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SALISBURY PLANNING & ZONING COMMISSION
SPECIAL MEETING
APRIL 28, 2021
5:30 P.M.

CHAIRMAN: Dr. Michael Klemens

MEMBERS PRESENT: Dr. Michael Klemens
Bob Riva
Cathy Shyer
Martin Whalen
Allen Cockerline

ALTERNATES PRESENT: Dr. Danella Schiffer
Deborah Allee
Jon Higgins

STAFF PRESENT: Abby Conroy
Chuck Andres, Esq.

1 CHAIRMAN KLEMENS: It's 5:30. It's time to
2 begin our session for deliberation on the application --
3 I don't actually have the number in front of me. The
4 Holley Block application.

5 Okay, so first off, we do not have Cathy; do
6 we?

7 MS. CONROY: She just came on.

8 CHAIRMAN KLEMENS: So, the voting members of
9 the Commission are going to be myself, Allen, Cathy, Bob
10 and Marty. Which means, at this juncture, Jon and
11 Danella need to be elevated to panelists still near and
12 dear to our heart; can you take care of that?

13 MS. CONROY: Yes.

14 CHAIRMAN KLEMENS: We should have, basically,
15 the Land Use Administrator, we should have Chuck and we
16 should have the five Commissioners of the group.

17 I would like to start -- Are you ready, Abby?

18 MS. CONROY: Mm-hm.

19 CHAIRMAN KLEMENS: I would like to start by
20 turning the floor over to our counsel, Charles Andres.

21 MR. ANDRES: Chuck Andres, Attorney for
22 Commission. Thank you, Michael.

23 Michael, I wanted to address some late issues
24 that have arisen at the beginning. As you know, the
25 hearing closed on April 14th. Yesterday on April 27th I

1 received a letter from Attorney Casagrande that was also
2 I believe -- it was a letter after the close of the
3 public hearing.

4 CHAIRMAN KLEMENS: Chuck, you have to --

5 MR. ANDRES: Which you're not supposed to do.
6 And I know he included the Chairman on the letter.

7 But the letter referenced the fact that at the
8 close -- it says at the last portion of the public
9 hearing, the Chair made a reference and made a statement
10 to get Mary Close to take all Commissioners off her
11 e-mail blasting list and it's correct as Attorney
12 Klemens -- Chair Klemens has said repeatedly, emphasized
13 the need to avoid any type of ex parte contacts. So, the
14 concern in the letter was that if any Commission members
15 had received any letters from Mary Close or Mary Close
16 Oppenheimer between the dates of March 8, 2021 through
17 April 14th, they ask they state so on the record and turn
18 over e-mails to them.

19 Again, it's unusual that, again, this letter,
20 itself, is an ex parte after the close of the public
21 hearing comment and having included the Chair.

22 That said, we made an effort to respond to
23 this. I contacted Abby and the Chair. Abby sent an
24 e-mail out to Commission members asking whether anyone
25 had received any letters or e-mails from Mary Close

1 during that period that asked by Attorney Casagrande from
2 March 8, 2021 to April 14th, 2021, and I have spoken with
3 Abby and the Chair.

4 The Chair, Chairman Klemens, indicated that any
5 e-mails that he had received, that he would have -- he
6 doesn't read them. He forwards them to Abby without
7 reading them. So, I asked Abby, have you received any
8 e-mails from the chair that were from Oppenheimer during
9 that period and found one that was basically a notice of
10 the meeting and forwarded that to me. He forwarded that
11 to Attorney Casagrande. I believe in response to your
12 e-mail, Cathy Shyer did respond that she had not received
13 any e-mails. And I don't think we heard any other
14 responses.

15 So, I responded to Attorney Casagrande saying
16 that you said in your letter that this was raised at the
17 last portion of the public hearing on April 14th, so you
18 should have raised this during the public hearing when
19 everyone could hear it and I could have responded at that
20 time rather than two weeks after the hearing closed.

21 That said, this is what I found and I forwarded
22 the e-mail. So, that was done but at 4 o'clock this
23 afternoon I got another letter from Attorney Casagrande
24 which he basically -- he said that I incorrectly said
25 that Chairman Klemens made his comment about Mary Close

1 Oppenheimer's ex parte e-mail blast during the public
2 hearing and he said it was after the close of the public
3 hearing. He may be right. I was going by what he said
4 in his letter which he said at the last portion of the
5 public hearing. So, I was I guess wrong to believe what
6 Attorney Casagrande said.

7 In any event -- but in any event, he asked
8 again that he suggested we haven't done due diligence and
9 asked again that we make an inquiry forwarding any
10 e-mails that any Commission member had received from Mary
11 Oppenheimer during that period.

12 He asked that his letter be read into the
13 record. I did, by the way, check with the Applicant's
14 attorney who objected to the letter being read into the
15 record. And he also objected to the fact that it was
16 sent to the Chair. He thought it appeared to him to be
17 an attempt to intimidate the Chair. I'm putting that on
18 the record this is all after the close of the public
19 hearing that the doors were opened by Attorney
20 Casagrande.

21 So, I'm not going to read the letter into the
22 record. But that's the substance of it.

23 In terms of the comments by Mary Close
24 Oppenheimer, she did submit an e-mail to the record.
25 That is at e-mail 3W and that's filed on the town website

1 and it's available for anyone to look at. It's available
2 for the Applicant to look at and there's also a series of
3 photographs that were submitted into the record as well.

4 The -- and my understanding, again, was that no
5 one had received e-mails during that period. But what I
6 would like to do now is to ask people that so hopefully
7 we can address this now rather than at any later period.

8 So, I'm going to ask any individual, if you --
9 basically, have you received e-mails from Mary Close
10 Oppenheimer during the period requested by Attorney
11 Casagrande, which is from March 8, 2021 to April 14th,
12 2021.

13 Start with Chairman Klemens. Chairman Klemens,
14 Have you received any e-mails from Mary Oppenheimer --
15 Close Oppenheimer during that period and have you read
16 them and what did you do with them?

17 CHAIRMAN KLEMENS: Yes, I received one e-mail.
18 I did not open it. As is my policy when any member of
19 the public sends me something with a matter in front of
20 us, I don't open it. I send it to the Land Use
21 Administrator. And that, indeed, triggered her to write
22 to Ms. Oppenheimer telling her don't do any more.

23 MR. ANDRES: And let me ask Abby.

24 Abby, did you, in fact, send an e-mail to
25 Ms. Oppenheimer telling her not to send e-mails directly

1 Commission members.

2 MS. CONROY: Actually, not at that time.
3 Before the public hearing opened for this application, I
4 identified to her that Salisbury has kind of had a
5 tradition of being neighborly and having dialogue between
6 Commission members and the public. But that it's not a
7 good practice and it's actually illegal as ex parte. So,
8 I believe that e-mail was dated March 1st. I identified
9 to her that basically the advice regarding ex parte is
10 just to not participate and so I guess at the March 1st
11 point, that was when Dr. Klemens really said, you know,
12 what if I do get any e-mails from anybody, I will just --
13 I'm not going to open them, I'm just going to send them
14 to you and that's what he did.

15 MR. ANDRES: And you forwarded that e-mail to
16 me; is that correct?

17 MS. CONROY: That's correct. I did, yes.

18 MR. ANDRES: And I will state on the record I
19 forwarded it to Attorney Casagrande.

20 Allen Cockerline. Mr. Cockerline, have you
21 received any e-mails from Mary Close Oppenheimer from the
22 period from March 8, 2021 through April 24th, 2001?

23 MR. COCKERLINE: No, I have not.

24 MR. ANDRES: Thank you.

25 Marty Whalen. Marty -- Mr. Whalen, have you

1 received any e-mails from Mary Close Oppenheimer in
2 between the period from March 8, 2001 to April 14th,
3 2001?

4 MR. WHALEN: No.

5 MR. ANDRES: Thank you.

6 Ms. Shyer, did you receive any e-mails from
7 Mary Close Oppenheimer from the period March 8th, 2021
8 through April 14th, 2021?

9 MS. SHYER: Not to my knowledge. I think I did
10 receive an e-mail from her earlier in the year and I
11 forwarded that to the Land Use Office. So, I don't even
12 know when that was, but I do not believe it was later
13 than February. Certainly nothing.

14 MR. ANDRES: Thank you.

15 Mr. Riva, you have received any e-mails from
16 Mary Close Oppenheimer from March 8th, 2021 through April
17 14th, 2021?

18 MR. RIVA: Chuck, I don't -- the dates are new
19 to me. I haven't been near my e-mail just recently in
20 the last few days. I've been busy. I do know that I did
21 see an e-mail from Mary like Michael did for a reminder
22 of a meeting or something. I think I deleted it out of
23 my system. But since then, I would have to go back and
24 look. I don't think I received anything else. But it
25 was a reminder to a meeting as similar other people have

1 received.

2 MR. ANDRES: Thank you. Other than that
3 reminder to a meeting, you're not aware of any e-mails
4 you received.

5 MR. RIVA: No. It was just a reminder to
6 meeting. That's all I had ever seen, Chuck. And I will
7 go back after this and do a search and give anything to
8 Abby, if there was anything. But no, nothing other than
9 a reminder.

10 MR. ANDRES: Thank you, Mr. Riva.

11 Mr. Chairperson, that's all I have for now.

12 CHAIRMAN KLEMENS: Thank you, Attorney Andres.

13 I'm now going to just begin the discussion
14 about whether the Intervenor has met their burden. What
15 I'm going to read to you I wrote on the evening of April
16 15th that was one night after the hearing closed while
17 the events and testimony of the previous night's hearing
18 were very clear in my mind.

19 I did run this by Chuck to make sure that
20 nothing I was saying was inappropriate. He said it's
21 fine for me to read as I wrote this, which I will now do.

22 This is sort of to kick off our discussion
23 about the Intervenor whether they have met their burden
24 under 22a-19.

25 Okay, the burden of the Intervenor focusing on

1 historical impacts is a very high bar. According to
2 Attorney Smith, there's only one other instance where
3 such an intervention which was adjudicated by Judge
4 Berger as part of an 8-30g proceeding. Here, in our
5 instance, the Intervenor used the intervention to
6 introduce a large amount of testimony, while absolutely
7 germane to the proceedings, were not directly relevant to
8 their narrowly-defined intervention of irreparable harm
9 to historical resources.

10 In my opinion, it amounted to essentially a
11 filibuster. We all waited until the third night of the
12 hearing to be able to hear from their sole witness
13 concerning the merits of their intervention. That was
14 Rachel Carley. Historical impacts are, by their nature,
15 are subjective. In some instances, such as demolishing a
16 landmark National Register house, the impact is clearer.
17 But even there, if it was one of 20 houses in a district
18 assessing the impact in a quantifiable manner would be
19 challenging and subject, although a far easier case than
20 the one we have here.

21 In the case of a contributing feature, such as
22 a wall or a park, we cannot apply the River Bend standard
23 of quantifiable impacts as suggested by Attorney Smith.
24 In the case of an environmental intervention involving
25 natural resources such as wetlands and [Unintelligible]

1 the River Bend standard is clear. Mere speculation of
2 impacts, absent quantifiable metrics for causality does
3 not sustain an intervention.

4 In this case, lacking moralistic (ph.)
5 standards to quantify impacts, the Commission needs to
6 weigh the testimony and the credibility of the two
7 opposing witnesses very carefully. Though I tried
8 without success to elicit definitive responses from
9 Ms. Carley, but never was able to get any certainty. I
10 attribute this, in part, to Ms. Carley being an academic
11 who, like many academics, is not given to making
12 speculative statements.

