted on the site. Field studies were conducted in June of 2009. 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 Suburban Planning Zone. It also lies within the CAFRA Coastal Suburban Planning Area. Site investigation for wetlands and wetland buffers - The Natural Heritage Program for any threatened and endangered species. Bald Eagle, Eastern Box Turtle, Great Blue Heron, and Pine Barrens Tree Frog habitat areas were evaluated. NJDEP Landscape Project Areas -Based on the Environmental Impact Statement the only significant potential project impact could be water quality. The nearest waterway is a small unnamed tributary to Lake Shenandoah, a category one waterway. The tributary is located approximately two hundred fifty feet (250') south of the property. Therefore, the three hundred foot (300') buffer falls upon the subject property. The mapping of this buffer must be added to the plans. During construction

activities, proper implementation of Soil Conservation Measures will negate potential silting of local surface water systems. Tree Management - A waiver has been requested from providing a Tree Protection Management Plan. The Environmental Impact Statement notes the periphery of existing Lot 140 contains large, health mature specimens of Norway spruce trees. Also, existing Lot 138 contains a large mature White Oak with a DBH of forty three inches (43"). The report encourages the preservation of on-site specimen tree species as well as those with a DBH of sixteen inches (16") or greater. Construction Details- Construction details are provided with the current design submission. We recommend that final construction details be revised as necessary during compliance review, if/when this project is approved by the Board. Final Plat (Major Subdivision) -The three (3) signature blocks for the owners should list the respective lots they own. The General Notes require corrections with respect to use, parking, and utilities. The zoning schedule requires multiple corrections. Our office can review the corrections with the applicant's professionals. Proposed sidewalk easements are required for the circulation sidewalks surrounding the parking area. 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 District; Ocean County Board of Health (septic removal); New Jersey Department of Transportation (Route 88); New Jersey Department of Environmental Protection (C-1 waters); and all other required outside agency approvals. New Jersey American Water will be responsible for constructing potable water and sanitary sewer facilities.

Mr. Vogt spoke about the waivers that were requested and Mr. Flannery said they will locate any specimen trees on site and said the site has been previously developed and most of the trees are near the border. Mr. Banas said he would be interested in knowing what trees that are presently existing are going to be destroyed and if they are, what do they plan to do to replenish the supply and Mr. Flannery said the ordinance only requires replacement for the specimen trees, so that is why they will locate them and provide new trees in accordance with that. Mr. Flannery said the original plan that they submitted when they took a second look at is that the applicant wants to do something better than what they did with the landscaping so between now and when they come back they will add more landscaping, especially along the Route 88 portion of the job and along the roadway frontage. Mr. Banas and Mr. Schmuckler commented on the road work that is being done on Ocean Avenue.

Motion was made by Mr. Banas, to grant the partial waiver on the trees, topography and contours, man made features and tree protection.

ROLL CALL: Mr. Herzl; yes, Mr. Franklin; yes, Mr. Neiman; yes, Mr. Akerman; yes, Mr. Banas; yes, Mr. Schmuckler; yes

Mr. Vogt went through the variances. Mr. Flannery said the application originally went to the Zoning Board with more units, then they came here with one where the density complies and they are intending to have one unit have a basement house of worship and in the R10 zone community centers are not permitted uses and it's use is a house of worship and they are permitted.

Mr. Ray Shea Esq. appeared on behalf of the applicant with Mr. Brian Flannery as engineer for the applicant. Mr. Shea said this is a plan that complies with the density but requires multiple variances because they are creating individual lots. Mr. Shea said it looks like a lot of variances because they are creating these individual lots but if you look at the tract as a whole, there wouldn't be any variances.

Mr. Flannery said at the public hearing they will show what can be built and why this is a better use of the property. Mr. Neiman said there are no driveways on Ocean Avenue and Mr. Flannery said that is correct. Mr. Flannery said there will be a dedicated row of trees along Ocean Avenue and said they have 4 parking spaces per unit. Mr. Flannery said there will be basements in the homes and at the public hearing they will present testimony for the variances and said the other items in the report are minor in nature and they will revise the plans to address them.

Mr. Banas asked about the trash and Mr. Flannery said there will be individual trash containers and there will be an enclosure provided and they met with Mr. Franklin to discuss the pick up. Mr. Schmuckler asked about the tot lot and Mr. Flannery said they were putting equipment in there. Mr. Schmuckler asked where the synagogue was going to be located and Mr. Flannery said the unit next to the tot lot and they will relocate the handicap space closer. Mr. Flannery said this is really not a street but a parking area which will be owned by the homeowners association.

Motion was made and seconded to advance to the meeting of May 25, 2010

ROLL CALL: Mr. Herzl; yes, Mr. Franklin; yes, Mr. Neiman; yes, Mr. Akerman; yes, Mr. Banas; yes, Mr. Schmuckler; yes

Mr. Jackson announced that item #7 SP 1931 Gem Ambulance was being heard next because the notice for item #5 & 6 said 7pm so they had to wait until 7pm.

Items #5 & #6 were announced and heard together.

5. SD # 1729 (Variance Requested)
Applicant: Congregation Kol Aryeh of Lakewood
Location: southeast corner of 14th Street & Hope Chapel Road
Block 24.01 Lots 10 & 11
Minor Subdivision to create 2 lots

Mr. Vogt prepared a letter dated March 18, 2010 and is entered in its entirety. The applicant is seeking Preliminary and Final Major Site Plan approval. This site plan proposes construction of a retail/office development. The site presently contains a fixed trailer building, two (2) one-story masonry buildings, and a two-story stucco building. The existing property consists of multiple lots totaling 55,980 square feet which would be consolidated as part of the site plan approval. The tract has existing frontages on three (3) municipal streets. Monmouth Avenue which has an eighty foot (80') right-of-way is located to the west, Fourth Street with a sixty foot (60') right-of-way is located to the north, and Steckler Street having a fifty foot (50') right-of-way is located to the east. The site is rectangular in shape. However, there is an out parcel with an existing parking lot (Lot 11) owned by the Lakewood Development Corporation. The existing two-story stucco building will remain while the other existing structures along with virtually all of the existing site improvements will be removed. A building complex with two (2) small parking lots is proposed for the site. The existing two-story stucco building fronting Monmouth Avenue is proposed to be used as ground floor retail and second floor office. The proposed ground floor retail use will be 4,745 square feet and the second floor office use will also be 4,745 square feet. A new 96' X 145' building section is proposed to front Fourth Street. This building section also proposes ground floor retail use and second floor office use. The proposed ground floor office use will be 12,801 square feet while the second floor office will be 13,885 square feet. The

differences in floor area are the result of a proposed ground level walkway connecting the proposed parking lots at the northwest and northeast corners of the site. Another new building section fronting Steckler Street is proposed. The ground floor will be a supermarket with some mezzanine second floor office space. The proposed ground floor supermarket will be 16,257 square feet, while the second floor office space will be 3,111 square feet. The proposed two-story shopping center and office complex will total 55,544 square feet in gross floor area. The proposed shopping center design is based on Steckler Street being vacated. The half right-of-way width of twenty-five feet (25') would be added to the property's three hundred foot (300') frontage along Steckler Street. The additional seven thousand five hundred square feet (7,500 SF) would bring the total tract area up from 55,980 square feet to 63,480 square feet. Township Committee approval would be required for the street vacation. A total of forty-eight (48) parking spaces are proposed for the site. The proposed parking spaces are divided evenly among the two (2) proposed parking lots. The proposed parking lots are located at the northwest and northeast corners of the site. The proposed northwest parking lot located at the corner of Monmouth Avenue and Fourth Street will have access from Monmouth Avenue. The proposed northeast parking lot located at the corner of Fourth Street and Steckler Street will have access from a twenty-four foot (24') wide drive located on a vacated portion of Steckler Street. Each proposed parking lot will have a van accessible handicap space. The site is in a developed section of the Township. The surrounding area contains a mixture of various uses. We have the following comments and recommendations. Waivers- The following waivers have been requested from the Land Development Checklist: B2 - Topography within 200 feet thereof. B4 - Contours of the area within 200 feet of the site boundaries. B10 - Man-made features within 200 feet thereof. A significant amount of topography outside the boundary of the subject property is provided on the Survey. Some minor area east of the property and the railroad tracks does not extend for a distance of two hundred feet (200'). Therefore, waivers are requested from B2, B4, and B10. The applicant shall provide supporting testimony on the requested waivers as required. We believe that sufficient existing data is provided to review the application. Therefore, we support the waivers as requested. Zoning- The site is located in the B-4 Wholesale Service Zone. Retail activities and service activities are permitted in the Zone. Testimony should be provided by the applicant's professionals regarding the proposed uses to confirm compliance with the UDO for this Zone. A front yard setback variance is being requested. A twenty-five foot (25') front yard setback is required. A zero foot (0') front yard setback is proposed for the portion of the proposed building fronting Fourth Street. It should be noted that the existing front yard setback for the existing two-story stucco building to remain is 7.48'. A rear yard setback variance is being requested. The plans have been designed on the premise that Steckler Street will be vacated and that the rear yard of the project will be along the vacated Steckler Street side of the site. A 15.66' setback from the new lot line based on the vacation of Steckler Street is proposed for the supermarket portion of the building. The Zoning requires a rear yard setback of thirty feet (30'). A side yard setback variance is being requested. A ten foot (10') side yard setback is required. A one foot (1') side yard setback is proposed for the supermarket portion of the building to neighboring Lot 10 to the south. The property owners list indicates the owner of Lot 10 is also the applicant on this project. It should be noted that the proposed supermarket portion of the building is also within ten feet (10') (dimension not indicated) of Lot 11 owned by the Lakewood Development Corporation. Furthermore, the existing two-story stucco building to remain is 0.3' from Lot 11 owned by the Lakewood Development Corporation. Two (2) access points to the existing two-story stucco building are shown along this side property line. A variance is being requested for the number of off-street parking spaces. The shopping center use requires one (1) space for every two hundred square feet (200 SF) of floor area and the office use requires one (1) space for every three hundred feet square feet (300 SF) of floor area. The proposed shopping center use of 33,803 square feet requires one hundred sixty-nine (169) parking spaces. The proposed office use of 21,741

square feet requires seventy-three (73) parking spaces. A total of two hundred forty-two (242) spaces are required and forty-eight (48) off-street spaces are proposed. Per communications with the applicant's professionals and as stated in the EIS report, the proposed Steckler Street parking lot is intended to supply the remaining additional off-street parking required for this project. This proposed parking lot is being designed by the Lakewood Township Development Corporation through our office. Confirming testimony is required from the applicant's professionals regarding use of the parking lot to satisfy needs of this project. The applicant must address the positive and negative criteria in support of the requested variances. Review Comments- Site Plan/Circulation/Parking- General Note #1 states that engineering documents for the vacation of Steckler Street were being developed by the Lakewood Township Engineering Department. The proposed road vacation must be approved by the Township as a condition of Planning Board approval if/when forthcoming. The proposed parking lots are situated at the edges of the right-of-way lines. Proposed lights for the northwest parking lot are within the right-of-way. The proposed location for the northeast parking lot is based on the premise of Steckler Street being vacated. As depicted on the current design, a twenty-four foot (24') wide access is proposed for Steckler Street (assumed to be vacated for design purposes). A six foot (6') width of the access is proposed west of the centerline and an eighteen foot (18') width of the access is proposed east of the centerline. These improvements as depicted vary from our current LDC project design. We recommend a coordination meeting with the LDC and the applicant's professionals to refine the proposed roadway design. The proposed interior portions of the parking lots are properly dimensioned. Offset dimensioning should be provided to assure the correct construction location. A loading area which should be dimensioned is proposed in the southeast corner of the site. It appears the loading area will accommodate three (3) trucks and a trash compactor. Confirming testimony shall be provided. Vehicular circulation plans must be provided to confirm accessibility for the loading area, delivery, emergency, and trash pickup vehicles that will need to access the site. The applicant should address whether what appear to be bollards are being proposed across from the loading area to protect vehicles in the future municipal parking lot. The proposed pavement tie-in at the southeast corner of the site does not match existing conditions. The proposed disposition of Steckler Street south of the site, if any, should also be discussed. The plans indicate a slight encroachment of the existing parking lot on Lot 11 owned by the Lakewood Development Corporation onto the applicant's Lot 6. Since the property line is on a skew, we recommend a squaring off of the property line to correct the encroachment. The Demolition Plans indicate off-site items to be removed and/or relocated. An existing tree and part of an existing fence are shown to be removed from Lot 11 owned by the Lakewood Development Corporation. An existing fence on the east side of Steckler Street is shown to be relocated five feet (5') by others. Testimony shall be provided to address these issues. The plans are proposing sidewalk to be constructed adjacent the existing parking lot curb on part of Lot 11 owned by the Lakewood Development Corporation. The plans attempt to retain the bulk of existing curb and sidewalk on the Monmouth Avenue and Fourth Street frontages. Given the age of the existing concrete and the major nature of the proposed development, we recommend that all deteriorating curb and sidewalk be replaced. The existing curb radius at the intersection of Monmouth Avenue and Fourth Street will constrict pedestrian flow at the intersection should the project be constructed as proposed. We recommend a proper curb radius be installed along with the correct handicapped ramp. The existing handicapped ramps surrounding the site must be upgraded to current codes. At a minimum, utility and driveway paving restorations will be required as a condition of approval, if and when forthcoming. Proposed floor area calculations should be confirmed. Dimensions for the proposed ground floor retail area shall be added. There are building dimension discrepancies between the site plans and architectural plans. Signage shall be provided for van accessible spaces. The "street signs" shown in the legend shall be corrected to "directional signs". Architectural Plans were submitted for review. Per review of

the submitted plans, the buildings will be approximately twenty-six feet six inches (26'-6") in height. The plans show stairs and openings to basement areas. However, no basement floor plans have been provided. The applicant's professionals should provide testimony regarding the proposed building façade and treatments. 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 for the building complex. If so, said equipment should be adequately screened. The proposed building dimensions are not consistent with the site plan. In addition, access points do not match. Coordination between the architectural plans and site plans is required. The architectural plans indicate the existing building to remain contains predominantly classrooms. The site plans indicate the existing building to remain will become ground floor retail use and second floor office use. However, no interior improvements to the building are shown. Clarification of this discrepancy is required. Grading- Sheet C-04 is a detailed Grading, Drainage, & Utility Plan of the plan set. The proposed grading concept is to direct runoff to two (2) separate underground infiltration systems. Per review of the plan, the overall grading design is feasible as proposed. Proposed grading revisions are required in the proposed northeast parking lot. The parking lot should be graded to low points within the lot where catch basins could be installed to pipe runoff to a pretreatment device before it enters the underground recharge system. As presently designed runoff would escape from the site contrary to the proposed design concept. The proposed grading and limits of improvements to the Steckler Street portion of the project which is shown to be vacated needs to be addressed. Proposed spot grades are required at all building access points. We recommend that the applicant's engineer contact our office to coordinate necessary revisions. The Grading, Excavation, and Backfilling Note #5 should be revised to allow the proposed gutter grades to be designed at a 0.5%. Stormwater Management- A proposed stormwater management system has been designed for the site. The construction of two (2) separate underground infiltration systems is proposed to handle the increased runoff which will be generated by the project. The proposed underground recharge facilities will have pretreatment devices. Testimony is required confirming private maintenance of the stormwater management system. The proposed project will reduce the proposed stormwater discharge to the surrounding streets. However, the design of some of the storm sewer system in the proposed northeast parking lot is missing from the plans. According to our review of the "Pond Reports" and the test pits, the bottom elevations of the infiltration systems require correction. The bottom elevation of underground recharge area #1 should be no lower than 58.00 and the bottom elevation of underground recharge area #2 should be no lower than 57.50. An excerpt from the Geotechnical Investigation has been included in the Appendix of the Stormwater Management Report. The infiltration rates used for design are acceptable. According to the soil borings, proposed Infiltration Basin #1 will not be two feet (2') above seasonal high ground water table. The design for the loading area drainage and the pedestrian corridor drainage is incomplete. Storm sewer profiles shall be provided. A stormwater management maintenance manual must be provided in accordance with NJ Stormwater Rule (NJAC 7:8) and Township standards. Landscaping- A landscaping plan has been provided for review. Red Maples are proposed along the northerly property frontages and rows of English Yews are proposed in front of the buildings. Final landscape design is subject to Board approval. Lighting- A detailed lighting design including a point to point diagram has been provided. The comprehensive lighting plan proposes five (5) low pole mounted fixtures and nineteen (19) wall mounted fixtures. The two (2) pole mounted fixtures proposed in the proposed northwest parking lot are located within the right-of-way. Relocation of these fixtures is recommended. Potential alternate locations could be on the proposed landscape islands of the parking area. There is an illumination diagram for a seventy watt (70W) Kim lighting fixture on the plans. However, no location for this fixture is evident. Utilities- The project is located in the New Jersey American Water Company franchise area. Public water and sewer service will

be constructed by NJAWC. A fire suppression system is proposed for the buildings. Separate connections are proposed for potable water and fire protection measures. The water connections are being made on the Fourth Street side of the project. No additional fire hydrants are being proposed for the project. Proposed sanitary sewer is being connected to the existing system in Fourth Street. Easements for sanitary sewer mains and manholes may be required because of the size of the line and volume of proposed flows. Gas and electric service to the proposed buildings will be provided from the Fourth Street side of the project. Signage- the Site Plan proposes wall signs, but no freestanding signage. Wall signs will be limited to sixty square feet (60 SF) which is the maximum area allowed for a building having more than sixty feet (60') of length. The architectural plans indicate proposed wall sign locations over the front and rear access points of the grocery store which is permitted. No dimensions or details have been provided to confirm that the signs comply with the area requirements. All signage proposed that is not reviewed and approved as part of this site plan application, if any, shall comply with the Township Ordinance. Environmental- Site Description- per review of the site plans, aerial photography, and a site investigation of the property, the project site consists of a 1.46 acre tract. The site is currently developed as a mix of uses including auto service, retail, office, and vacant lots near the intersection of Monmouth Avenue and Fourth Street. The site is bordered on the north by Fourth Street with residential uses on the opposite side. Steckler Street is located on the east side. A school is located to the south. Monmouth Avenue is a wide collector street located to the west. Except for a two-story existing stucco building to remain, virtually the entire site will be renovated. The applicant has submitted an Environmental Impact Statement. The document has been prepared by L2A Land Design, LLC to comply with Section 18-820 of the UDO. The report is dated February 9, 2010. 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: 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. The author of the Environmental Impact Statement concludes given the few potential adverse impacts and the mitigation of these impacts as proposed by the development, the construction of the proposed retail and office building will be an improvement to the parcel and the surrounding areas. We agree with this conclusion. A Tree Management Plan has been submitted for review. All of the existing trees will be removed. Ten (10) shade trees and forty (40) shrubs are proposed to replace the existing vegetation. A Traffic Impact Assessment has not been submitted for review, and is recommended. The proposed development will bring additional vehicular traffic to the site. The Environmental Impact Statement recognizes the site will depend on the construction of a new municipal parking lot to assist in providing the shortfall of off-street parking proposed. Testimony should be provided by the applicant's traffic expert as to whether any improvements are warranted for safety purposes. Testimony will be necessary for the public hearing, at a minimum. Construction details are provided with the current design submission. We recommend that final construction details be revised as necessary during compliance review, if/when this project is approved by the Board. Outside agency approvals for this project may include, but are not limited to the following: Township Committee (Street Vacation); Ocean County Planning Board; Ocean County Soil Conservation District; all other required outside agency approvals. New Jersey American Water Company will be responsible for the construction of sanitary sewer and potable water service for the proposed project.

Mr. Vogt spoke about the variances and said Lot 3 is being developed with an application by the Zoning Board so when they questioned it in their comments it was because he thought it was part of this application.

Mr. Sam Brown Esq. appeared on behalf of the applicant. He said Mr. Vogt clarified the most significant issue. The synagogue purchased an additional piece of property and they propose to move the lot line to add to the existing synagogue. The confusion with Lot 3 is the fact that the synagogue does own an additional lot being developed under a separate approval from the zoning board for a commercial use. There is a single family home that exists on the current synagogue lot but that is a lot that was merged with the synagogue lot for purposes of providing water and sewer. Mr. Brown said the remaining comments in the report which are minor in nature.