13 Ms. Carley is well versed in Colonial history
14 and architecture, her discourse on the unique aspects of
15 Salisbury's Federal architecture and her detailed
16 analysis of the impediment and window on the Holley
17 house, in tandem with her report, ably demonstrates her
18 qualifications to be an expert witness. However, her
19 testimony left me more baffled as it went on. It was
20 fraught with inconsistency in that she said a building
21 could be built there, but not this building because of
22 its bulk and design. When Commissioner Shyer asked her
23 if the impact could be lessened by reduction or
24 elimination of two chimneys, she was unable to answer if
25 this would reduce the impact to the historical district

1 or Bicentennial Park.

2 Surely, if Bicentennial Park is such an
3 important feature, she failed to make the case because
4 her testimony was, indeed, contradictory. I would have
5 expected her to say nothing can be built there, that any
6 building would have violated the sanctity of the park.
7 But, in fact, what eliminates Bicentennial Park is the
8 foundation of the proposed new building, not it's
9 heights, materials, fenestration, massing or chimneys,
10 etc. In my analysis of the testimony, she ended up much
11 in the same place as did Mr. McCoy, another
12 well-qualified expert on behalf of the Applicant. They
13 both concurred, but be it in different terminology, that
14 there's a large gray area as it pertains to contributing
15 features, such as Bicentennial Park. Whether they can be
16 moved, modified, destroyed without affecting the entire
17 district.

18 The fact that SHPO stopped responding to
19 inquiries is also quite easy for me to understand. State
20 agencies operate at their own pace and are engaging and
21 helpful until they are thrust into a controversy into
22 which both sides are, as we say, lawyered up. In that
23 instance, the State employees, administrators tend to
24 retreat.

25 Now, the Intervenor discussed the deed of gift

1 to the town repeatedly. The deed is quite clear that the
2 Holley Block building was to be demolished and if nothing
3 built within a year, it was to be grassed. Grassed. But
4 the deed of gift contemplated, at some future time, that
5 a building would be constructed. It set architectural
6 standards. The deed of gift precedes the establishment
7 of the district. This raises several questions that were
8 not answered. Did the district extinguish the deed of
9 gift depriving the town of its right to use the property
10 in the manner they are proposing. And if so, how did
11 this occur and by whom. Again, these would have been
12 very important questions for the Intervenor to raise in
13 support of their position. But they did not. Never once
14 did the Intervenor dispute validity of the deed. Rather
15 they used it's [Unintelligible] to discredit the current
16 design. By doing so, they have established, at least in
17 my mind, that the deed is valid and the park was intended
18 to be a transitory use of land until at which time the
19 town chose to exercise its right to develop its property.

20 My conclusion, based on the testimony of two
21 well-qualified experts in historical preservation found
22 them to be more than in agreement than disagreement as it
23 pertains to what can or can not occur on a parcel of land
24 that is a contributing feature to a district. In my
25 opinion, this is just mine, the Intervenor failed to meet

1 their burden.

2 These are my own conclusions made without input
3 from counsel or others, based upon many years of
4 experience in the field of environmental interventions.

5 And I end by saying, in the spirit of full
6 disclosure, I was the unlucky consultant on the River
7 Bend case where I learned a very hard lesson in
8 evidentiary standards and the responsibilities of being
9 an Intervenor's technical consultant.

10 This is my opinion. I would like to use this
11 to kick off any thoughts the rest of you may have about
12 whether the Intervenor has met their burden. And maybe,
13 Chuck, for those Commissioners that are less familiar
14 with this process, could explain to the other four
15 Commissioners what the burden is and how we determine if
16 they are met.

17 MR. ANDRES: Chuck Andres, Attorney for
18 Commission. Again, this is an intervention under 22A-19.
19 What basically 22A-19 does is that it -- once that
20 application is filed, it's sort of imposes an additional
21 finding requirement on the Commission in addition to
22 what's in the regulations. So, the application here as
23 alleged -- and it's typically used in the environmental
24 context but it also can apply for historic resources.

25 The Intervenors are claiming that they

1 demonstrated that the proposed activity is reasonably
2 likely to impair the historic resources of the site.
3 That's basically it. This says that had they shown that
4 this application is reasonably -- and they make a version
5 that this will unreasonably impair the historic resources
6 of the site. If you approve this application. That is
7 what their claim is. So, would this unreasonably impair?
8 That's basically the standard this historic resource.
9 That's sort of the short version.

10 CHAIRMAN KLEMENS: Chuck, could you elaborate
11 what are the implications of meeting or not meeting their
12 burden? It does not affect any of the rights.

13 MR. ANDRES: Absolutely. Then if they meet
14 that burden, if you find that the -- this application
15 is -- will likely unreasonably impair the historic
16 resources of the State, then you cannot approve the
17 application if there is a feasible improvement -- and
18 again, the second prong. You don't get to the second
19 prong, you don't even have to look at these improvement
20 alternatives unless you find there's some unreasonable
21 impairment of the resource. If you do find that, then
22 there's still a second burden, has the Applicant
23 demonstrated that there is a feasible improvement
24 alternative and there was testimony on that as well.

25 CHAIRMAN KLEMENS: So, having heard what my

1 opinion, which is just one Commissioner, and having heard
2 Chuck explain, I think I leave it up to the rest of the
3 Commission to voice any of their input on this matter.

4 MR. COCKERLINE: Michael, this is Allen
5 Cockerline.

6 CHAIRMAN KLEMENS: Yes, Allen.

7 MR. COCKERLINE: Some of the issues in the
8 Carley report citing no Federal-period precedent for a
9 large multi-family building in Salisbury and Lakeville,
10 and there is truth to that; because in the Federal
11 period, the sort of under-class would be housed in sheds
12 and barns and sub standard living spaces. So, I don't
13 think that's something that we wish to aspire to.

14 One of the other things that -- in the Carley
15 report, I've got her letter here but there was a report
16 as well and one of the things she exempted, she said,
17 aside from the Salisbury Congregational Church -- well,
18 the Salisbury Congregational Church is a building that is
19 almost equal in mass to what is being proposed. And when
20 you look at the details on the fenestration of this
21 Salisbury Congregational Church, they are very, very
22 similar to what is being proposed. The idea that we
23 can't have plastic, I just -- I'm sorry, we just can't
24 live with that from my perspective. And I leave -- I
25 live in a Greek revival house and I don't have any

1 plastic on it; but the real world dictates that windows
2 have to be energy efficient and if there's some way that
3 we could insist that they have true dividing light --

4 CHAIRMAN KLEMENS: Excuse me. Excuse me. You
5 are getting into the deliberation. We are talking really
6 about their burden of demonstrating unreasonable harm to
7 the historical resources of the State.

8 MR. COCKERLINE: No, I don't think so. And the
9 business of unreasonable harm, what we're talking about
10 are historical assets, yes. We have a stone retaining
11 wall that is the remains of a foundation of a building
12 that was once there that was torn down because it became
13 functioning obsolete in one way or another.

14 Rating that on a scale of one to ten, I give it
15 a one. It's just not -- the stones from that retaining
16 wall will be used in the construction and I applaud that.
17 But it's a park where, to my knowledge, I have never seen
18 a person. I've never seen anyone sitting on the bench or
19 in that park. Yes --

20 CHAIRMAN KLEMENS: Please focus on the
21 historic --

22 MR. COCKERLINE: It a historic relic. Just
23 barely. Just barely.

24 CHAIRMAN KLEMENS: So, what is your conclusion
25 that they've met their burden?

1 MR. COCKERLINE: I don't believe they have.

2 CHAIRMAN KLEMENS: Okay. Thank you.

3 Who wants to go -- who next would like to --

4 Bob are you up? Yes, Bob.

5 MR. RIVA: Yes, thank you.

6 You know, Michael, this was the first time that
7 I've ever experienced anything like this. It was very
8 frustrating from my standpoint because I think Mr. Miller
9 even made a comment about it that oh, there's a lot of
10 boiler plate here, it was like a lot of smoke that we had
11 to cut through to focus on things. I'm not saying it was
12 confusion. But I think there was everything thrown in
13 there in respect to the fire issues and this and that.

14 But my main question and concern was the wall.
15 That wall has been rebuilt several times. We know that.
16 I don't -- if you were going to get national status right
17 now after that wall had been rebuilt, I would bet that
18 there would be a chance that you probably wouldn't get it
19 because we touched it so much and made crutches to it
20 because it was falling apart. So, that left a big doubt
21 in my mind.

22 And I just don't think it -- my feeling was
23 that they hadn't met -- shown us this burden or met this
24 burden.

25 CHAIRMAN KLEMENS: Thank you, Bob.

1 Cathy, I see you are unmiced?

2 MS. SHYER: Thank you, chairman.

3 So, I focused on something slightly different,
4 and comments from Attorney Andres helped me this evening
5 because --

6 CHAIRMAN KLEMENS: Please speak up.

7 MS. SHYER: I'm just saying that the comments
8 that you read into the record and what Attorney Andres
9 has helped me very significantly, particularly in
10 reference to the historic resources of the State. And I
11 have been spinning on the words reasonably and
12 unreasonably since listening to the testimony. And in
13 clearly this park will be destroyed with the building of
14 a new building. So, that is a very significant action.
15 But does it unreasonably impair the historic resources of
16 the State. No, I don't believe it does and I'm not
17 focused on the wall. I was focused more on something
18 that Rachel Carley referred to which is more about the
19 space that this park has given in this historic district.
20 It is a wonderful asset. But there are many other
21 historic spaces in that area of Pocketknife Square that I
22 think more than adequately make up for this.

23 And I don't believe that they have met the
24 standard of unreasonably impairing the historic resources
25 of the State.

1 CHAIRMAN KLEMENS: Thank you.

2 Marty, do you have anything you would like to
3 add?

4 MR. WHALEN: Michael, I just am of the opinion
5 that I don't think they have met their burden. If you're
6 talking -- if you and I were talking about doing
7 something to the actual Knife Factory building, that
8 would be a concern to me. But it's -- it was just a
9 park. I mean, it's -- this was a stone wall and they
10 tore the building down. They had to do something with
11 the land. I don't know who decided to make it -- to
12 include that in the historic district in the first place;
13 but I don't believe they have met their burden of proof.
14 That's my opinion.

15 CHAIRMAN KLEMENS: Is there any further
16 discussion on this matter by any of the Commissioners.

17 Hearing none, I think Chuck, we need a motion;
18 correct?

19 MR. ANDRES: No, I think you can go on to other
20 discussion. We can have other discussion and then we'll
21 include the findings on the 22A-19 with the -- as part of
22 the resolution on the entire application.

23 CHAIRMAN KLEMENS: Okay.

24 So, Abby -- let's go to Abby's screen. I tried
25 to prepare -- and please, you see in red this is not a

1 definitive list of topics. I just thought that if I put
2 a bunch of topics out there, that it would give
3 Commissioners a chance to say, gee, how about this, how
4 about that. So, I think there's, oh, 26 different
5 issues.

6 You all received this; correct?

7 MS. SHYER: Yes, I received it.

8 MR. RIVA: Yeah, I got it.

9 MR. WHALEN: Yes I have it.

10 MR. COCKERLINE: Unfortunately, this is the
11 first time I'm seeing it. But I will follow.

12 CHAIRMAN KLEMENS: Well the question is, do you
13 see anything, any of the Commissioners, additional items
14 to add to this list?

15 MS. SHYER: Yes, I have a couple chairman. One
16 was the adequacy of the documentation provided by the
17 Applicant. I think it was back in 2017 or '18. It came
18 up in the last hearing where the answer on the
19 application for the financing form said that there was no
20 historical district here. Do we have to consider that?

21 CHAIRMAN KLEMENS: We're talking about the CHFA
22 application.

23 MS. SHYER: Yes, I think so.

24 CHAIRMAN KLEMENS: Okay. The -- yeah, the CHFA
25 application. That said it was not an historic

1 district.

2 MS. SHYER: That's clearly a misstatement on
3 that form. Do we have to take that into account?

4 CHAIRMAN KLEMENS: We can discuss that. Okay.
5 Do you have something else, Cathy?

6 MS. SHYER: Yes. The excavation volume.
7 That's not my area of expertise either. And we had two
8 very divergent opinions on that as to how much material
9 will be coming out of that site if they receive the
10 special permit. Is that another area for discussion?