Mr. Neiman told Mr. Flannery the board wants to see where the lot line is now, where they want to move it, where they want to make the addition etc. Mr. Flannery said the purpose of this is to add the little jut out on the northerly portion of the building. The property line is being moved which creates a variance on that lot and the addition is for an additional mechanical room in the basement and an addition to the library on the first floor, so it doesn't increase the main sanctuary which is 1,400 sf and needs 14 parking spaces and the applicant provided 22. Lot 3 next door, which is an office, needs additional parking. Mr. Flannery said they can respond to all the comments in the review letter.

Mr. Neiman asked where they are asking for a waiver for sidewalks and Mr. Flannery said per the approved plan, there are no sidewalks anywhere and they do not want to put them where the house is on 14th Street.

Motion was moved and seconded for both applications (SD1729 & SP 1930) to advance to the meeting of May 25, 2010

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

6. SP # 1930 (Variance Requested)
Applicant: Congregation Kol Aryeh of Lakewood
Location: southeast corner of 14th Street & Hope Chapel Road
Block 24.01 Lot 10.01
Minor Site Plan for addition to existing synagogue

Mr. Vogt prepared a letter dated March 29, 2010 and is entered in its entirety. The applicant is seeking Minor Site Plan approval. The site plan is for proposed Lot 10.01 which would be created from a separate minor subdivision application with variances. The applicant proposes to construct a 13'-4" X 26'-6" building addition on the northeast side of the existing synagogue at the above-referenced location. The tract would consist of a 36,745 SF (0.84 acres) lot in area. The property contains an existing bi-level frame house, an existing one-story masonry house of worship with a basement, and a frame shed in the rear. The property is located in the northwest portion of the Township on the south side of the intersection of Hope Chapel Road and Fourteenth Street. The majority of the adjacent and surrounding property is developed and consists of residential uses. The adjoining Lot 3 to the southwest contains an existing parking

lot which is being used by the synagogue. The property is located in the R-12 Zone District. Single-family detached housing and places of worship including parish house and classrooms are permitted uses. Sheds are a permitted accessory use. Zoning- Any variances and/or waivers pertaining to proposed Lot 10.01 which were granted as part of the Minor Subdivision application shall be incorporated into any Minor Site Plan approval, if granted. According to Section 18-905 B. 1. Perimeter Buffer: For properties adjacent to residential properties, if the site leaves a twenty foot (20') undisturbed area then there is no requirements for buffering. If the twenty foot (20') buffer is invaded or disturbed than requirements indicated in Section 18-905 B. 3 shall be put in place along the invaded area. A variance is necessary from the twenty foot (20') buffer requirement. The applicant must address the positive and negative criteria in support of the required variance. 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- Site Plan/Circulation/Parking- Adjoining Lot 3 should be incorporate into the site plan since it is listed under the same ownership as proposed Lot 10.01 and is being used as a parking facility for the synagogue. A consolidation of the lots may be warranted. No information has been provided regarding off-street parking. Data shall be provided according to Section 18-905 A., Parking Regulations. Existing spaces must be added to the site plan including handicapped parking. The site must be brought into compliance with the latest ADA requirements, such as providing detectable warning surfaces with truncated domes. The existing trash enclosure shall be added to the plans. Testimony is required regarding refuse removal. Curb exists along part of the frontage of the property. No sidewalk exists across the entire frontage of the project. Unless a waiver from constructing curb and sidewalk was granted with the associated minor subdivision application, proposed curb and sidewalk must be added to the site plan. The width discrepancy of the proposed building addition between the site plans and architectural plans must be rectified. Revisions are necessary to the following sections in the Schedule of Bulk Requirements: Reference to "duplex lots"; proposed minimum lot width; proposed aggregate side yard setback; proposed rear yard setback; proposed building coverage. Minor typographical corrections are required to the Approval Box and General Notes. The General Notes reference a survey on which the site plan has been based on. The survey must be updated since all the existing improvements are not shown. Architectural- The existing building and proposed addition are both one-story. Therefore, the project does not exceed the allowable building height of thirty-five feet (35'). The proposed addition will provide a new mechanical room in the basement and expansion of the library on the first floor. We recommend that locations of air conditioning equipment be shown. Said equipment should be adequately screened. Grading- No proposed grading is shown. The current plans do not accurately indicate the existing site conditions. We recommend a detailed grading plan be provided. A 1"=10' scale plan of the grading in the vicinity of the proposed addition shall be provided for review. Section 18-822 of the UDO, Soil Removal and Grading, shall be complied with. Stormwater Management- The disposition of stormwater runoff must be addressed. There is more existing storm sewer on the site than is shown on the plans. Some of this existing storm sewer is located where the building addition is proposed. No design for relocating or altering the existing system has been provided. General Note #7 states that all roof gutters and leaders shall be directly connected into the storm sewer system via underground PVC piping. A proposed design is required for review. Landscaping- No additional landscaping or screening has been proposed for the project. The existing landscaping and site improvements are in very good condition. At the discretion of the board, additional buffering should be considered along the side yard property line where the building addition is proposed. No shade tree and utility easement or shade trees have been proposed. Unless waived by the Board, the proposed easement and shade trees are required. The applicant must provide a legal description and easement language for review. The easement shall be filed as a condition of approval. Lighting-

On-site lighting exists on the project, but has not been shown on the plans. The applicant must address the adequacy of on-site lighting. Utilities- The plans indicate the site is served by public water and sewer facilities. The nature of the proposed addition should not require any alterations to the existing water and sewer facilities. Construction Details -Proposed construction details will be dependent upon the site improvements required by the Board. 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. 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: Ocean County Planning Board; Ocean County Soil Conservation District (if disturbance exceeds 5,000 SF); and all other required outside agency approvals.

Application was heard with advanced with SD 1729

7. **SP # 1931** (Variance Requested)
Applicant: Gem Ambulance
Location: northeast corner of Cedarbridge Avenue & Oberlin Avenue north
Block 1605 Lot 1
Minor Site Plan to expand and reconfigure existing parking lot

Mr. Vogt prepared a letter dated April 5, 2010 and is entered in its entirety. The applicant is seeking Preliminary and Final Site Plan approval. The applicant proposes to reconfigure and add on to the existing parking lot with the addition of new curb and pavement to provide additional parking spaces for use by the proposed ambulance company. Interior renovations of the existing building will most likely be proposed to accommodate the new use. The existing facility is located at the northeast intersection of Cedar Bridge Avenue and Oberlin Avenue North within the Lakewood Industrial Park. Access to the site is provided from two (2) existing driveways on the Oberlin Avenue North side of the site. Parking for employees will be provided throughout the property. A total of one hundred forty-nine (149) off-street parking spaces are proposed at the above-referenced location. According to the parking tabulation, one hundred seventeen (117) off-street parking spaces are required. This is based on the floor space being equally divided between warehouse/industrial use and office use. For the warehouse/industrial use, one (1) space per employee and ten (10) spaces for executives are required for the size of the proposed facility. The tabulation lists that thirty (30) parking spaces are required for the warehouse/industrial use. For the office use, one (1) space is required for every two hundred square feet (200 SF) of gross floor area. Based on the seventeen thousand three hundred square feet (17,300 SF) of floor space, eighty-seven (87) parking spaces will be required. The tract consists of 3.80 acres in area, and is mostly developed with the exception of an undisturbed area near the eastern property boundary. The property generally slopes downwards from northwest to southeast. Freshwater wetlands and/or state open waters may not exist on-site, but are within three hundred feet (300') of the tract. The site fronts the northeast intersection of Cedar Bridge Avenue and Oberlin Avenue North, a signalized intersection. The roadways are improved with municipally supplied water and sewer services available in the roadways. Surrounding lands are all improved with large commercial and industrial land uses. The site is located in the M-1 Industrial Zone. Zoning- the site is situated within the M-1, Industrial Zone. Per Section 18-903M.1., of the UDO, numerous "permitted uses" are listed in the M-1 Zone. Testimony shall be provided on the proposed uses to confirm they are consistent with the zone. A minimum lot width variance should be granted to satisfy an existing condition.

The project is situated on a corner lot. The lot width from Oberlin Avenue North to the side lot line perpendicular to Cedar Bridge Avenue is two hundred ninety feet (290'), where three hundred feet (300') is required. It should be noted that the project frontage along Oberlin Avenue North is in excess of three hundred feet (300'). The minimum front yard setback may be reduced from one hundred feet (100') to fifty feet (50') with approval of the Lakewood Industrial Commission. The existing building has a front yard setback of 70.63'. Therefore, the minimum front yard setback reduction should have been previously approved by the Industrial Commission. Confirming testimony should be provided. A minimum side yard setback variance is requested to satisfy an existing condition. The existing building is located 29.19' from the side property line that intersects Cedar Bridge Avenue, where thirty feet (30') is required. Per review of the site plans and application, the following design waivers are 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 is 7.4'. The existing site is conforming since all parking facilities are beyond twenty feet (20') from the street line. Providing sidewalk along the site frontages (Subsection 18-814.M.) - It should be noted that because of the existing curb location on Oberlin Avenue North, proposed sidewalk along this frontage would require a sidewalk easement at the existing curve where the right-of-way and pavement tapers. Any and all other design waivers deemed necessary by the Board. The applicant must address the positive and negative criteria in support of the required variances and design waivers. *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-Site Plan/Circulation/Parking General Note #12 states the following: "A category one water is located adjacent to the site. A 300 foot buffer is required. No disturbance is proposed within the riparian buffer." The last statement is partially true. The site is within the buffer and modifications to the existing disturbed area proposed appears to be compliant, confirming testimony is required. General Note #11 must be clarified. We believe the intent is to design the site in accordance with the "Manual on Uniform Traffic Control Devices, latest edition". A twenty foot (20') wide drainage easement is shown on the Survey, split equally between Lots 1 and 2, on the north side of the project. The dedicated party must be added to the easement. A gravel parking lot encroaches upon the easement. It is the applicant's responsibility to remove the portion of the gravel parking lot encroaching on the easement from Lot 1. One hundred forty-nine (149) parking spaces are proposed for the site. However, only two (2) spaces are proposed for handicapped use, both are van accessible. Additional handicapped parking is required. Also, Note #2 under the Parking Tabulation requires clarification. No proposed solid waste enclosure is shown on the plans. Testimony is required regarding the removal of recyclable material and solid waste. Any waste receptacle area required should be designed in accordance with Section 18-809.E. of the UDO. There is an area adjacent to the loading area which is not being counted as a proposed parking space. This area shall be striped as a no parking area. A landscape island on the south side of the building is being removed and replaced with a parking space. This area shall be shaded with the new pavement designation. Existing guide rail will be removed and air conditioning units relocated from the west side of the building to allow for a proposed sidewalk. The new location of the air conditioning units must be shown. Furthermore, there are existing gas meters and roof leaders on the west side of the building which will not allow the proposed sidewalk to be passable unless they are relocated or the sidewalk is widened. No curb exists along the eastern side of the existing parking area. Some existing runoff drains from the pavement to a poorly kept landscaped area before it travels off-site to the C-1 waterway. There is a gap in the existing curb which allows the existing parking area along the Cedar Bridge Avenue side of the site to drain to the C-1 waterway. No sight triangles associated with the existing vehicular site access points have been indicated. Cedar Bridge Avenue and Oberlin Avenue North are improved with utilities, curbing, and pavement.

No sidewalk exists within the right-of-ways and none is proposed. This is consistent with the other site plans in the Industrial Park. Sections of curbing along the site frontage are in need of replacement. The upgrading of existing handicapped facilities on the site has not been addressed. Parking spaces are proposed at existing handicapped ramp locations.

Architectural- No architectural plans were submitted for review. No changes to the existing building dimensions are proposed. However, basic architectural floor plans and elevations should be submitted for review. Exterior elevation and floor plan layout alterations are anticipated. The proposed improvements conflict with many of the existing building access points. The applicant's professionals should provide testimony regarding the proposed building facade, and treatments. Our review of the site plans indicates exterior alterations will be necessary. 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. The relocation of existing air conditioning units on the west side of the building has not been addressed.

Grading- A grading plan is provided on Sheet 3. Additional existing and proposed spot grades are required to review the project. The current site plan indicates the project is poorly graded and additional storm sewer is necessary. We observed numerous puddles throughout the paved areas during our site investigation. The proposed grading is too flat in many instances. Proposed grading on impervious surfaces must be designed to the hundredth of a foot.

Storm Water Management- Our office concurs the proposed project will result in the construction of less than a quarter acre of new impervious surface. However, the project ultimately approved may not result in less than one (1) acre of disturbance. The poor condition of the existing parking area and rear landscape area is not being addressed at this time. In addition, improvements are being modified within the three hundred foot (300') C-1 Waterway Buffer. The plans indicate an inlet on the west side of the building with an exiting six inch (6") pipe leading toward Oberlin Avenue North. We observed this pipe discharging through the existing curb line on Oberlin Avenue North. The future disposition of this inlet and pipe is not indicated. Sidewalk is being proposed at the inlet location. Only one (1) other existing inlet is shown on the site. This inlet is located in the center of a large paved area north of the building. Three (3) existing pipes enter the inlet (presumably loading area trench drains and roof drains) and a fifteen inch (15") pipe exits the inlet and connects to an inlet in Oberlin Avenue North. The Survey indicates the inlet in Oberlin Avenue North is inaccessible. As a result, no other pipes entering or exiting the Oberlin Avenue North inlet are shown. A larger pipe probably exits this inlet and runs through the existing drainage easement between Lots 1 and 2. As mentioned previously, the parking area along the Cedar Bridge Avenue frontage drains through a gap in the existing curb. Our review of the proposed grading and drainage indicates additional storm sewer is necessary. The site is too flat to properly convey all runoff to the existing drainage facilities.

Landscaping -A Landscape Plan has not been provided for review. Clearing of existing vegetation will occur along the Oberlin Avenue North side of the project to accommodate the parking area expansion. The overall landscape design is subject to review and approval by the Board. The applicant has not provided a six foot (6') shade tree and utility easement along the Oberlin Avenue North property frontage, and sight triangle easements for the existing site access driveways. An existing fifty foot (50') wide vegetative buffer easement is shown along the Cedar Bridge Avenue frontage.

Lighting- A Lighting Plan has not been provided for review. Information should be provided on site lighting. There are existing building mounted lighting fixtures, but no existing pole mounted lighting fixtures on the site. A point to point diagram is recommended.

Utilities -Public water and sewer service is being provided by the Lakewood Township Municipal Utilities Authority. No new water and sewer services are being proposed. Electric service is provided from Jersey Central Power & Light and is connected by overhead wires to the northwest corner of the building where the electric meters are located. Gas service is provided from New Jersey Natural Gas Company as evidenced by

the meters located on the west side of the building. Existing electric and gas facilities are indicated on the plans. Testimony should be provided regarding existing and proposed fire protection measures. Signage- An existing sign is located within the existing sight triangle easement. Unless the existing sign is removed, it will require a setback variance. No proposed free-standing site identification sign or building signage has been provided on the site plans and no zoning information for existing or proposed signage has been provided. Testimony on signage should be provided. All signage proposed that is not reviewed and approved as part of this site plan application, if any, shall comply with the Township Ordinance. Environmental - Site Description -Per review of the site plans, aerial photography, and a site inspection of the property, the tract is a developed property fronting on the northeast corner of the intersection of Cedar Bridge Avenue and Oberlin Avenue North in the Lakewood Industrial Campus. The remaining vegetation on site consists of native species. Most of the site is developed with the exception of the eastern property boundary. The property generally slopes downwards from northwest to southeast. Freshwater wetlands and/or state open waters may not exist on-site, but are within three hundred feet (300') of the site. Environmental Impact Statement - No Environmental Impact Statement (EIS) was submitted for the project. 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); Wood Turtle and Urban Peregrine habitat areas; and NJDEP Landscape Project areas, including known forested wetlands, emergent wetlands, forest, and grassland habitat areas. We recommend that all on-site materials from the proposed pavement reconstruction activities be removed and disposed in accordance with applicable local and state regulations. Tree Management Plan- No Tree Management Plan was submitted or appears necessary given the minimal amount of clearing required for the proposed improvements. 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 Sheet 3 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. Corrections are required to the typical pavement section detail. Handicap Ramp Details must be in accordance with the latest NJDOT Standard Construction Details. A depressed concrete curb detail is required. 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; Ocean County Planning Board; Ocean County Soil Conservation District; NJDEP (if required); and all other required outside agency approvals.

Mr. Vogt spoke about the variances and design waivers.

Mr. Robert Gutman Esq. appeared on behalf of the applicant. He said Gem Ambulance owns a 4 acre parcel in the Lakewood Industrial Park and they are investing 1 million dollars to build a dispatch and training center in Lakewood. The application is to reconfigure the existing parking lot with the addition of curbing and additional parking spaces as well as related site improvements. Both variances are pre existing conditions and somewhat diminimus in nature and they have obtained a waiver letter from the Lakewood Industrial Commission with regards to the setback regulations. They have the review letter from the Planning Board Engineer and they will comply with the comments. They will add sufficient handicap parking, will provide

landscaping improvements which are consistent with other properties in the Industrial Park and will resolve the issues with regard to grading and topography to provide proper stormwater management. Air conditioners will be mounted on the roof and provide appropriate screening. Architectural plans will also be submitted. Mr. Graham MacFarlane is the engineer for the applicant.

Mr. MacFarlane said they will revise the plans to comply with the comments in the engineer's report. Mr. Vogt asked if they were requesting a sidewalk waiver and Mr. MacFarlane said yes because it is in the industrial park and it is consistent with the other buildings in the area.

Motion was made by Mr. Akerman, seconded by Mr. Herzl, to advance to the meeting of May 25, 2010

ROLL CALL: Mr. Herzl; yes, Mr. Franklin; yes, Mr. Neiman; yes, Mr. Akerman; yes, Mr. Banas; yes, Mr. Schmuckler; yes

Item # 5 & 6 could not be heard until 7pm so correspondence was done 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

Because it has been carried so many times, Mr. Kielt verified the members that could vote on this application were Mr. Herzl, Mr. Franklin, Mr. Neiman, Mr. Akerman, and Mr. Schmuckler.

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 underlying 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. Salvatore Alfieri Esq. appeared on behalf of the applicant and gave a brief synopsis on the project. He said the bulk of the testimony was presented at the January 19, 2010 and at that time they established there were no variances necessary and the only relief they were seeking was a waiver for the buffer. They agreed to address all the comments of the board's professional in the report and they also agreed to address the comment from Mr. Franklin. The garbage system is now adequate and they have also agreed to install sidewalks to connect the garbage pads to the walkways. They also presented planning testimony to support the waive request and a tree expert who indicated there were 3 trees on the Payne property that might be impacted by the construction activity of the retaining wall, but those 3 trees had no value, they were either dead or dying but they agreed to implement construction protection in the field to make sure that the roots were protected.

Mr. Alfieri said they came back in front of the board on February 2, 2010 and the objectors' attorney presented testimony from an arborist but they applicant did not have the plans with them. Mr. Alfieri said from the applicant's end, they have completed their direct testimony.

Mr. Ron Gasiowski Esq. represents the objectors, Mr. & Mrs. Payne. He wanted to clarify who was eligible to vote and said the eligible ones are those who are present as well as those who were present at least 2-3 years when Mr. Banas was Chairman because the first time they were here they were advised to come back with revised plans and they did and that is the matter that went before the Superior Court. His position is that in order for someone to hear this matter, they must certify that if they did not vote, that they listened to all the transcripts of the meetings, so he wanted that clarified. Mr. Kielt said Mr. Gasiowski did not say which meetings he is talking about; 2 meetings that Mr. Kielt checked, he named the 5 members who could vote and said if he is suggesting all of the meetings, he does not have an answer. Mr. Neiman said he thought when they started this over again after the court, it was started as a new application, so he did not think you had to be present to the old one that was denied.