11 CHAIRMAN KLEMENS: Cathy, do you have more?

12 MS. SHYER: No, I think that's it.

13 CHAIRMAN KLEMENS: Bob, do you have anything
14 more?

15 MR. RIVA: No.

16 Michael, I had a couple items you had on the
17 list originally. I agree with the two that Cathy has
18 talked about already. Those are good strong ones to have
19 some discussion on, I think.

20 CHAIRMAN KLEMENS: Okay. Allen?

21 MR. COCKERLINE: No, I agree with the
22 excavation. They may have to come forward with an
23 excavation and grading permit. It might be a condition.

24 CHAIRMAN KLEMENS: And actually, this is not
25 going to view -- if something comes to you in the course

1 of discussion, we can add it to the list. My goal on
2 this actually is -- this is probably an outline of the
3 resolution that Abby, Chuck and I are going to have to
4 write either to approve or deny. These are the things
5 that are going to have to be in the resolutions either
6 way.

7 Marty?

8 MR. WHALEN: Yes. No, I don't have anything
9 other than what's on this list. I think it a pretty
10 complete list of questions we should answer.

11 CHAIRMAN KLEMENS: Well, I --

12 MR. WHALEN: I do have one. Sorry Michael. I
13 do have one.

14 CHAIRMAN KLEMENS: Go ahead.

15 MR. WHALEN: Does the right-of-way that goes
16 behind, what is that, the art gallery and the RJS.

17 CHAIRMAN KLEMENS: Yes. The right-of-way that
18 goes through from the parking lot to that dirt parking
19 lot at Deano's.

20 MR. WHALEN: Right.

21 Does that right of way go from Holley Street
22 across the parking lot -- what will be the parking lot
23 for this building to the -- to beyond what's Deano's
24 Pizza place or does it end where the other road goes up
25 around the building -- actually, it's between the

1 proposed building and that lady that has the art business
2 right there.

3 CHAIRMAN KLEMENS: Marty, this -- we have to --
4 those questions should have been asked at the hearing,
5 but I think we can clarify and, in our conditions, one
6 way or the other, make sure that it's protected. We
7 can't gather information, I do not believe.

8 MR. WHALEN: I looked at all the submitted
9 documents and I didn't see anything that said -- where it
10 showed where that right-of-way actually was. Whether it
11 went across the parking lot to Holley Street or whether
12 it went up the side road to Route 44. It didn't show it.
13 That's why I'm asking.

14 CHAIRMAN KLEMENS: Bob, why don't we put
15 that -- Abby, put that possible condition, if approved.

16 MR. COCKERLINE: So Marty, and the rest of the
17 Commissioners, this is Allen Cockerline again. According
18 to all the maps, the surveys, that right of way comes
19 down from Millerton Road, makes a 90 degree turn and goes
20 behind the buildings. And there's no right-of-way that
21 is part of the existing parking lot. It was public space
22 so they used it; but it's something we might consider.
23 Because it's not -- it's not a right-of-way that can be
24 used by any delivery truck.

25 CHAIRMAN KLEMENS: Are you saying that

1 potentially that should be -- let's start at No. 1.

2 MR. COCKERLINE: Yep.

3 CHAIRMAN KLEMENS: Because No. 1 is important.
4 And this was repeatedly brought up by Attorney Grickis;
5 and I guess I need to ask, particularly, Allen and Bob,
6 are there any changed circumstances from the time that I
7 led you through your paces at the first public hearing,
8 has anything changed that would alter your responses that
9 you gave me?

10 MR. COCKERLINE: No.

11 MR. RIVA: No, Michael, nothing at all on mine
12 either.

13 CHAIRMAN KLEMENS: Well, I certainly will go
14 and say that I -- as I said before and I'm going to
15 reiterate, supporting the concept of affordable housing
16 is very different than supporting the concept of
17 affordable housing on this site. I think those are two
18 different things. Most of the Commissioners, I think
19 all, are in favor of the concept of affordable housing.
20 So, are most of the people that attended the hearing,
21 including many of those in opposition to this project.
22 It's my opinion a different standard.

23 And I think that, in my opinion, that Allen is
24 involved with affordable housing in Falls Village, does
25 not exhibit a bias. That's my personal opinion. And I

1 certainly don't think Bob has a bias either. So I am
2 comfortable with what all the Commissioners stated to me
3 in that first hearing in answer to those questions that
4 Chuck helped me prepare. And I don't believe there are
5 any changed circumstances for Cathy or Marty.

6 MS. SHYER: No changed circumstances for me,
7 thank you.

8 CHAIRMAN KLEMENS: And Marty?

9 MR. WHALEN: No. No.

10 CHAIRMAN KLEMENS: I can attest there's no
11 changed circumstances.

12 I believe I can look at this impartially. The
13 question really is not about affordable housing. It's
14 affordable housing at this particular site.

15 MR. COCKERLINE: Agreed and thank you.

16 CHAIRMAN KLEMENS: Is there anything more on
17 this topic No. one.

18 Okay. I'm going to let Chuck lead us through
19 the compliance. Because we heard a lot about that we
20 were not complying or replying. So, Chuck is going to
21 really take the lead, I think both on 2 and 3.

22 MR. ANDRES: Sure. Just 2 and 3 -- basically,
23 now you're at the stage, does this application conform
24 with the regulations. What are the applications -- there
25 was an application, two special permit applications.

1 There's an application under the aquifer protection and
2 that is, I believe, at --

3 CHAIRMAN KLEMENS: Aquifer Section 403.

4 MR. ANDRES: 403, right. And that's
5 basically -- there's a number of criteria basically
6 looking for any bulk stuff that may be near -- that could
7 get into the aquifer and affect the -- so that's one
8 thing. So, do they comply with that?

9 Then the second is the general -- is this
10 particular application under Section 405, which is the
11 zoning district we're talking about and -- that was
12 actually, you know, recently adopted by the Commission
13 for the Pocketknife Square Overlay District. And there
14 are some standards within there that they have to comply
15 with. There's technical standards as to setbacks,
16 coverage and bulk stuff. There are also general
17 standards that are part of the general special permit
18 criteria and those are found in Section 804, I believe.
19 So, they have to comply with the standards that are in
20 the aquifer protection, that are in the pocket overlay
21 district and there are a number of design standards
22 because the application, it's a special permit
23 application. And then there's also the special permit --
24 the general criteria of the special permit.

25 And in No. 2 you sort of overall suitability of

1 the site for construction of the building. So, that's --
2 where does that come from? If you look at the special
3 permit criteria, those are basically in 803.2 and 803.3.

4 803.2 says that the standard that you look at
5 in the special permit is the size and intensity as well
6 as the design of the proposed project where the
7 development shall be related harmoniously to the terrain
8 and use, scale, siting of existing buildings in the
9 vicinity of the site. That you should not create a
10 nuisance to neighboring properties whether by noise,
11 water pollution, offensive odors, dust, smoke,
12 vibrations, lighting and other effects.

13 And 803.3 is labeled Neighboring Properties.
14 And this says the proposed uses shall not unreasonably
15 adversely affect the enjoyment, usefulness value of
16 properties in the general vicinities thereof or cause
17 undue concentration of population.

18 CHAIRMAN KLEMENS: No, I haven't fed the dog.

19 MR. ANDRES: And assessing the impact on
20 assigned property shall consider to include but not
21 limited to the existing proposed pedestrian vehicular
22 circulation, parking, loading plans, [Unintelligible]
23 arrangement, exterior lighting, landscape designing. So,
24 this is sort of general, is it compatible with the
25 neighborhood type of criteria both in the design and the

1 impacts. That's what you normally do in the special
2 permit as opposed to as of right site plans kind of look
3 at a [Unintelligible] to look at this.

4 Those are something that would be normally
5 addressed in any resolution if you were to find in favor,
6 you would find that it does conform with that. If you
7 find against, you would say it doesn't.

8 And then similarly, the criteria in Section
9 405, the Pocketknife Overlay District, there's a number
10 of design criteria -- the design requirements -- if you
11 look at 405.6, The building design, scale and proportion
12 of the development shall be architectural in nature and
13 shall be of a height, bulk and design complimenting
14 existing character of the neighboring community.

15 Again more, I would say, subjective elements
16 that -- but they are part of your regulations because
17 they are more -- they are not quantifiable with
18 mathematical certainty. These are part of your
19 regulations you need to look at.

20 And frankly, Chairman, in No. 4, that's what
21 you're getting at. That in sort of the -- those general
22 criteria in the special permit as well as the design
23 criteria in there are sort of largely covered or, you
24 know, by all the different items in No. 4. But I mean,
25 that's -- so, that is -- that's how I took this. That

1 we're looking at.

2 So -- and then you have to keep in mind what,
3 specifically, did they say it didn't comply with. There
4 was objections, there was a claim by the Intervenor it
5 wasn't limited to the historical stuff, they had their
6 own engineer come in and raise some issues to which the
7 Applicant responded to. But there was a setback issue,
8 there was a question did they comply with the front yard
9 setback and -- or because the -- you know, was there a
10 street wall or not. Do you believe them. So, there was
11 question of an overhang being unsafe. And that connects
12 with some, you know, criteria as well. So, those come
13 in.

14 There's a claim, I think, that would you be
15 rendering the neighboring permit -- special permit uses
16 not more non-conforming. A claim was made that they, I
17 think, that they relied on the parking as being relied on
18 for the neighboring uses; and either both as a condition
19 of the permit or as a result of the permit or they just
20 need it based on what their calculations of what the
21 parking demand would be.

22 So, those are all issues that were raised and
23 you can have some discussion about and largely, I think a
24 lot of these are covered particularly in what the --

25 CHAIRMAN KLEMENS: I have one question, Chuck.

1 Two questions.

2 MR. ANDRES: Sure.

3 CHAIRMAN KLEMENS: That I couldn't wrap my head
4 around. Maybe you could help. The first was that it was
5 proffered that in some way we were exceeding the density
6 of the Pocketknife Square District. I could not -- maybe
7 some other members of the Commission could understand
8 that more than I could. That was the first thing that I
9 have in my notes that we supposedly are -- this exceeds.
10 I don't quite understand how it could.

11 But -- and the other thing was that Attorney
12 Casagrande gave a very large discourse on special permits
13 which ended up is that if something can't -- if something
14 doesn't work, you can't just grant it. It was sort of --
15 I don't know how to explain it. He made a statement that
16 if they don't meet all your standards, you can't grant
17 the permit. But yet you just said we have a lot of
18 flexibility in those standards by very nature of it being
19 a special permit.

20 MR. ANDRES: Sure. I can comment on that.

21 I mean, the special permit is technically an
22 administrative vehicle. In other words, if they meet the
23 regulations, they approve it. If they don't meet the
24 regulations, you do not. That said, the criteria,
25 themselves, in a special permit are general and somewhat

1 subjective as opposed to a site plan. Site plan,
2 typically, you don't get into harmony with the
3 neighborhood. You've already decided that it is a
4 harmonious. By virtue of being in a commercial zone it's
5 okay to have a retail store. So, you don't have to show
6 harmony. You've already decided that.

7 However, special permits, there's more
8 flexibility. It is -- you do look at the general
9 compatibility with neighboring uses. That's sort of the
10 case law about what special permits are.

11 And consistent with that, there are -- those
12 general standards that I read are part of your
13 regulations for a special permit.

14 CHAIRMAN KLEMENS: I mean, as far as I
15 understand, one of the big departures in our tradition in
16 Salisbury on both multi-family housing and Pocketknife
17 Square was it was the first time, in fact, we codified so
18 to speak architectural, you know, standards more than
19 just being compatible. We were very clear on that,
20 actually. It was a sticking point for some people. It
21 was like we were getting a BAR, Board of Architecture
22 Review.

23 So, I do think that we have great latitude here
24 provided it's -- I just don't see -- I just don't see how
25 we've exceeded the density here.

1 Is there any other member of the Commission or
2 the Land Use Administrator have any thoughts on how we've
3 exceeded -- a line we have exceeded the Pocketknife
4 Square density?

5 MR. COCKERLINE: I defer to the Land Use
6 Administrator on this. I expect that if the application
7 was accepted and it met the criteria, that it was
8 forwarded. And if it didn't, it would not have been.

9 MS. CONROY: This is Abby Conroy, Land Use
10 Administrator. I was also a little confused by that
11 question because my understanding of the regulations was
12 that there -- essentially, the sky was the limit on
13 density in the Pocketknife Square provided there was an
14 affordable housing component. So, I didn't see there
15 being a maximum number of units given that the
16 application was proposed as affordable.

17 I understand there's a difference like in a
18 multi-family -- If there is no affordable housing, there
19 is a maximum number of units. But this was presented as
20 affordable, therefore the density bonus applied.

21 CHAIRMAN KLEMENS: 100 percent affordable.

22 Within the Pocketknife Square 404.5, within the
23 Pocketknife Square Overlay District, the maximum density
24 shall be 16 units per acre but with the following
25 exception. Where a minimum of 50 percent of the units

1 are affordable housing, a greater number of units may be
2 permitted per acre provided the minimum unit size shall
3 be 350 square feet or the minimum of the State Building
4 Code. So, my reading of that is, in the case of
5 affordable housing, the sky's the limit provided you have
6 apartments that are not less than the State standard or
7 350 square feet. That's 405.5.

8 So, I just don't think that that was a correct
9 interpretation of our regulations. Because this is
10 affordable.

11 MR. COCKERLINE: Agreed.

12 MR. WHALEN: Agreed, yeah.

13 CHAIRMAN KLEMENS: However, under No. 3 -- and
14 I don't know whether Chuck or I are doing this one --
15 there is discussion in the PKSQ about being able to vary
16 the front yard setbacks. We know that we have two front
17 yards. Shall conform to the underlying zoning district,
18 or shall match existing front yard setback of one or more
19 buildings on abutting properties to maintain existing
20 street wall. The purpose of this provision is to
21 maintain a predictability of designs within the village
22 centers.

23 So, from where I'm sitting, I certainly think
24 they are accomplishing that on Route 44.

25 On Holley Street or Holley Place, it's a little

1 bit more complicated because you've got our building, the
2 building that they're proposing, big open parking lot
3 that still will remain, then we have two other buildings
4 that are very dissimilar. So, there is really no
5 standard. You could pick Lakeville Interiors with the
6 [Unintelligible]. I just don't think there existing a
7 street wall on Holley Place.

8 MR. COCKERLINE: But the minimum setback, so
9 the -- I guess the question I need to ask is the
10 Lakeville Interiors building, is that all one continuous
11 building? Or is that a separate building that's out by
12 the sidewalk?

13 CHAIRMAN KLEMENS: I don't --

14 MR. COCKERLINE: The standard that we use when
15 we discuss setback, you know, if we have a two foot
16 section of a building that impinges on the setback, we
17 can't have that. But this seems to be a large chunk of
18 that building is right on the sidewalk.

19 CHAIRMAN KLEMENS: Yeah, it's basically
20 pre-existing non-conforming.

21 MR. COCKERLINE: So, that doesn't mean -- that
22 doesn't mean that because another part of the building
23 does comply that the whole structure is in compliance.
24 It's pre-existing non-conforming. But it sets the
25 standard, to me.

1 CHAIRMAN KLEMENS: For the street wall.

2 MR. COCKERLINE: For the street wall.

3 CHAIRMAN KLEMENS: You think the street wall --

4 MR. COCKERLINE: That's --

5 CHAIRMAN KLEMENS: You think the street wall is
6 based on Lakeville Interiors?

7 MR. COCKERLINE: I believe so. The closest
8 portion --

9 CHAIRMAN KLEMENS: Why not the other building?

10 MR. COCKERLINE: It's the same building. Which
11 other building are you talking about?

12 CHAIRMAN KLEMENS: Hold on. Oh. Beyond the
13 parking lot --

14 MR. COCKERLINE: That's a continuous
15 building.

16 CHAIRMAN KLEMENS: Oh, you're absolutely
17 correct.

18 MR. COCKERLINE: Yeah, these are not a separate
19 structure.

20 CHAIRMAN KLEMENS: You're right.

21 MR. COCKERLINE: They are built as separate
22 structures, but they're all connected. It's all one
23 structure.

24 CHAIRMAN KLEMENS: So, I guess that begs the
25 question: Are they not building out far enough toward

1 Holley Street to make a street wall? If that's the
2 street wall, is the current design too small? I mean,
3 you know, using that logic.

4 MR. COCKERLINE: Well, I think that it
5 complies. I think they used that -- they demonstrated
6 that in their presentation in a very convincing way.

7 MS. CONROY: I'm trying to think, that was in
8 the Power Point?

9 MR. COCKERLINE: Yeah, that was a Power Point.

10 MR. RIVA: It was. He did a drawing --

11 MR. COCKERLINE: He did a red line from the
12 front of -- there it is.

13 MS. CONROY: That's what I wanted. Sorry.

14 CHAIRMAN KLEMENS: This is the Applicant's or
15 the Intervenors?

16 MR. COCKERLINE: Applicants.

17 MS. CONROY: The Applicants, yes.

18 CHAIRMAN KLEMENS: Did the Intervenor submit
19 something like this?

20 MR. COCKERLINE: They argued they kept pointing
21 to the little buildings on the left side there, yeah,
22 right where the cursor is. They kept saying, well,
23 these, -- you know, these are set back. But, to my eye,
24 I mean, I don't -- this is one continuous structure.
25 They are not separated. I mean, I can't -- I can't put

1 an addition on the front of my house that goes into the
2 setback. I can't do that. No one else can. But this is
3 a pre-existing non-conforming structure that is the
4 street face.

5 CHAIRMAN KLEMENS: What is the red line there
6 mean? Is that there -- that's their line from the Hol --
7 from the Holley Block. My question, if you're matching
8 the street wall -- you can't, because of the
9 configuration of the street. You actually would be
10 moving that red line out in the middle of Holley Street.

11 MR. COCKERLINE: I think the business of
12 matching -- we're allowing it to be similar. You know,
13 we're not saying you need a 30-foot setback when all the
14 other buildings are built on the sidewalk. In fact, this
15 one will be set back a little more I think is helpful as
16 far as sight lines and safety and --

17 CHAIRMAN KLEMENS: Can we go back to that Power
18 Point. Okay. And this is my point about a street wall.
19 You're going to have a portion of that parking lot, let
20 say roughly half of it, there's going to be a building
21 there.

22 MR. COCKERLINE: Right.

23 CHAIRMAN KLEMENS: And there's going to be a
24 large open space of a parking lot and a portion of
25 Lakeville Interiors that's set way back and then a

1 portion of Lakeville Interiors that -- I don't see how
2 you have a street wall there. I think the concept, the
3 street wall, is pretty flawed there compared to the
4 concept of a street wall along Route 44.

5 MR. COCKERLINE: Agreed.

6 MS. SHYER: Did you say flawed? Is that what
7 you said? The concept of street wall on Holley Street is
8 flawed?

9 CHAIRMAN KLEMENS: Excuse me?

10 MS. SHYER: Could you just clarify what you
11 said again about Holley Street. I thought I heard you
12 say that the concept of the street wall is flawed.

13 CHAIRMAN KLEMENS: It is flawed. If you go
14 back to the Power Point again, please, Abby. You
15 basically have two buildings. Two buildings don't make a
16 wall. It's like it's a huge gap in between. You have
17 the building, the parking lot, the little grass see area
18 in front of Lakeville Interiors and then a large,
19 non-conforming intrusion. You can't have a street
20 wall.

21 MR. COCKERLINE: But what establishes a street
22 wall other than setback.

23 CHAIRMAN KLEMENS: I think there's a
24 contiguous -- let's look at Route 44.

25 MR. ANDRES: Michael.

1 MS. CONROY: Wait a second. I think it's
2 defined. That's what I was looking for before. I
3 think --

4 MR. ANDRES: Yes, there is a definition of
5 street wall. But that the not -- the regulation
6 doesn't -- it says the front yard setback shall match the
7 existing front yard setback of one or more buildings on
8 abutting properties to maintain the existing street
9 wall.

10 MR. COCKERLINE: So one meets the standard.

11 MR. ANDRES: It has to match the existing front
12 yard setback of one or more buildings on abutting
13 properties. And the reason for that is to maintain the
14 distance of the street wall. The is setback -- under
15 that logic is whatever the setback is for the --

16 CHAIRMAN KLEMENS: Lakeville Interiors
17 building.

18 MR. ANDRES: Yeah.

19 CHAIRMAN KLEMENS: So, it should be further
20 out. It really should be at the tip -- the red line
21 should go to the right off the screen, which is
22 ridiculous because it gets -- I mean, I don't think you
23 can match a street wall.

24 MR. ANDRES: Yeah, I mean, setbacks are
25 typically minimum not maximum. So, you know, another

1 question is what it's referring to there?

2 MS. CONROY: Well, if you look across the
3 street, these buildings clearly -- at least based on this
4 image, these buildings have a slightly offset --

5 MR. RIVA: Yeah, from the other -- yeah.

6 CHAIRMAN KLEMENS: Then you go down to the next
7 one.

8 MS. CONROY: And there's no sidewalk.

9 CHAIRMAN KLEMENS: And that one is there.

10 MS. CONROY: Yep.

11 CHAIRMAN KLEMENS: So, I mean, I think the
12 nature of Holley Street is sort of syncopated. Doesn't
13 really have a street wall on either side. I believe
14 you're trying to make a standard for a street where there
15 are no standards. That's sort of my lay person's
16 opinion.

17 MR. COCKERLINE: I think if it reads that
18 there's one or more buildings, that one building has
19 established the standard.

20 CHAIRMAN KLEMENS: But it can't meet the
21 standard because that building would push their building
22 into the middle of the street.

23 MR. COCKERLINE: But I think Chuck said it
24 applies to the maximum, not the minimum. I think it --
25 it can be less than that, it can't be more than that. It

1 can't be closer to the road. But that's a minimum not a
2 maximum.

3 MR. ANDREWS: [Unintelligible] that's in the
4 regulations, too, it's a minimum required distance.

5 MS. SHYER: It's the front yard setback we're
6 talking about?

7 MR. COCKERLINE: I think the front yard setback
8 standard has been met. Using the language of our own
9 regulations.

10 CHAIRMAN KLEMENS: Yeah, I'm convinced -- how
11 about the rest of the Commission that's deliberating? Do
12 you believe the front yard setback -- we have two front
13 yards. One on Route 44, one on Holley Street. I think
14 there's no doubt that the front yard is, what I've seen,
15 that there is a street wall along the front on 44. That
16 front yard -- I think this is less than the street wall
17 which is, reading our regulations, permissible.

18 Is that correct, Chuck?

19 MR. ANDRES: Yeah, that -- yeah, that's the
20 definition of setback is the minimum required distance
21 from the street line to the building. And so I don't
22 know what that is now on this one. But that would be the
23 setback -- you know, it looks like zero. I can't tell
24 whatever it is.

25 CHAIRMAN KLEMENS: I just think that -- I'm

1 sorry I think the setback issue on Holley Street is sort
2 of a red herring. I just don't see how we can apply any
3 form of consistency to the street which, by its very
4 nature, is totally inconsistent with some building up to
5 the sidewalk or the street, some buildings over, other
6 building set back with lawn in front. It's just not an
7 area that I believe lends itself to a street wall. That
8 by its very nature of its development. I mean, I don't
9 believe that every street has a street wall.