Mr. Jackson said this is a complicated issue. There are different reasons why a court may remand something and in this case it was with some pretty material changes to the application and based upon that the applicant was determined to go forward from scratch. Mr. Jackson said he feels applicant is relying upon a record from scratch and he doesn't see a problem with this remand. Mr. Alfieri said Judge Grasso ruled on several specific issues that they had with the board and the only one that remains is the parking which is no longer in dispute because everyone agrees they are going to rely on Judge Grasso's ruling. Every other type of relief they asked for in the original application is different here, the design may be the same, but the relief and the variances are different. Mr. Gasiowski said one of the primary issues in this case is in regard to the buffer area and the Judge spent a lot of time talking about Lakewood's concern about buffers and buffered areas and this is the exact same plan as they had the first time with 2

changes- a cul de sac instead of a hammerhead; the road configuration is the same, the number of units is the same and in addition to that, the lot sizes are exactly the same and the only thing that has changed is a 10 ft. buffer instead of a 30 ft. buffer. Mr. Gasiorowski said Judge Grasso sent it back and all the pertinent information and testimony that was deduced at that first hearing he argued is a part of this record. He said when this case goes back to Judge Grasso, it will go back with the prior transcripts along with these. Those transcripts contain the first hearing where the board gave the applicant the heads up and told him how they were going to vote and suggested they go back and revise the plans and come back, then they came back with basically the same plan-the same plan here tonight and this board denied that application and his position is, all of that is a part of the record and those board members who want to be eligible tonight, must have read the prior transcripts that included all that testimony. Mr. Neiman asked him when they started the second phase of this application, they will clear that they were starting over and they read Judge Grasso's ruling, and assume this was a new board, does that mean the applicant could never come back in front of a board. Mr. Jackson said the key thing is the applicant is not relying on any portion of the prior testimony and if Mr. Gasiorowski wants to present portions of the transcripts from objectors that were essential he could do that in terms of his defense. Mr. Gasiorowski said they talk about how they can't consider what was in the past but this is colored by comments made by the Chairman with this application as we are proceeding forward because the comment was made that in some way this objector is dragging this case out meaning the number of hearings they have had. The number of hearings with regard to this remade were relatively few, one of which was because the applicant did not have his plans with him so it is unfair with that comment being made for those transcripts not being read by the other board members to truly show that the objector did nothing to drag this matter out, in fact the objector was successful in the first application and they should be able to compare why they denied it then with what you have before you now. Mr. Schmuckler said his belief is that the Chairman saying that was because that line of questioning was dragging on. Mr. Neiman said they are moving forward and Mr. Gasiorowski brought up his first witness.

Mr. John Chadwick, professional planner was sworn in. Mr. Chadwick said he testified at the prior hearings as well including the prior application and also read the minutes and transcripts. He is aware of the issues regarding the buffer and read the Master Plan of Lakewood and the Zoning Ordinance especially the portion that deals with the criteria for construction of townhouses in this zone and the design standards with regard to buffering. There are specific buffering requirements for a townhouse project and they are required to have a 30 ft. buffer when townhouses abut a zone for single family homes or have a single family home on the adjoining property. He said the Payne property is in a zone that permits single family residences and it is his opinion that the 30 ft. buffer would apply. Mr. Gasiorowski said the opinion of Mr. Flannery was that this was not a variance requirement and Mr. Chadwick said he disagreed because the RM zone has standards and in that zone it has design standards for single family and 2 family houses and the zoning ordinance also has an article that is called design standards and within that are buffer standards, standards for sign, parking etc. and when you read those sections there are standards for setback for single family house in the design standards and in his judgment they have exactly the same weight and intent as would be a lot size standard, a setback standard etc. and the simple label of design standards in the ordinance, that term appears throughout the ordinance and to say because it has a label design standards that it is not a zoning requirement his judgment is wrong. Mr. Gasiorowski asked him with regard to the standards established for a townhouse is there a specific reference to those design standards and Mr. Chadwick said yes and they state those standards are applicable in the event an applicant is seeking a townhouse. Mr. Chadwick said in the design standards, it identifies various uses, one of them being townhouses and 30 ft. is required. In the preceding paragraph it talks about commercial uses when they are adjacent to residential uses and the

buffer is 30 ft. so he does not think there is any question for this board. If you had a gas station next to single family homes, that buffer standard is a fundamental zoning standard that requires variance proof to grant relief. Municipalities establish buffers to separate uses, activities, etc. that have vastly different activities. Payne's property is a football field and 1/2 long (380+ ft. long), the 2 buildings together, and you have the separation between single family homes.

Mr. Gasiorowski asked for a copy of the site plan and spoke with Mr. Carpenter about the plans and what sheets certain items are contained in. Mr. Alfieri said they are not producing plans from the first application unless the board orders them to. Mr. Gasiorowski said during the examination and cross examination, Mr. Carpenter was referencing the first set of plans and how they were changed because the cul de sac did not satisfy the radius requirements and Mr. Alfieri said they were here on September 1, 2009 with the first hearing on this application and at that time the board expressed concerns about whether the cul de sac was RSIS compliant and they agreed to write to the DCA to get a ruling but they elected not to do that and went forward with this plan, so they never used the original set of plans, they only referred to the new set of plans that were part of this application.

Mr. Jackson said in terms of limiting evidence that may be irrelevant or time consuming, how is looking at the initial plan relevant and Mr. Gasiorowski said one of the arguments is that this is a new application with new drawings and the fact of the matter is except for the change in the cul de sac and the creation of a buffer, everything is the same. Mr. Jackson said what the court said is that the board should not have used its criteria that it used and the applicant has the opportunity to come back with revised plans. Mr. Gasiorowski asked where the court states you can't refer to the old plans and Mr. Jackson said it doesn't say that but his question is how is that relevant and Mr. Gasiorowski said in the first hearings there was comments from the board that the property was being overused and there were too many units and too cluttered and that is all relevant to this hearing and they may at some point have a judge decide that but it is his position.

Mr. Neiman asked Mr. Vogt if there were any other changes other than the cul de sac and Mr. Vogt said there were interior changes on the site and site plan design, he knows they had parking shifted etc. and some utility conflicts in the roadway. Mr. Akerman said it was his understanding that the applicant was trying to steer away from having to do additional changes such as the trash because they wanted to claim originally that it is not a new application and the board viewed it as a new application, they did not just limit it to the 3 issues that the judge had remanded it for. Mr. Neiman said the whole retaining wall issue never came up at the first application.

Mr. Alfieri said they also made the units narrower in order to accommodate a wider buffer so the units are not identifiable, there were 3 units in the first application, now there are 2. Mr. Gasiorowski marked exhibit J1 which is the existing plan and asked Mr. Chadwick about the area along the southerly side line of the property where there is a 10 ft. buffer and said according to the zoning ordinance and the language of buffering, does that comply with the requirements of the zone and Mr. Chadwick said no. Mr. Chadwick said the board has the discretion to lower the required buffer to 15 ft. if the circumstances justify so if the applicant is able to show that by having a reduced buffer of up to 15 ft. that may satisfy the board depending upon the nature of the buffering, the amount of construction on the other side, etc. and that is a proof that the applicant is held to. Mr. Gasiorowski asked him if there was anything in the zoning ordinance that allows the applicant to reduce the buffer from 30 ft. to 10 ft. and Mr. Chadwick said no. Mr. Gasiorowski asked Mr. Chadwick if the length of the roadway and the number of units on the southerly side the same as in the original application and Mr. Chadwick

said yes. Mr. Chadwick said it is his opinion that the proposal is to basically wipe this piece of property clean but for the tail that sticks to the northerly part and has frontage on Prospect. The ordinance and particularly within the buffer regulation goes on in pages as to tree preservation and the need to separate dramatically different sized buildings and uses and there is absolutely no connection between what that ordinance recommends and this plan and in saying that the buildings in the proposed application is 385 ft. long and is parallel to the Payne's' property. These are very large structures and in terms of light and air to the adjoining property, the separation is minimal in his judgment and when you look at the structures across the street that have been there 30 years (High Point), they are 2 story structures, 50 ft. away but if you look at other developments as you go down Route 9, the size and scale of these developments overwhelm adjoining properties. If you look at the zoning ordinances and the Master Plan and what the standards call for with regard to preservation of woodland and forest areas, here you have it but it is being taken away simply to maximize the improvements on the property. If the property has constraints, the property has constraints and it can't be built to its' maximum- it is simple. Not only is it an irregular shaped property, it's width and the natural features on it also constrain where construction could take place and the topographic changes are just being engineered out either with retaining walls or through grading either on the south side and the north side with the cul de sac and the discussion of how high the wall may become as they adjusted the design of the cul de sac and the engineer opined that it may get up to 12-14 feet. They are going to flatten it, they are going to grade it, they are going to terrace it to put on the maximum allowed.

Mr. Gasiorowski asked Mr. Chadwick if the board were to say the applicant had to adhere to the standards of the zone and have a 30 ft. buffer, the property could be developed and Mr. Chadwick agreed. Mr. Chadwick said a reduction in the number of units as a function of increasing the buffer may or may not happen; it depends on the size of the units, the configuration, how many units they put in the structure, etc. He said they may even decide to put something other than townhouses, which is allowed in this zone. Mr. Gasiorowski said this applicant is seeking to ask this board to basically put aside the protections which were established by the legislative body to grant these requests for a variance to go from 30 ft. to 10 ft. and Mr. Chadwick agreed with that summation. Mr. Gasiorowski asked if they applicant has sustained his burden of demonstrating to this board that he has satisfied the positive and negative criteria for this variance to be granted and Mr. Chadwick said they put testimony on the C1 and the C2 variances and there was very limited discussion under the C1 variance (irregular shape of the property) and there was no testimony under the C2 variance and key to C2 variance is to demonstrate a public benefit. Mr. Gasiorowski asked what benefit the would the public derive from this forested area being leveled and being filled with 2 family houses and Mr. Chadwick said he did not hear any.

Mr. Neiman said what we have here presented to us is that the objector's professional feels this is a variance not a waiver based on the ordinance and asked Mr. Vogt's opinion and the board's planner and engineer and Mr. Vogt said he cannot say definitively how the UDO is structured, it is his experience in most towns that a landscape buffer is a design function but he would have to look where it is within here. He said the section in question 18-8-803---- and it is referred to in his review letter and the buffer requirements state it is a 30 ft. buffer with the board having an option to having that reduced to 15 ft. and the question is does the board have latitude to go past 15 ft. in this case 10 ft. and he asked Mr. Jackson his opinion as to whether it is a waiver or variance based on the UDO.

Mr. Neiman asked Mr. Chadwick what he thinks the reason for a buffer is and Mr. Chadwick said buffers are designed to provide for the edge of opposing zone districts or opposing uses and in this case they have a complex zone of single family to multi family and the ordinance addresses

that issue- separating the properties, one from the other. The Payne property clearly has other development potential, it is a very large lot with a single family home with a landscaping business in the rear and that property in his judgment, to ignore the buffer standards, predicts what the remainder of the property will be. Mr. Neiman said it is not so much the home that is on the property but the property. Mr. Chadwick said you have to draw a line in the sand how you get from one kind of activity to the next and that is why he says the buffer standard for a commercial use is in the same section, along with signs. You have one of these ordinances that is a product of the land use law when it was adopted in '76 and they took all their ordinances and made them into one and it seemed like it made sense at the time: in 2010 after 2 hearings of arguing about this maybe it didn't. Mr. Neiman asked him if he would say that a gas station would require the same buffer as a townhouse unit and Mr. Chadwick said of course and said the gas station would have different activity in terms of hours of operation clearly has no common characteristics with a single family home and this project in comparison to a single family home has no similarities; he asked Mr. Neiman if he knew of any single family homes that were 385 ft. roughly 4 stories and in terms of the density that will be generated, there is absolutely no comparison.

Mr. Jackson asked Mr. Flannery his opinion and Mr. Flannery said by Mr. Chadwick's standards there are no longer any design waivers, anything that is in the UDO jumps to the classification of a variance. Mr. Jackson said Mr. Flannery was very involved in the drafting of the UDO and Mr. Flannery said it was done in 2005 not 1976 and Mr. Jackson asked him if there is a section in the ordinance that delineates what a variance is vs. what a design waiver is and Mr. Flannery said the ordinance is structured the way a majority of the ordinances in NJ are structured in the UDO and it has a section 900 which is zoning and zoning regulations and the items in that section by this board have been considered to be if you are differing from what is in Section 900 it is a variance, it stipulates lot sizes, all the bulk variances and in some of the zones it stipulates more than that. He said then there is a Section 8 which is design standards and if it is in this section it is a design waiver and the board has the right to insist on what is in Section 800 so to say that if it is in Section 800 it doesn't matter it just doesn't rise to the level of a variance. Mr. Jackson asked if Section 800 is design standards because he is in Section 803B. Mr. Jackson read the section of 18-800 General and asked Mr. Chadwick if the UDO specifically calls this as a design standard, why would this be a variance and Mr. Chadwick said if you look at the RM zone which is Section 900 subsection h it lists permitted uses and it goes to design regulations and the terms of design regulations in this section you would not interpret to be a waiver but when you get to Section 800 and you see design regulations you automatically say it is a waiver and his judgment it is not within Section 800 because if you look at the index and see what is included it is if that potpourri of the ordinance-things that got thrown in to the section. Mr. Vogt said he thinks the objector's planner is correct-there is some ambiguity in terms of where certain standards fall, but the one they are talking about deals with buffer and that is in design standards and it talks about buffering and says buffering shall be required when topographical or other barriers do not provide reasonable screening and when the board determines that there is a need to shield the site from adjacent properties and to minimize adverse impacts such as incompatible land uses etc.

Mr. Jackson said the section calls it out as a design waiver but he thinks that a buffer is a pretty important component of making uses that adjoin one another and he has always been mystified by the semantics of whether it is a design waiver or a variance. Mr. Neiman said that is why he was asking before about the gas station, if there was a home right next to it, could it be different and Mr. Jackson said they have to consider what is the obnoxious quality of what is next door, how is it incompatible, it is residential to residential. One of the things you also buffer against is the bulk and the scope of this, you might have someone that wants to look at trees and

instead is looking at a gigantic structure so it is not just the activity it is the structure itself so Mr. Jackson asked then to consider all those things and his opinion is this is intended to be a design issue and not a variance and just because it has the so called lesser status than a variance does not mean it is not important and Mr. Neiman said it is important and feels a buffer is very important. Mr. Jackson said he thinks Mr. Chadwick makes a very good argument but he thinks when you read the plain language he would agree with Mr. Vogt.

Mr. Gasiorowski said when you look at Section 803 it talks about landscaping and buffers and he read the section and said when you look at the townhouse ordinance it specifically requires buffering and another section talks about the need to shield the site from adjacent properties and to minimize adverse impact such as incompatible land uses etc. and said they once before made the decision that not having any buffering was not acceptable. There was no buffer in the first application and this board made a finding that was affirmed by a court that buffering was important. You can't look at what is on the Payne property right now and simply say there is an existing house there and if we only give them 10 ft. of buffering rather than 30 ft. it is not going to impact Payne but what is going to happen is when Payne goes and develops his property his property is going to be prejudiced if you only require a 10 ft. buffer just as you would be prejudiced if you did not find any buffer at all. The whole idea of planning is not just to deal with an immediate problem but to deal with what the ordinance protects against and this ordinance protects against that which this applicant is seeking to do. It says the board may (not shall) reduce the required buffer to 15 ft. if the developer provides a dense landscaping screen and this developer is doing is going back 10 ft. doing a planting then removing the trees from the balance of the property in building what amounts to a 4 story house- a monolithic structure over 300 ft. long and you have to ask if you are doing the right thing to protect Payne's use of his property in the future.

Mr. Alfieri said this board clearly has the power to grant the relief they are asking and the relief is at a lesser standard than the variance. He asked Mr. Chadwick if he was at all the meetings for this last application and Mr. Chadwick said yes. Mr. Alfieri asked him to describe the standard that a board has to review in granting or considering a waiver vs. a variance and Mr. Chadwick said a variance is a higher standard and requires demonstration under a C1 or C2 criteria and a waiver has to show that there is no substantial impacts which is similar to the negative criteria under the C1 & C2 variance. Mr. Alfieri asked Mr. Chadwick to describe what is on the Payne property and Mr. Chadwick did and Mr. Alfieri asked if the work buildings were residential in nature or commercial and Mr. Chadwick said he knows they have a landscaping business but he has not been inside the work building. Mr. Alfieri asked Mr. Chadwick if he knows how far the house is from the subject property and Mr. Chadwick said he estimates several hundred feet. Mr. Alfieri asked Mr. Chadwick about the tree expert and Mr. Chadwick said he agreed with the objector's tree expert who testified he believed the bordering trees would all be impacted as a result of the clearing to the property lines because of the environmental changes that would occur and the water in the ground etc. Mr. Alfieri said he indicated there were 23 trees that would be impacted by the construction and 4 trees whose roots would extend past the retaining wall but he did say that when you take down all these trees there is wind that blows and without those trees it could have an impact on the trees even further into the property. Mr. Alfieri asked him where in the UDO does it say they must protect the neighboring property from the wind and Mr. Chadwick did not see that.

Mrs. Janet Payne, 420 Massachusetts Avenue was sworn in. She is the adjacent property owner to the south and has lived there for over 30 years and the nature of her business is landscape design and installation so she is familiar with plant life and trees and hired the expert tree witness on her behalf. She has been objecting to this plan since it first came in front of the

board. She has examined the plans and based on her background she is familiar with the terms topography and cuts and fills and buffering. She objected to the first application is mainly for the buffer. She said they are single family whether it is her home or she is going to build homes on it eventually, that 30 ft. buffer she is begging them to give her because she feels it is their right and it is stated many times in the 4 years that they have been objecting. She said they will eventually sell their property and they would hope to build single family homes, not condominiums or multi family and she will need the 30 ft. and they deserve the 30 ft.-why should that be an issue at that point because it is going to happen again, it is not just them but what will be done in the future, they will do single family homes eventually on their property. They have a flat land right on the top of Lakewood at the highest point of Lakewood. The objection also is the play area, very noisy, they have condominiums below them, extremely noisy and she can't tell how many children are out, that play area is right across from her kitchen and voices carry in the wind. To build a structure that huge the impact on her property will be massive whether she is 10 ft. from that property or 30 ft. and she showed the board what 10 ft. looks like with a tape measure. Mr. Jackson asked her to show the board what 30 ft. looks like and she did. She said you are talking about a massive 4 story structure and her husband and her feel they deserve this footage and this board has to right to plan this town and you see some units that are not done right and some roads that are not wide enough for fire trucks and buses and you make them better and the things you are going to plan are going to be tastefully done and this is too much stuff in too small of a piece of property and that is a big issue here.

Mr. Neiman said when the applicant is not asking for a variance it is hard to say no, he is not asking for a side yard variance or lot coverage variance and here he is asking for a buffer to be reduced from 30 ft. to 10 ft. and they realize there is a difference between 10 ft. and 30 ft.

Mr. Gasiorowski said during the discussion between Mr. Alfieri and Mr. Chadwick they talked about the difference between waivers and variances and the issue was, even if it were a waiver rather than a variance that it would not have any substantial impact upon the surrounding property owners and in your opinion, if this board were to grant this request to reduce this buffer to 10 ft. the entire length of the property line, wouldn't it have a substantial impact upon her property and Mrs. Payne said absolutely-4 stories, the size of this, the length of this, the trees that are going to be ripped down and her tree expert really knows what he is talking about. She said she is a taxpayer who pays \$23,000.00 a year and she is entitled to the same protection under the UDO that the applicant is. She is not looking for any favors from this board except what is right and just and she knows she and her husband deserve this 30 ft. and is looking for this board to enforce the legislative intent of the Township Committee. Mr. Gasiorowski said it is the applicant that is seeking to change that by reducing it from 30 ft. to 10 ft. and Mrs. Payne said he has changed very little, she has been the one coming here doing this and it is a lot of leg work for her and asked why should they give him 20 ft.