10 MS. SHYER: I'm comfortable with this
11 [Unintelligible].

12 MR. RIVA: Michael, I agree. That 44 frontage
13 I think is adequate. I think it's fine. I think on this
14 Holley Street, as you said and defined, the fronts are
15 staggered. There's no consistent line. I think -- and
16 it's a good thing that this is close, it's not on even
17 because I think it would be -- as Allen had said, it
18 would be an issue up in that area where it very tight up
19 there. I think it lends itself to be a better situation.

20 CHAIRMAN KLEMENS: Marty?

21 MR. WHALEN: I don't have any problem with that
22 street. I agree that the original K and E or Lakeville
23 Interiors, that building and the building -- the proposed
24 building is a street wall. I mean, there's nothing else
25 in between them. And it's one building. That's all it

1 has to be is one building. There aren't any other
2 buildings there.

3 CHAIRMAN KLEMENS: Okay.

4 So, let's go back to our list. So, we
5 basically concluded that they have met their setbacks
6 both in the front on both front -- on the Route 44 and on
7 Holley Street.

8 MR. COCKERLINE: Correct.

9 MR. RIVA: Yes.

10 MR. WHALEN: Yes.

11 MS. SHYER: Yes for me.

12 CHAIRMAN KLEMENS: Chuck, is there anything
13 else?

14 MR. ANDRES: No, that's good for that issue.

15 CHAIRMAN KLEMENS: Okay. Number 4. There was
16 a lot about this overhang. Mr. Virbickas gave testimony,
17 he illustrated -- if you can get Mr. Virbickas's one,
18 where he discussed the overhang being -- there was a
19 Power Point, I think, Abby. Along with all the places
20 where the truck -- they are going to hit the car or the
21 building.

22 MR. COCKERLINE: Oh, that's turning.

23 CHAIRMAN KLEMENS: There you go. This
24 certainly caught my eye.

25 MR. COCKERLINE: What a trauma.

1 CHAIRMAN KLEMENS: Well, I mean it's driven, in
2 fact, by the overhang. I understood the Intervenor,
3 though they weren't really in their Intervenor mode.

4 MR. COCKERLINE: What I don't understand and I
5 raised at the time was the issue -- and this is the on
6 the building corners, what is wrong with putting bollards
7 there? Concrete -- steel and concrete bollards.

8 CHAIRMAN KLEMENS: They are going to hit the
9 bollards, too.

10 MR. COCKERLINE: That's what the bollards are
11 for.

12 CHAIRMAN KLEMENS: I think Mr. Virbickas was
13 saying there wasn't enough turning radius and I'm
14 wondering if we can chamfer those corners.

15 MR. COCKERLINE: The idea of a truck leaving
16 through the right of way that's on the left of the
17 building, that's preposterous. It won't happen.

18 MR. WHALEN: You're right.

19 CHAIRMAN KLEMENS: Why is it preposterous?

20 MR. COCKERLINE: Look at the diagram. You
21 can't take a truck of any size around that corner. Those
22 are really tight corners. If anyone comes in there, they
23 are either going to back in or they're going to back out
24 from Holley Street. If anyone comes in there, it's
25 just -- they're not going to be coming in that

1 right-of-way. It's just too tight. It's not going to
2 work.

3 MR. RIVA: And there's also an elevation change
4 there, too. Remember, guys, when I asked that, that's
5 what they were talking about. So, that lends to a
6 problem right there, too. But -- even with a small
7 commercial what they call a fleet-sized van, one of those
8 little -- that the oil companies use for service work,
9 that's going to be hard getting it through this. It's
10 just --

11 CHAIRMAN KLEMENS: Where, Bob?

12 MR. RIVA: Where that truck is drawn there,
13 Michael, going up that right of way. It's just --

14 CHAIRMAN KLEMENS: The -- why would a service
15 truck, like a Decker and BB Truck or a service truck,
16 could it get into that lot?

17 MR. RIVA: Yeah, that's going to be a tough
18 thing. There's an elevation change there in the ground.
19 They were going to try to lessen it, but you have an
20 elevation change and you have a tight corner there.
21 It's -- I don't think you're going to go from that side,
22 as Allen said. It going to go from the Main Street.

23 CHAIRMAN KLEMENS: I'm asking about the first
24 corner.

25 MR. RIVA: On the Holley Street side?

1 CHAIRMAN KLEMENS: Can they get in from that?

2 MR. RIVA: Oh, yeah. I think they can get in
3 there like nothing. That's not a problem.

4 MR. COCKERLINE: I'm not sure I agree with
5 that.

6 MR. RIVA: Whoever gets in there will be able
7 to back out. They're going to know better.

8 CHAIRMAN KLEMENS: Would it help at all to
9 chamfer that corner if we approve this? Do you
10 understand what I mean --

11 MR. RIVA: Yeah.

12 CHAIRMAN KLEMENS: -- by chamfer?

13 MR. RIVA: Yeah, 45 it and soften it a little.

14 CHAIRMAN KLEMENS: Right.

15 MR. COCKERLINE: But that's much more expensive
16 than a simple bollard.

17 CHAIRMAN KLEMENS: The idea is not to have
18 something people are going to hit but rather --

19 MR. COCKERLINE: That's true. So people
20 shouldn't hit it. You know, we have reasons that we have
21 insurance on our vehicles and if people want to do stupid
22 things, then things will happen. But --

23 CHAIRMAN KLEMENS: Well, one of the conditions
24 of approval will be absolutely no stupidity if we approve
25 it on this site.

1 MR. COCKERLINE: So I'm still very firm on the
2 idea of a bollard on each corner of the building.

3 MS. SHYER: I have concerns about the access to
4 the site for deliveries for people moving in and moving
5 out. I think that it is a bigger topic than that.

6 MR. COCKERLINE: Yep.

7 MS. SHYER: And it isn't just these long fire
8 trucks. It goes back to those box trucks or what Bob
9 just mentioned. And I do believe it's an issue because I
10 think it is totally unfair and unrealistic to expect all
11 deliveries to come in the front door. And that is an
12 issue for us in the terms of practicality and it's funny
13 to talk about stupidity. But I've seen many building hit
14 constantly by trucks, actually. I won't name what I have
15 in mind, but I'll tell you I look at it every I'm there
16 and thinking oh, my God, someone else has hit it.

17 CHAIRMAN KLEMENS: That's a topic actually for
18 later about -- that's somewhere on the list. Maybe we
19 want to talk about it now. But it's on the list.

20 MS. SHYER: I think --

21 CHAIRMAN KLEMENS: Because I think there should
22 be -- a lot of the stops should be parked on Holley
23 Street and they should not be accessed through the front.
24 I think the front -- I think that -- absolutely the case
25 has been made that that -- having heard from the public,

1 I believe it was Mr. Van Deusen who spoke, I mean, that's
2 just asking for trouble to be using the front for
3 deliveries. I think they need to be around the side.

4 MS. SHYER: I agree.

5 MR. RIVA: Michael, I agree. I think that's
6 something very reasonable to do or to recommend. And I
7 think if it's a UPS van, if it's a Fed Ex van, if it's
8 anything like that, they will be able to pull either
9 coming down from 44 down Holley Street, they're going to
10 be able to back into the area if there's vehicles in
11 there and they didn't feel that they could turn around,
12 they would make that judgment call, they would be able to
13 back in. Whether they're going up towards 44 and backing
14 down or whether they come toward Miza's (ph.) on Holley
15 and then back in. I think they are all going to be able
16 to do that without a problem. And I think that's very
17 reasonable.

18 You know I can't imagine we would get someone
19 moving into this affordable housing that would have
20 something more than a box truck. They wouldn't be coming
21 with a tractor trailer of furniture and stuff to move
22 into this place. I can't envision.

23 CHAIRMAN KLEMENS: I think it's all going to --
24 if this is approved, everything is going to have to go on
25 Holley Street.

1 MR. RIVA: Yeah.

2 CHAIRMAN KLEMENS: I think those spaces in the
3 front should be just parking, no loading, no unloading.
4 Everything should happen on Holley Street. I don't want
5 to see double parked. I don't to see parking spaces
6 taken up. And I also suggest that somewhere that there's
7 restrictions on days and times for move-ins and move-outs
8 which is quite common practice in many --

9 MR. COCKERLINE: I think that's going too
10 far.

11 CHAIRMAN KLEMENS: Well --

12 MR. COCKERLINE: We'll discuss it.

13 CHAIRMAN KLEMENS: We'll discuss it, but I
14 think there are ways to avoid that.

15 MR. COCKERLINE: I think that the access from
16 Holley Street is fine and also the rear parking lot.
17 Whether they want to drive in or back in. And I agree
18 that unloading on Millerton Road is probably not
19 advisable.

20 CHAIRMAN KLEMENS: Can we look at the elevation
21 of this building and try to visualize what chamfering
22 that first corner would look like?

23 MR. WHALEN: You would to have do it all the
24 way to the top.

25 CHAIRMAN KLEMENS: Yeah.

1 MS. CONROY: I'm trying to remember --

2 CHAIRMAN KLEMENS: Where the lighting was.
3 There was a side view where the lighting was. I'm just
4 wondering if one could 45 degree angle it. And I
5 understand what Allen's saying, but we still could have a
6 bollard there. I would rather have them not hit the
7 building or the bollard.

8 MR. COCKERLINE: If you are going to come into
9 something, you're coming in slow. And if you bump a
10 bollard, I've bumped bollard with my bumper and it's not
11 the end of the world. You know where you begin and end.
12 They are kind of meant for that.

13 CHAIRMAN KLEMENS: Where's the rest of the
14 Commission -- what's the rest of the Commission think
15 about chamfering versus the bollard?

16 MR. COCKERLINE: I think chamfering is also
17 going to be an architectural diminishment.

18 MR. RIVA: Well, that's true. It may expose
19 more area there than -- it would be drawing our attention
20 to that, Allen, with chamfering or 45-ing it. That may
21 be an issue.

22 CHAIRMAN KLEMENS: Yeah, it going to upset the
23 Federal symmetry.

24 MR. RIVA: The flow and that back corner. You
25 got a face of trim instead of a smaller trim area. Yeah,

1 Yeah.

2 CHAIRMAN KLEMENS: I mean --

3 MR. RIVA: Yeah.

4 MR. COCKERLINE: Nice yellow bollard there --
5 oh, sorry.

6 CHAIRMAN KLEMENS: Okay. I guess I'm convinced
7 that we put a bollard there.

8 MR. RIVA: You know, the bollard, you can put a
9 bollard there that can be removed if it ever needed to
10 be. It can come in and out. We have that at the
11 railroad station in Canaan at the front entrance.

12 CHAIRMAN KLEMENS: Yep.

13 MR. RIVA: You know --

14 CHAIRMAN KLEMENS: I've seen that. I've seen
15 that.

16 MR. RIVA: Maybe that's an option.

17 CHAIRMAN KLEMENS: It does -- I see the
18 elevation, grade-wise, on the other side.

19 MR. RIVA: Yes, yes. It's going to take a
20 small vehicle to be comfortable surrounding -- going
21 around there and going back up that way.

22 MS. SHYER: While we have the slide up, can I
23 raise an issue that is one of my concerns about the back
24 of this building and the pictures, for want of a better
25 word, that we have not seen. When we asked for one, you

1 could see it -- couldn't really see it over the top of
2 the Lakeville Interiors building; but while we've got
3 this up, because I know how hard it is to find these, do
4 we know enough about what is supposed to be happening
5 with these doors and the materials here? And is this
6 lighting depicted what they're planning to use now?

7 CHAIRMAN KLEMENS: The doors?

8 MR. COCKERLINE: I don't know that there are
9 doors.

10 CHAIRMAN KLEMENS: There are no doors.

11 MR. RIVA: It's all open to the back there.

12 MS. SHYER: Okay. That's what I wasn't sure
13 about. What about refuse area? That was going to have a
14 door on it; right? Where they were going to put the
15 trash cans and things?

16 MR. RIVA: Yeah. That's on the inside.

17 CHAIRMAN KLEMENS: Or refuse. I thought you
18 said refuge.

19 (People spoke at the same time.)

20 MS. SHYER: -- refuse, I thought I --

21 CHAIRMAN KLEMENS: Sorry. You're speaking
22 kiwi.

23 MS. SHYER: That's the problem, I wasn't.

24 CHAIRMAN KLEMENS: I'm just getting deaf.

25 MS. SHYER: I'm concerned about what we know

1 about the back of this building.

2 CHAIRMAN KLEMENS: What was proffered was the
3 garbage cans were inside and sanitation would go inside,
4 wheel them out, there's not going to be any garbage
5 outside. There won't be cans outside. They were going
6 to go in and collect them. Where is the refuse now?
7 There. So, they were going to go in there, wheel them
8 out to the truck.

9 MS. SHYER: I understand --

10 MR. WHALEN: It's a long way.

11 MS. SHYER: Is there proposed doors to seal off
12 the area of the cans? It doesn't look like it does it.

13 MR. RIVA: There's a hinge door right there I
14 can see it, it looks like a walk-in door.

15 MR. COCKERLINE: That's interior detail. I
16 don't think we need to concern ourselves with --

17 CHAIRMAN KLEMENS: Wait a second. Before we
18 dismiss Cathy out of hand here. What is your
19 rationale -- what is your concern about the garbage?

20 MS. SHYER: So, if the bottom of the building
21 is open 24/7 and you have those plastic containers that
22 were photographed and illustrated in the letter from the
23 Welsh Sanitation Company, that is not unreasonable for
24 the critters in our neighborhood to tip those things over
25 and get in there. And in particular, you know, a hundred

1 feet away or yards away from here there has been an
2 incident of bears, garbage and exactly those garbage
3 cans.

4 CHAIRMAN KLEMENS: You're saying that they
5 should be in a closed room as opposed to just open like
6 that?

7 MS. SHYER: Yes, I am concerned about it being
8 open.

9 MR. COCKERLINE: That's a management issue.

10 CHAIRMAN KLEMENS: What?

11 MR. COCKERLINE: I said that's a management
12 issue. If --

13 CHAIRMAN KLEMENS: No, not necessarily,
14 Allen.

15 MR. COCKERLINE: Okay.

16 CHAIRMAN KLEMENS: Because [Unintelligible]
17 Zoning which talks about --

18 MR. COCKERLINE: Regulation concerning garbage
19 containment.

20 MS. SHYER: We did write a regulation
21 concerning about the impact on the neighborhood and that
22 the exactly what --

23 MR. COCKERLINE: Garbage containment.

24 MS. SHYER: It's a lot of garbage from 12 --

25 MR. COCKERLINE: It's a management issue that

1 they will deal with, I'm sure.

2 CHAIRMAN KLEMENS: Well, the problem is that
3 they don't deal with it.

4 MR. COCKERLINE: Okay.

5 CHAIRMAN KLEMENS: I mean it does squarely fit
6 in zoning with the health of, public safety. Certainly
7 there's a link to zoning.

8 MS. CONROY: Well you could, could you not
9 stipulate that it be closed?

10 CHAIRMAN KLEMENS: Yes, that's what I'm trying
11 to --

12 MS. CONROY: I mean, this is Abby, sorry, I was
13 under the impression that that concern had been raised
14 and that they had already agreed to it being enclosed.
15 But it's not clear in the plan, so --

16 CHAIRMAN KLEMENS: So, where is this -- this
17 should be on your list of -- garbage. Where's the
18 garbage?

19 MS. SHYER: 12 on the list, I think.

20 CHAIRMAN KLEMENS: Number 23.

21 MS. SHYER: I just asked to review it now
22 because I think a lot of time going all around this
23 material trying to find those illustrations of the back
24 of the building and relate them to the floor plan. So
25 that's why I took it out of order. Sorry. I think we do

1 need to require that that is a secure area. From the
2 garage, if that's going to be open all night.

3 CHAIRMAN KLEMENS: I think if it's basically
4 there's -- I mean, I used to live in an apartment. We
5 had a garbage room that was closed for that reason.

6 I guess we're going to put a bollard, if you
7 could put No. 4, a Cockerline bollard.

8 MR. WHALEN: On both corners?

9 CHAIRMAN KLEMENS: What do you think, Marty?

10 MR. COCKERLINE: If it's going to be named
11 after me, I say definitely both corners.

12 MR. WHALEN: Makes sense to me.

13 CHAIRMAN KLEMENS: And do you think there's a
14 reason to have them removable in case the fire department
15 needs to get in? I guess, if necessary, at this --
16 should there be a fire box key or something? Are they
17 going to be stationary bollards? River Bend talked about
18 removables.

19 MR. COCKERLINE: I think we can just specify
20 bollard and then leave it up to them.

21 CHAIRMAN KLEMENS: Okay. Well, unless we're
22 creating a health and safety issue with fire fighting by
23 putting a non-removable bollard. But I guess if they
24 need to they can just plow them over.

25 MR. COCKERLINE: I mean, this whole design is

1 going to have to meet with the fire marshal's final
2 approval before they get a C.O. So, there will be
3 further discussion about that I'm sure.

4 CHAIRMAN KLEMENS: Yeah. But the more we can
5 condition, the better if we're going to approve this.

6 Number 5, I think is a question that has
7 already been answered by our discussion about the
8 Intervenor's burden. Are you in concurrence with that?

9 MR. COCKERLINE: Well, I am. My only concern
10 was, as I said, on the scale of one to ten, I rate the
11 historical significance there as about a one. But that,
12 none-the-less, is historical significance. So --

13 CHAIRMAN KLEMENS: What I'm going to say, the
14 question is does historical significance of the site
15 override its potential development.

16 MR. COCKERLINE: I do not believe it does.

17 CHAIRMAN KLEMENS: Okay. Does anyone feel,
18 despite the Intervenor's burden not being met, do we
19 feel, any of us, that the historical significance of the
20 site is so important that the development should not
21 proceed?

22 MS. SHYER: No, I don't.

23 MR. WHALEN: No, I don't either.

24 CHAIRMAN KLEMENS: I don't believe any of us
25 do. Okay, the Aquifer Protection Overlay District.

1 There's prohibited activities. There are things you
2 can't do. We do have the impervious surface where the
3 Applicant was a little bit wily about that. First gave
4 the impervious cover that was less than what was there
5 once; but certainly they are increasing the impervious
6 cover. It look a little bit extraction to get that out
7 of the Applicant. We got that out of the Applicant.
8 It's in the minutes.

9 MR. COCKERLINE: One of the things, I hate to
10 get into the minutia of this, but with aquifer
11 protection, we might make it a condition that people not
12 work on their cars changing oil, things like that.
13 Because, you know, everyone -- I mean, we do it at home.
14 I do it at home. But it's -- I think in that location, I
15 think things like that should not be considered just
16 because the catch basins are just -- they don't drain
17 into the lake or the -- but they do eventually find their
18 way into the waterways. So --

19 CHAIRMAN KLEMENS: They go into Factory Pond.

20 MR. COCKERLINE: I don't think they do. I
21 think they go downstream from there. They go over by the
22 old Holley Knife and --

23 MR. WHALEN: The old firehouse.

24 MR. COCKERLINE: Yeah, that area.

25 CHAIRMAN KLEMENS: I don't want those floating

1 by my house. Thanks, Marty, for clarifying.

2 MR. WHALEN: So, if you see an oil sheen on it,
3 Michael...

4 MS. SHYER: -- flow from the firehouse.

5 CHAIRMAN KLEMENS: It could be come from
6 anywhere. But Allen, I think that could be a condition.
7 Let's see what it says.

8 You are going to require special permit for
9 excavation -- oh, except as permitted by a building
10 permit. Any use having onsite sewage disposal.

11 MR. COCKERLINE: I just brought that up. It
12 may not be -- again, it may be something that gets handed
13 off to the management of the building.

14 CHAIRMAN KLEMENS: No, Allen these things have
15 to be conditioned. The management will then be charged
16 with enforcing it. And if people start seeing people
17 changing oil, we have a compliance issue. We have a leg
18 to stand on.

19 I don't see anything here in the aquifer
20 protection that would basically they're not meeting.
21 They asked for a complete list of chemicals, pesticides,
22 fuels. They are not going to have any of that.

23 MR. COCKERLINE: No, I don't think so.

24 CHAIRMAN KLEMENS: It can be prohibited. Yeah,
25 they can't store any of this stuff.

1 MR. COCKERLINE: Well, could we cover that by
2 saying that they complied with the Aquifer Protection
3 District regulations?

4 CHAIRMAN KLEMENS: We can if we can make some
5 additional conditions. But they can't store fuel,
6 gasoline, pesticides and that in the garage area.

7 MR. RIVA: Waste oil, yeah.

8 CHAIRMAN KLEMENS: Waste oil, yeah. I agree
9 they can't work on cars, change oil, etc.

10 MS. CONROY: This is Abby, Land Use
11 Administrator. For clarification purposes, this -- this
12 gets to the larger concept of the aquifer protection area
13 and the actual regulations that should be adopted by the
14 town under an aquifer protection agency. Essentially,
15 there are commercial-type uses that are allowed in the
16 aquifer protection area that might have these sorts of
17 components, as well as uses that are grandfathered in the
18 aquifer protection area that might include these types of
19 components. So, I mean, I don't know because I wasn't
20 here when this section was written, but I believe that
21 the intent of this regulation is to cover those uses
22 which normally have chemicals, pesticides and fuels
23 associated with it.

24 CHAIRMAN KLEMENS: Right. I think it's also,
25 as I read it, has very much to do with new construction,

1 new uses usurping that have -- we are certainly not going
2 to be able to deal with grandfathered uses until at which
3 point they are extinguished.

4 MR. COCKERLINE: Michael, can I ask a question
5 that's aside from our agenda right now is -- the wind's
6 blowing very heavily outside my house. What happens if
7 we all lose our Internet? Do we just re-schedule this --

8 CHAIRMAN KLEMENS: Yeah, we have a reschedule
9 date. 11th of May. If we don't finish tonight -- I
10 meant to say that. If we don't finish tonight
11 deliberations we'll continue on Tuesday, May 11th.

12 MR. COCKERLINE: All right.

13 CHAIRMAN KLEMENS: Or if the Internet cuts out.

14 MR. COCKERLINE: Right.

15 CHAIRMAN KLEMENS: Is it windy out there.

16 MR. COCKERLINE: Yes, it is.

17 CHAIRMAN KLEMENS: I'm just looking.

18 MS. SHYER: Would that be again at 5:30 if we
19 to have go to May 11th, that would be at 5:30?

20 CHAIRMAN KLEMENS: Unless I think -- it gives
21 us a bit more time unless someone -- oh, there's a big
22 storm coming, you're right, Allen. Unless someone really
23 finds it onerous, I think let's just keep it 5:30.

24 Does anybody object to that?

25 MR. RIVA: No, that's fine.

1 MS. SHYER: That's fine with me.

2 MR. WHALEN: Good.

3 CHAIRMAN KLEMENS: Allen, you're okay with
4 that?

5 MR. COCKERLINE: Sure.

6 CHAIRMAN KLEMENS: Tuesday, Allen. It's a --
7 it's a new day.

8 MR. COCKERLINE: Thank you for the reminder,
9 sir.

10 CHAIRMAN KLEMENS: I will call you, don't go --

11 MR. COCKERLINE: I'm not that bad.

12 CHAIRMAN KLEMENS: No, you're not. But it's
13 confusing that we're jumping around. It's just a reflex
14 of how full the land use calendar is --

15 MR. COCKERLINE: Yes.

16 CHAIRMAN KLEMENS: -- in this town.

17 MS. SHYER: Can I go back to the aquifer
18 protection, please, because are you saying, Abby, that
19 we're likely to write some new regulations on aquifer
20 protection?