Mr. Neiman asked why the judge remanded this back to the board after they denied it, why didn't he just uphold the denial and Mr. Jackson said Judge Grasso said there were some valid basis' that the board used-one of them was buffering. The cul de sac design, the judge said they used the wrong calculation with the parking count and the applicant said they were willing to work with the board and make revisions based on some other concerns so the court said we will remand it because in fairness to the applicant they did say they were willing to make changes and Mr. Jackson thought that the parking was the big issue here. Mr. Neiman asked Mr. Jackson if he thought the judge expected the number of units would go down from the first application and Mr. Jackson said he could not answer that. Mr. Neiman asked Mr. Gasiorowski the same question and Mr. Gasiorowski said yes he did because the judge found that the board was correct in denying the application based upon the buffering requirements and if the applicant

satisfied the 30 ft. buffer requirements it would mean fewer units. Mr. Gasiorowski asked the board to look at the tape measure of 10 ft. and ask themselves if it adequately buffers this property owner from that 300+ 3 ½ story townhouse next door and that is the issue before them.

Mr. Jackson read what Judge Grasso said about buffering- the Lakewood UDO contains extensive sections dedicated to buffering and the interpretations from the applicant's engineer and planner of the ordinance section can be considered as too narrowly construed as the Payne property can be viewed as an area zoned for single family residential land use and based upon the record the court cannot find that the board acted arbitrarily in finding that the board had concerns with address the adequacy of the buffer in light of the proposed removal of the trees and evidence of grading and its' potential adverse impact on existing trees. The Payne property can be considered as an area zoned for single family residential uses and the concerns raised by the Board are those which reasonably could have been reached based upon credible evidence and its denial in this record was not arbitrary or unreasonable. Mr. Jackson said the reason the judge remanded it back to the board is because at the conclusion of the hearing, the applicant expressed a willingness to return with a revised plan based on the evidence that had been presented and in fairness to the parties requires that it be remanded to the Board with an opportunity granted to the applicant to amend its application consistent with the courts finding and should address the thoroughfare design, buffer requirements as well as parking.

Mr. Neiman asked if there was a retaining wall in the previous application and Mr. Alfieri said there was a retaining wall right at the property line- it was a 0 buffer application at the beginning. Mr. Flannery said 10 ft. buffer with densely planted landscaping and a fence is better than 30 ft. buffer without any additional planting or fence. Mr. Gasiorowski said the significance of Judge Grasso's decision is that you have a right to demand the 30 ft. buffer- they originally came with no buffer and the board had the right to demand compliance with the ordinance. The board has the right to enforce this ordinance and they have to ask whether giving the 10 ft. to the Paynes, does that adequately protect their property? Mr. Flannery says 10 ft. is not diminimus but is a 30 ft. buffer better than a 10 ft. buffer and the answer is yes.

Mr. Neiman said there is a mention of 4 floors, basement, 2 floors and the plans show an attic with habitable space and he thinks that is all fairness they should take away that habitable attic space. If they are going to go with the 10 ft. as opposed to the 30 ft. buffer his opinion is that 4th floor should go away. He thinks the applicant wants his cake and eat it too and they are asking for 10 ft. but 10 ft. with habitable attic space is too much. Mr. Jackson asked if the applicant would be willing to agree to make the attic non habitable and Mr. Neiman said they can make it crawl space up there, not a floor with there is the possibility of putting in a bedroom with a bathroom up there and with a window so they can look right into the Payne property. Mr. Neiman said they are in a position where they have to compromise and he understands about their concerns with the 30 ft. and the 4 floors and said if the applicant wants his 10 ft. buffer, then he has to get rid of that 4th floor and he thinks that is a fair compromise and that is his opinion. Mr. Gasiorowski asked if they were going to lower the height of the building and Mr. Neiman said no, but after discussion he said yes. Mr. Jackson asked Mr. Flannery, who is an architect, how that can be accomplished and Mr. Flannery said they can make the attic as low as possible and still maintaining an appropriate pitch that for aesthetics and water flow purposes and they can have an unfinished attic space for storage with no windows, no stairway, no plumbing and the roof can be lowered.

Mrs. Payne asked Mr. Neiman why did the judge ask them to go back....and buffer was one of them. Now everybody is just ignoring that and Mr. Neiman said he thinks by taking away that 4th floor and going to 10 ft. he thinks that would be suffice and that is just his opinion.

Mr. Flannery said the applicant would agree to the request as he indicated and he said they will minimize the peaks and Mr. Neiman said they would have to make it impossible for even a dog to sleep up there and Mr. Flannery said it is going that they will not be able to put bathrooms or bedrooms up there. Mr. Jackson asked how they can quantify that and Mr. Flannery said you can't have a bedroom without windows and Mr. Jackson said they have to be more specific, how high will the roof be etc. and said this might require revised architectural and it should be in the resolution and Mr. Flannery said the roofs will be pitched at 7 on 12 which is a standard roof pitch and they will start at the sills and they will go up and Mr. Jackson asked what that will do with the height and there was discussion.

Mr. Neiman opened the microphone to the public

Noreen Gill, 192 Coventry Drive Lakewood was sworn in. She said everything in a court of law has to be considered fair and reasonable and she thinks when Judge Grasso sent it back it was because it has to be fair and reasonable. She doesn't think it is unreasonable to have a buffer and thinks it is reasonable, if she were the property owner and she had lived there a long period of time and I had established my land, my family, etc. to have a builder come in and say they are going to rip this and they are going to do that.....if you ride around Lakewood and look at the developments you could cry because there is not a tree, they are stripped to the ground, the earth is gone. When you take out a tree and the roots are still there, and you build a home, the roots to that earth are going to settle. She wants the board to consider this—if you allow this, and she looks at this board as the future planners, if you give 4 floors to someone, the smallest unit, people live in the attic. Where she lives, they only found out about people living in the attic when they fell through the ceiling. She said a year from now we are going to come back and see them building windows in the upstairs as what happened to a development down by Princeton Avenue. She wants this to be fair and reasonable and she thinks if you turn around and say to them “how about 18 ft. would that satisfy you, would that be fair and reasonable” but having that 4th floor, don't start it.

William Hobday, 30 Schoolhouse Lane Lakewood was sworn in. He said he thinks it is clearly the intent of the legislative body that there be a 30 ft. buffer because there are different kinds of construction; single family dwelling, a multi family townhouse and once the Township Committee put that ordinance in place it is up to the Planning Board to enforce that in all cases possible and this is a possible case. He thinks they owe it to that resident to enforce the ordinance that gives them that protection because their house might not be on the line now but in the future if they choose to subdivide their property may not be as valuable as it is if the board enforced the standard that the Township Committee has given them to enforce.

Gerry Ballwanz, Governors Road Lakewood was sworn in. She said she has attended the 2 previous hearings she has quite a few things to say and some of them the board may not want to hear because there is some history. In 2005 when the UDO was adopted nobody in town knew that the Township Committee was also adopting the rezoning of which this area was then rezoned. She was 1 of 4 people who tried to ask questions at that meeting and somehow knew that this was going to be a hot potato. It was a year later when all of a sudden, when something else was being approved that she became aware that the town had been rezoned. Maybe if Mrs. Payne had known it at that time she could have had Mr. Gasiowski challenge that zoning because it might have been within the time frame. She goes to her dentist on Route 9 south and behind his office are townhouses which are only 10 ft. from his property and she asked how that property got approved without any buffering-there is no buffering for the vet that has his office and then all the people who are up on a little bit of a hill and they have a retaining wall-their

yards are right there and there is no buffering and asked how this occurred. She lives in Coventry Square where they have 63 acres, 633 units, and at that time the ordinance said 10 units per acre and now how can we have 13 acres of open land along the Metedeconk and why is there a 30 ft. buffer from the houses that are on Tudor and Colony and everyone has their 20 ft. backyards. Then Agway went up and what happened to that buffer? So it goes back to the developers who come in and say they want their 10 units per acre and were then given waivers to make a 10 foot going into a size 5 shoe and all of these variances regarding setbacks were being given so the developer can come in with his huge houses and still demand his 10 units per acre. With the UDO we now have 8 units per acre but with the basements they can have 16 units. These are big units and with the design for the multi family they don't need any variances except for this one thing-the 30 ft. buffer; so we have cramping that already exists on this parcel of land and at first try for no buffering and now only have 10 ft. where the design waiver shows 30 ft. She thinks it should be the 30 ft. She knows they can go down to 15 ft. but she doesn't even think that is right-she thinks with how things are cramped it should be the 30 ft. and just thinking about the whole history of what happened in town this is what we now see with what is happening with the Payne property and now she is fighting. This is what the rules are and she sees how they have gotten eroded over this time and it is all falling on her shoulders. Mrs. Ballwanz said they were starting to give a compromise that maybe sounds good but she thinks to her it should really be the 30 ft. buffer and maybe even the 15 ft. but she does not think 10 ft. is even in the language of what the board may or may not do.

Seeing no one else, this portion was closed to the public

Mr. Gasiorowski said for those who know the history of this application, they have to recognize what is reflected in Judge Grasso's decision that when this applicant first came before this board his position was there were no buffer requirements applicable to this site and their belief was they did not have to buffer at all. The board's position was that they had to buffer and the court affirmed that. Now they are sitting here in a quasi-judicial capacity and they are interpreting and applying the ordinances of the municipality with an even hand. The Payne's are not before the board seeking anything that they are not entitled to pursuant to the zoning ordinance-they are entitled to that 30 ft. buffer to protect their property. But look what's happened here-we have a builder who acquires a piece of property and when you look at it, it is an irregular shaped piece of property. This builder is not naïve and he is aware of what the zoning ordinance permits him to do and that is says you have to have a 30 ft. buffer. In the first instance he says it doesn't apply to him at all and now he is coming back and saying ok, the court said I have to have a buffer, and he is going to be a good guy and give 10 ft. of buffering. Who is he to come before the board and seek that relief? He purchased that piece of property full well knowing what the requirements were and this is not a situation where you have an isolated lot where a person comes in and wants to build a single townhouse and wants relief from the buffer. This individual is seeking to create these monolithic blocks of buildings, over 300 ft. long and for all of them, seek this relief. Clearly, this has caught the attention of some of the board members who have said perhaps a compromise would be to not permit a residence to take place in the attic but how does that solve the problem of the buffering? What it is really doing is saying the board recognizes the buildings are too high and too close but we are going to say we are not going to have people looking out the window of the 4th floor onto the adjacent property-that is the compromise or solution. Mr. Gasiorowski said he would respectfully suggest that they should not even get to that because all they have to do is apply your ordinance. It is right before you and you have an adjacent property owner who is saying that some day in the future they intend to construct, sell or subdivide their property into single family lots and they will be impacted at that time if you grant this relief to this applicant and the question is why are you being called upon to grant this relief? It is not because he is going to

give you such a beautiful buffer and it is not going to impact the Payne's property; it is because he wants to build townhouses from one end of the property to the other and everybody agrees now that at the very least it is a waiver and while a waiver doesn't rise to the level of a variance it is his position it is a variance, but what holds true is that if you grant a waiver it cannot substantially impact the adjacent property owner or the adjacent area and you have to look at what he is doing and you cannot say that building these townhouses with this height with a buffer of only 10 ft. is not going to negatively impact not only the quality of life of the Payne property but negatively impact the quality of life of the area as a whole because as you take away the buffer what you are allowing this developer to do is increase the density of what he is seeking to do- you are taking 10 lbs. of sand and putting it into 2 ½ lb. bag. He thanks the board for its' patience and realizes over the 3-4 years some of the conversations have become heated but he always respects the position of this board and said he has presented Mr. Chadwick, Mrs. Payne and they are not seeking relief but they are seeking protection.