21 MS. CONROY: Yes. There is actually supposed
22 to be a separate aquifer protection agency that has a set
23 of model regulations that the State puts together. It's
24 very similar to the way that in the wetlands agency use
25 the state model regs. So, we've -- this is one of the

1 items that the State of Connecticut has actually been
2 kind of chasing the town to get compliance on because we
3 are not currently in compliance with the program.

4 So, that's coming along with the POCD. But
5 essentially, that allows for commercial uses except for
6 things like furniture stripping, gas stations, car
7 washes, the things --

8 CHAIRMAN KLEMENS: Dry cleaners is a big
9 no-no.

10 MS. CONROY: Right. Dry cleaners. But you're
11 still allowed to have some commercial uses which may have
12 chemicals and pesticides.

13 CHAIRMAN KLEMENS: You may remember that there
14 was part of this was going to -- they were going to
15 have -- we were going to have a training anyway. We were
16 going to the training for a day or two days, whatever it
17 was.

18 MS. SHYER: So, would it be that if it
19 introduced anything subsequently, after this, assuming
20 this building gets a special permit, that they would have
21 to comply with that? Do we need to put something in?

22 MS. CONROY: Because it's residential use, it
23 falls under the uses allowed in aquifer protection areas
24 under the State regulations.

25 MR. COCKERLINE: Couldn't we just state that

1 they would have to comply with current aquifer protection
2 regulations? So that if they are superseded by a new
3 one, that they'll have to be compliant with the new one.
4 Just to stay current.

5 CHAIRMAN KLEMENS: I think the important thing
6 here is, based off our current regulations and our
7 prospective regulations, this is a use that is compatible
8 with the Aquifer Protection Overlay District with some of
9 those modifications Allen suggested, that being focusing
10 on no oil changing and no storage of large amounts of
11 gasoline, oil, whatever, waste oil, which I don't think
12 there are all that many. I'm sure they have someone do
13 the lawn. They are going to come in and do it. They are
14 not going to be storing gasoline. I think we can be very
15 clear that they can't.

16 MR. COCKERLINE: So I would agree that we are
17 compliant. That this application is compliant with the
18 APA.

19 MR. WHALEN: I agree.

20 CHAIRMAN KLEMENS: Both now and prospectively.

21 MR. COCKERLINE: Yes.

22 CHAIRMAN KLEMENS: Both -- they both -- I mean,
23 I've looked at the new -- the model regulations and this
24 certainly will comply. So, it complies both with our
25 concurrent regulations as well as the State's draft model

1 regulations which we are going to adopt.

2 MR. COCKERLINE: There she goes. She just
3 wrote current.

4 CHAIRMAN KLEMENS: Yep. This is --

5 MR. COCKERLINE: Perfect.

6 CHAIRMAN KLEMENS: This -- great.

7 MR. COCKERLINE: It does work.

8 CHAIRMAN KLEMENS: Now No. 7.

9 That's a big one. That's got a bite. Got a
10 lot of questions here. Can we improve this building a
11 bit through conditions? You may recall that I
12 specifically asked Attorney Smith whether there was any
13 additional mitigation they could offer and they were
14 silent, did not produce anything. It doesn't mean we
15 can't condition mitigation.

16 MR. COCKERLINE: Well, some --

17 CHAIRMAN KLEMENS: One of the first things I
18 don't like and I think Cathy hit on it, are the size of
19 those chimneys are unnecessarily ponderous.

20 MR. COCKERLINE: I don't know what they house.
21 That's the issue. They might be multi-flue and they
22 might have to be that size. I don't think they're out of
23 keeping with the period.

24 CHAIRMAN KLEMENS: They are pretty darn tall.

25 MR. COCKERLINE: They are tall, but you want a

1 tall chimney for sufficient draft.

2 MR. RIVA: I think they quoted that it was 7
3 foot tall, I think they were.

4 MR. COCKERLINE: It doesn't seem excessive to
5 me.

6 CHAIRMAN KLEMENS: Given the massing of the
7 building.

8 MR. WHALEN: [Unintelligible] right there.

9 CHAIRMAN KLEMENS: That's pretty bad. Those
10 are big chimneys.

11 MR. COCKERLINE: I guess I don't agree with
12 that.

13 MS. SHYER: I have a problem with the massing
14 of the building from the back. And I think that the
15 Applicant went so far to change the design of this
16 building in response to comments they were given for the
17 front, in particular, but not for the back. And I think
18 that that's a real problem in terms of all the people
19 that live opposite this on Ethan Allen Street and all the
20 people that go to the Grove on Ethan Allen Street
21 backwards and forwards by bicycle, foot, car.

22 MR. COCKERLINE: I will be egregious to look
23 at?

24 MS. SHYER: Yeah. It's a big mess. And it's
25 hard to see from the drawings that we've been given just

1 how significant it's going to be on that site given it's
2 elevation as well. Because one of the pictures that they
3 did give us cuts off because it's been taken from a shot
4 where the Lakeville Interiors building hits it.

5 CHAIRMAN KLEMENS: Right, the one with the ice
6 on the pond; right?

7 MS. SHYER: Yes, on the pond, yes. But if you
8 go up on Ethan Allen Street or Elm Street.

9 CHAIRMAN KLEMENS: That's it.

10 MR. COCKERLINE: That one?

11 MS. SHYER: Yeah, yeah. We don't have anything
12 that shows us what it's going to look like from across
13 the street with --

14 CHAIRMAN KLEMENS: Across the street where,
15 Cathy?

16 MS. SHYER: Ethan Allen Street, sorry, the
17 street that leads to the Grove.

18 MR. COCKERLINE: The upper street?

19 MS. SHYER: Yep. The upper street, coming down
20 my street, Elm Street. I think --

21 MR. COCKERLINE: It's going to be a big
22 building.

23 MS. SHYER: Yeah, I think they have done a
24 really lousy job there.

25 MR. WHALEN: You can't make it any smaller.

1 MR. COCKERLINE: I don't agree with that.

2 CHAIRMAN KLEMENS: Are you saying -- let's talk
3 about how it could be -- let's take a look at the rear.

4 MR. COCKERLINE: The --

5 CHAIRMAN KLEMENS: How can they make it look
6 better. It is very stark.

7 MS. CONROY: I can't remember where I had that
8 garage shot.

9 MR. COCKERLINE: It was in the renderings;
10 wasn't it.

11 MR. RIVA: That was the perfect one.

12 MS. CONROY: I just went through the
13 rendition.

14 CHAIRMAN KLEMENS: Would garage doors help,
15 Cathy?

16 MS. SHYER: Well, I don't know because the
17 garage -- the door thing is a concern to me, too, in
18 terms of the lighting. I mean, it's going to fix the
19 lighting, but that's a very big garage area that, for
20 safety, is going to have to be lit at night. And it's
21 very hard to tell from the information we've been given
22 what the hell was this going to look like. Where people
23 live throughout the year in these homes that will look
24 straight on to that.

25 CHAIRMAN KLEMENS: I don't understand why they

1 can't put garage doors there. Give fobs to the -- I
2 think it safer. I think it addresses also vagrant
3 vermin. I think it's a safety issue. Do you remember
4 Mrs. Wilson brought up the security of the residents. I
5 think -- I think that having this big, open walk-in space
6 is an invitation not only for animals but the invitation
7 for potential criminal activity.

8 MS. SHYER: I assumed it was a cost factor, but
9 I don't know. Thank you, Abby. Let's make a mental note
10 of where you found that because it's really hard to find
11 this stuff. I have spent hours looking for it.

12 MS. CONROY: It's in the March Power Point
13 presentation.

14 MR. RIVA: See, my feeling is, I like the looks
15 of it open. I think it's cleaner. Once you put garage
16 doors, they are going to bang something up, it's going to
17 look like heck. I'm all for getting them to give motion
18 sensing lights inside there. And/or downward directed
19 lighting on the back of the building at ground level if
20 we need to more. I just think it's going to look
21 awful -- you are going to have more wall area right there
22 out on the face that's going to be awful looking, I'm
23 afraid, if they enclose that.

24 CHAIRMAN KLEMENS: Could they clad? One of the
25 things that bothered me is could they clad with the same

1 architectural materials these columns? That would go a
2 long way to softening it. I hear what you're saying
3 about the doors. But why do they have to look like that?

4 MS. SHYER: You also have an issue if you have
5 a fob that's opening and closing doors at all hours of
6 the night, there are people living in those apartment
7 buildings right there. I don't know what number it is
8 now, is it 22 Millerton Road and the RJS building and the
9 Shannon building there's a four-bedroom apartment. I
10 mean, there are people living -- I guess across the road
11 on Millerton Road you won't hear it. But the back of
12 this building, if this fobs operating garage doors, they
13 are noisy.

14 CHAIRMAN KLEMENS: What is the height of that
15 opening?

16 MR. WHALEN: I believe it's nine feet. It's in
17 the plan someplace.

18 CHAIRMAN KLEMENS: Abby. What is the height
19 there? I can't see it.

20 MR. RIVA: It's not showing it. That's --

21 CHAIRMAN KLEMENS: I mean --

22 MS. CONROY: Parking is 738 and main entry is
23 749. So, probably it's about 8 or 9 feet. We can find
24 another one.

25 CHAIRMAN KLEMENS: Do we need that big an

1 opening -- I mean, that's a very big opening. I mean,
2 there's only going to be cars parked in there. Couldn't
3 that be lowered at least a foot?

4 MS. CONROY: I think SUVs and trucks you need
5 that 9 foot.

6 MR. WHALEN: Especially a van, it's going to be
7 a problem, yeah.

8 CHAIRMAN KLEMENS: Just trying to be creative
9 here. I think another type of condition we can put on is
10 we can condition certain things but they could come back
11 and demonstrate that it's not possible, not feasible.
12 Those chimneys are still, my opinion, very large.

13 MS. SHYER: I think we need to find out whether
14 they are there for decorative or whether they are there
15 for actual function.

16 MR. COCKERLINE: Yeah.

17 MS. SHYER: We don't know.

18 CHAIRMAN KLEMENS: Well, it's too late now.

19 MR. WHALEN: As far as I can understand, the
20 heat system is going to be a heat pump heating system
21 which doesn't require a vent.

22 CHAIRMAN KLEMENS: Doesn't require venting?

23 MR. WHALEN: No. You can vent it -- it doesn't
24 have to be vented up. It can be vented sideways. And
25 once the temperature gets to a certain point, the heat

1 pumps turn over to all electric heat. So, maybe the
2 chimneys are more decorative than anything.

3 CHAIRMAN KLEMENS: I'm wondering. And
4 therefore they could be shortened.

5 MR. WHALEN: Yeah, they could take --

6 MR. COCKERLINE: If they are strictly
7 decorative, they can just get rid of them. Assuming
8 they're designed as part of an HVAC system that might
9 require air handlers for the movement of air throughout
10 the building.

11 CHAIRMAN KLEMENS: I think that's a question.

12 MR. COCKERLINE: That can be as well as
13 exhaust.

14 CHAIRMAN KLEMENS: I think --

15 MR. WHALEN: [Unintelligible] right? You can
16 have a vent sticking up out of a roof a foot and it still
17 vents.

18 CHAIRMAN KLEMENS: Yeah, I think as we can't
19 actually ask any more questions, I think one could put as
20 a condition that they are shortened, cut in half for
21 example; and if there's some reason that they can't, we
22 need to know that. But we can't look for -- we can't
23 look for additional information. But certainly I'm with
24 Allen. If, in fact, they have a function that will be
25 compromised by shortening, then they to have stay.

1 MR. COCKERLINE: I would agree with that.

2 MR. WHALEN: I agree also.

3 MR. RIVA: Yep. I'm fine with that.

4 MS. SHYER: Yep. Reduced or removed if they
5 don't serve a function.

6 CHAIRMAN KLEMENS: Let's go back to that. I
7 think they do create some balance. I'm looking at the
8 other Federal houses there. Nothing has a chimney like
9 that. They are much more -- I think Abby, that needs to
10 go on item 8. Can you cut and paste that? Thank you,
11 Abby.