Mr. Alfieri said this is a conforming application in terms of the zoning standards of the ordinance which means there are no variances. They have addressed the cul de sac issue so it is completely RSIS compliant, they have addressed the garbage design so that it is functional and they have agreed to address all of the professional's comments and they have agreed to address all of the board's comments so far. They haven't commented on the roof pitch issue so there is a complete record of what they can do to avoid the use of the attic so he would like to have Mr. Flannery give the details on that.

Mr. Flannery said the units are 45 ft. wide so if you take that in half with a 7 on 12 pitch it is going to be 10 ft. high in the center, so it will go from 0 at the back of the Payne's property and the roof is going to pitch up to 10 ft. That will leave room for somebody to stand up in there; if there is a restriction for no plumbing up there and there are no stairs permitted up there, nobody is going to live up there. Mr. Neiman said no stairs, no window, and Mr. Flannery said with no windows, you can't have a bedroom. Mr. Akerman said they should be able to put mechanicals up there (a/c etc.). Mr. Alfieri said the applicant has agreed to comply with that request if that is something the board wishes, and said that at the end of the building there would be no height and at the peak it is 10 ft. Mr. Alfieri said the important issue that the board and public has been discussing is the waiver and said the objector has presented 2 experts; a planner and a tree expert. If you look at the tree expert's testimony, he first said there were 23 trees that were impacted by the construction but at the end of his testimony he acknowledged that there were only 4 trees that would be potentially impacted by the construction activity and the imposition of the controls and protection that the applicant has agreed to provide which is to have Mr. Paneck on site during construction so if they encounter roots they would change the design of the retaining wall and agreed that would work to protect the trees. He said there would also be a long term impact on the trees because of wind etc. and when asked if that impact would change if they had a 10 ft. buffer or a 30 ft. buffer and he said it wouldn't change, so by their own tree expert testimony there is no impact by granting this waiver to this applicant. In addition the board has the power to grant the waiver, especially if the applicant provides measures to mitigate the impact and they have agreed to densely plant the property, impose those restrictions as in terms of the retaining wall and now agreed to impose the height restriction and use restriction on the attic and said this applicant has done everything that the board has asked. He said the buffer relief they are requesting is for the retaining wall not a house-the house is compliant. The objector has said they are trying to maximize every inch of this property and said they can actually build a 65 ft. high building and 15 units to the acre and they are no where near that so they are not maximizing it to the letter of the ordinance. For those reasons they believe they have satisfied every issue the board has raised and the board has the power to impose the conditions they agreed to and the conditions they decide may be

necessary in addition to what they have agreed to and to grant the waiver and approval as proposed.

Mr. Franklin said there is one other trick that can be done here-they can take the retaining wall out, bring the grade across level with the other property into the back of the house, then you can plant that area and you would have your 30 ft. Mr. Alfieri said they need a useable backyard and Mr. Franklin said you would have some planting and you would have a useable back yard if you had trees in your backyard. Mr. Alfieri said the end result would still be that the area where the deck is will be within the buffer area-they are only disturbing the area outside the retaining wall. Mr. Flannery said the other adverse impact would be that in order to do that they would have to raise the buildings up and Mr. Franklin said not really-if you see where your finished floor is now you can drop it down 8 inches for your finished floor and bring your masonry up higher as a retaining wall at the building. He said the only ones that would be a little high would be buildings 4-7 but the rest of the buildings would work. Mr. Flannery said they would need to raise the buildings to an extent because the finished floor grades look like they may be on average 1 ft. lower than the existing so if they extended the existing grade they would also have to put a swale in there to get the water in the back running and then they would need separation between the outside grade and the finished floor of 3 ft. Mr. Franklin continued to discussed the slabs with an 8 inch step out and said it would be alright and Mr. Flannery said the buildings were not on slab and Mr. Franklin said they could run the masonry high enough to protect the building and Mr. Flannery said he thinks they could work something with the grading where they do a combination of reducing the height of the wall, use the foundation as part of it and they could put additional trees in the backyards which would add trees in that 20 ft. but he doesn't think they can eliminate the wall completely. Mr. Franklin said it would give them the full buffer and Mr. Flannery said they would agree to change the grading along those lines to accomplish it and provide the additional trees. Mr. Neiman asked Mr. Vogt if he understood what Mr. Franklin was talking about and Mr. Vogt asked what can they can in terms of width and Mr. Neiman said if this plan does get approved they should sit down and try to maximize the area in the back. Mr. Vogt asked the applicant what do they think they could gain and Mr. Flannery said he thinks they can have plantings in the whole 30 ft. area and they would raise the grade near the house and use the foundation wall as a retaining wall. Mr. Vogt wants to board to be clear on what they are voting on and said obviously they are not going to put trees up against the building foundation and Mr. Flannery said no, the trees would be 10 ft. off the buildings so Mr. Vogt said they would be using an additional possible 10 ft. of that 20 ft. space between where the wall is and where the building begins and Mr. Flannery said yes and they could heavily plant in the first 5 which would get them to the 15 ft. and Mr. Vogt said they could possibly have a dense 15 ft. buffer and then perhaps a less dense 5 ft. buffer outside of that and Mr. Flannery said yes. Mr. Alfieri said they might need a variance then because they would not have a 20 ft. useable the backyard so he would rather the board vote on the application as presented because this would require the board to see the plans and not vote on what was verbally discussed and Mr. Neiman said he thinks they can vote on what is in front of them but he does think that Mr. Franklin's idea is a very good idea and he thinks they can sit down and look at that.

Motion was made by Mr. Herzl, seconded by Mr. Schmuckler, to approve this application, taking away the 4th floor, and everything the professionals said and also if it could be worked out with the board's engineer to maximize the buffer area as much as possible.

Mr. Alfieri wanted to comment on the motion and said the issue to leave the last issue of meeting with the board's engineer because you are giving him some power that he may not have because that may be a board's decision and he does not want that to be a grounds for this to be overturned if an approval is granted. He thinks they would have to come back, you can't

defer that power to the engineer. Mr. Herzl withdrew that portion but kept the motion but Mr. Neiman thought that was a good idea and Mr. Franklin said why don't they have one more meeting and let them put this on paper-they are this close, and that would be the only issue they are looking at.

Mr. Neiman asked why can't they vote on this application and have the engineer and applicant try to see as an added bonus down the road maximize it, it is not going to impact the application that much that it has to come back. Mr. Jackson asked Mr. Alfieri if he is referring to a recent case that came out and talks about that and Mr. Alfieri said yes, there is case law on that. Mr. Neiman said they have done that in the past and Mr. Jackson said that is with lighting or fence or location of a turning radius which is a small scale thing and this is at the heart of the whole discussion-that buffer.

Mr. Neiman said they should focus on Mr. Franklin's idea and come back and just discuss that. Mr. Schmuckler asked if the swales would change the application and Mr. Franklin explained it to him.

The board recommended the applicant come back with that design. Mr. Kielt said May 25, 2010 is pretty full up and Mr. Neiman said it should not take more than 10 minutes. It was scheduled for May 25, 2010 and placed 1st on the agenda. Mr. Alfieri said the applicant would prefer to have a vote tonight but if the board is not prepared to do that because they have concerns with the plan then they need to carry it. Mr. Neiman said they are not voting tonight- if they have the opportunity to look at the buffer and extend it- that is important.

Motion was made by Mr. Herzl, seconded by Mr. Schmuckler, to continue the application to the meeting of May 25, 2010

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

6. CORRESPONDENCE

Letter from EBI Consulting requesting comment on proposal to mount (3) antennas on an existing guyed lattice tower

Mr. Kielt said this was discussed before-they are seeking input with respect to any historical information on 55 River Avenue. Mr. Kielt said he spoke to Mr. Vogt before the meeting and suggested that they contact the Heritage Commission and a letter should be sent advising them to do that. Mr. Neiman agreed that a letter should be sent telling them to go to the Heritage Commission and Mr. Kielt said he would draft one. Mr. Banas questioned whether it should go to the Zoning Board and Mr. Kielt said if it goes for a site plan approval, it would be before the zoning board so Mr. Banas suggested copying the zoning board on the letter.

7. PUBLIC PORTION

8. APPROVAL OF MINUTES

- Minutes from March 16, 2010 Planning Board Meeting

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

ROLL CALL: Mr. Herzl; abstain, Mr. Franklin; yes, Mr. Neiman; yes, Mr. Akerman; yes, Mr. Banas; yes, Mr. Schmuckler; yes

9. APPROVAL OF BILLS

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

ROLL CALL: Mr. Herzl; yes, Mr. Franklin; yes, Mr. Neiman; yes, Mr. Akerman; yes, Mr. Banas; yes, Mr. Schmuckler; yes

10. ADJOURNMENT

The meeting was hereby adjourned. All were in favor.

submitted
Johnson
Board Recording Secretary

Respectfully

Chris
Planning