12 MS. SHYER: Doing a good job here, Abby. Thank
13 you.

14 MR. WHALEN: Good thing you're computer
15 literate.

16 CHAIRMAN KLEMENS: So, my feeling is there's
17 just not other dimension that can change. I think it is
18 what -- that's the building. It's smaller than what was
19 the first time. I think they made a good case that they
20 can't get it smaller to have a viable project. So, I
21 think reductions in other dimensions is probably not
22 really practical. But I would be curious to see what the
23 rest of you think.

24 MR. WHALEN: Well, I don't know how you are
25 going to make the front of the building one height and

1 the back of the building another height. It doesn't make
2 any sense. So, it is what it is.

3 CHAIRMAN KLEMENS: Yeah, I mean, it could be --
4 I mean, what I'm trying to say is they have reduced it
5 quite a bit from the first application. I mean, the
6 earlier reduction would be to lop off the third floor.
7 And we've heard testimony that it will no longer be a
8 viable project. That's the only volumetric change you
9 could make. You can't -- you've got a grade issue where
10 the back is going to always be larger than the front.
11 That's the grade. I, for one, don't favor removing the
12 third floor. I believe that it's going to make an
13 inviable project.

14 MR. COCKERLINE: I'm happy with the plan as
15 presented myself.

16 CHAIRMAN KLEMENS: Are we going to continue
17 going through it step by step? Because I think we need
18 to do that. Is there anyone who thinks there's a way to
19 reduce the bulk of this without basically -- without
20 basically altering the structure so much that it's not --
21 less than 12 unit. I think 12 is the absolute -- at the
22 very bottom of what they can do using their funding. I
23 don't see any way to reduce the bulk. That's setting
24 aside comments like Allen made that he's happy with it.
25 Some people are not happy with the massing. I don't

1 think there's a way to condition it to be less massed.

2 Am I missing anything here?

3 MR. RIVA: No.

4 MS. SHYER: You know, they did it at the front
5 of building, didn't they, by sitting back. I don't know.
6 It's a --

7 CHAIRMAN KLEMENS: Sitting what back?

8 MS. SHYER: Sitting back from the front, they
9 have set back into the corners, which if they had done
10 that on the back it would have changed the massing of the
11 back as well. I agree I don't expect them to take the
12 third floor down.

13 CHAIRMAN KLEMENS: Excuse me?

14 MS. SHYER: I said I do agree with you that I
15 don't think it realistic to ask for the third floor to
16 be --

17 CHAIRMAN KLEMENS: Okay, well, that's an
18 important point that we've discussed and that certainly
19 should be recorded under No. 9. That we did discuss
20 removing the third floor and I don't think anyone thinks
21 that -- but can they step back -- let's go look at the
22 rear again.

23 So, when you say step back, Cathy, can you
24 explain to me what you're looking for?

25 MS. SHYER: Sorry. It doesn't show in that

1 current elevation --

2 CHAIRMAN KLEMENS: There we go.

3 MS. SHYER: How that's stepped back in the
4 corners there, that's changed the entire perspective from
5 the road of the mass of that building. If they had done
6 something like that on the back, wouldn't that have made
7 that back elevation very different, visually. And you
8 know I'm extremely conscious of the number of people that
9 are going to live looking at the back of that building.
10 And they going to be commuting past there all the time.
11 But there are people living there.

12 CHAIRMAN KLEMENS: Can we look at the front
13 again, please. I'm just trying to transpose that in my
14 mind. So, you're taking -- let's go to the back, please.
15 You're saying about maybe stepping back the last -- those
16 two apartments at the end, those two windows at the end,
17 shortening those apartments.

18 MS. SHYER: Actually, if you do something like
19 that, you would fix, also, I think you're problem of
20 access with box trucks and other vehicles; wouldn't you?
21 If you step back those corners in some way?

22 MR. COCKERLINE: You'd probably reduce the
23 building by four to six bedrooms.

24 CHAIRMAN KLEMENS: Let's take a look at the
25 floor plans in the back, what we have there. Okay. This

1 is first floor. Oh. So, you would be taking --

2 MR. WHALEN: You would have to do it all the
3 way up.

4 CHAIRMAN KLEMENS: Yes I'm looking.

5 MS. CONROY: Starting at the bottom; right?

6 CHAIRMAN KLEMENS: Yes, we're starting at the
7 bottom.

8 MS. CONROY: Something like that? Because you
9 see here?

10 CHAIRMAN KLEMENS: Yep, I see two windows and
11 one window. So that would effectively eliminate the
12 living room. That would effectively make that a -- like
13 what they call in New York a junior, one bedroom. Sort
14 of bigger than -- it's going to eliminate the two bedroom
15 units. And I've heard a lot of people say that there's
16 too many one bedroom. That's -- from the beginning
17 people have argued that one bedroom units are not so
18 desirable. If we want families, we have to basically
19 have --

20 MR. COCKERLINE: I thought that was a real plus
21 myself.

22 CHAIRMAN KLEMENS: One bedrooms?

23 MR. COCKERLINE: Yes.

24 CHAIRMAN KLEMENS: All people look at things
25 differently, I guess. Boy, that's really going to screw

1 things up.

2 MR. COCKERLINE: I think it would be four to
3 six bedroom equivalents. I mean, in space because you're
4 talking about three floors.

5 CHAIRMAN KLEMENS: Yeah. I don't know. I
6 think that's -- you know, that's -- I don't think one of
7 the things we always lecture about, talk about
8 conditioning, if a project is so poor that one has to
9 condition it that drastically, you should deny without
10 prejudice and they should come back with a different
11 plan. I think from where I sit, making those kind of
12 changes is better to deny the project without prejudice
13 and come back. I don't think we can condition something
14 that radical.

15 MS. SHYER: I understand.

16 MR. RIVA: So, if we can't touch the building
17 and we're worried about the back, there's not a lot of
18 planting area in the back by that wall where the cars
19 park for shrubs to hide something. Can the town -- can
20 we come back further and ask the town to do something on
21 the property by the end of the pond to plant a
22 substantial tree there to block that view for people
23 seeing it on -- coming down --

24 CHAIRMAN KLEMENS: We can't condition something
25 on off site. That can't be a condition because it's off

1 site.

2 MR. RIVA: Okay.

3 MS. SHYER: I think the elevation works against
4 you even if the town voluntarily wanted to do
5 something.

6 MR. RIVA: Sure. It would take a while. It
7 would be a substantial tree and a while for it to even
8 grow to block it a little more, but I don't think there
9 is many other options there. You can't get another
10 planting in there where Abby is showing us right now in
11 that parking lot, unluckily.

12 CHAIRMAN KLEMENS: What can we do about those
13 columns. I think the columns are one of the things that
14 I think are very stark in the back in the garage. That
15 is stark.

16 MR. COCKERLINE: I think a lot of that you're
17 not going to see until you're driving right by on
18 Holley.

19 CHAIRMAN KLEMENS: I see it.

20 MR. COCKERLINE: You are seeing it from that
21 perspective. You are seeing it from 75 feet on Holley
22 Street. If you go downhill you're not going to see it.

23 CHAIRMAN KLEMENS: If --

24 MR. COCKERLINE: You're not going to see it.

25 CHAIRMAN KLEMENS: If they were painted gray.

1 MR. COCKERLINE: I'm happy with it myself.

2 Again, the back of the building I don't have any
3 objections with.

4 CHAIRMAN KLEMENS: Okay, well.

5 MR. COCKERLINE: It is a large building. I
6 know you're deliberating on this and I just want to
7 register my point of view.

8 CHAIRMAN KLEMENS: Okay.

9 MR. COCKERLINE: I wonder what the former
10 resident thought of the building that was there before.
11 Was that a giant building that was --

12 CHAIRMAN KLEMENS: It was a giant building,
13 yes. It didn't have underground parking.

14 Now, I think they can soften those columns
15 either by painting them, use -- how about cladding them
16 with stone? They look so incredibly modern.

17 MR. COCKERLINE: They look Federal.

18 CHAIRMAN KLEMENS: They --

19 MR. COCKERLINE: They look Federal.

20 CHAIRMAN KLEMENS: They don't.

21 MR. COCKERLINE: They do.

22 CHAIRMAN KLEMENS: Federal park garage
23 columns.

24 MR. COCKERLINE: I'm sorry, I thought you were
25 talking about the ones in front.

1 CHAIRMAN KLEMENS: No, Allen.

2 MR. COCKERLINE: Sorry.

3 CHAIRMAN KLEMENS: I'm talking about the garage
4 columns.

5 MR. COCKERLINE: I know. We don't have very
6 good detail of what they're actually constructed with.

7 MS. SHYER: Thank you.

8 CHAIRMAN KLEMENS: It looks like brick or
9 concrete.

10 MS. SHYER: -- on very much at the back of this
11 building actually.

12 CHAIRMAN KLEMENS: I think clad in stone would
13 be better. Faced with stone, painted. They just -- I
14 think it's cinder blocks. I don't know what it is.

15 MR. RIVA: It does like a little like cinder
16 blocks here.

17 CHAIRMAN KLEMENS: Could they put a house of
18 that size on a cinder block foundation?

19 MR. RIVA: Well --

20 CHAIRMAN KLEMENS: I think we are making a lot
21 of assumptions.

22 MR. RIVA: I'm sure they're poured, if that was
23 the case. Again that's an assumption. I think if we had
24 a condition to clad them in something; and again stone is
25 not a bad idea. It would soften it for sure.

1 CHAIRMAN KLEMENS: There goes sort of the open
2 concept of the stone that's going to be --

3 MR. RIVA: From that wall.

4 CHAIRMAN KLEMENS: Yeah. I think it might -- I
5 mean, I just think the way it looks now, it's basically
6 butt-ugly those columns. I think that's the really the
7 worst part of this rendering are those columns.

8 We can't do anything about stepping back the
9 architecture. We certainly can make the columns blend
10 color-wise they could be a more harmonious -- this --
11 remember when we talked the front of the building looked
12 very modern. They softened it. This garage looks
13 modern. It's a Federal building floating on a modern
14 parking garage. I think they have got to find a solution
15 to soften that. I agree with Bob. Garage doors going to
16 be problematic. They are going to be noisy. People are
17 going to drive into them. But you've got to do something
18 that will soften that look. It's very contemporary. It
19 looked like falling water back there.

20 MR. COCKERLINE: Stone veneer. They may not
21 have enough stone from the existing wall to do everything
22 they are doing; but a stone veneer would be a way to
23 handle that.

24 CHAIRMAN KLEMENS: Stone veneer, yeah. It
25 could be stone veneer. I think that would go a long way

1 to making it look not so starkly modern.

2 MR. COCKERLINE: Yeah.

3 CHAIRMAN KLEMENS: They won't have enough from
4 the wall, they won't be able to use it on the garage.
5 You're going to have to get granite veneer. I think that
6 would really improve the appearance. I'm sure they are
7 listening cringing at the dollars it's going to cost,
8 but, you know, I'm sorry.

9 I don't think the concrete that is poured to
10 look like stone is going to fly. We've already heard a
11 lot of comments about cheap looking architecture. That
12 leads us to number -- we've done 9, which leads us to 10.

13 I really don't think we have enough information
14 on the materials. I did listen to Rachel Carley about
15 vinyl and all these other things. We really don't know
16 what this is going to be. And I think if it's approved,
17 I think they have to come back with a pallet of materials
18 that we'll approve subsequently.

19 MR. COCKERLINE: I mean, you have to remember
20 that this is affordable housing.

21 CHAIRMAN KLEMENS: I understand that.

22 MR. COCKERLINE: So, they're probably not
23 looking at windows that cost \$1400 a piece. You are
24 probably more down in the \$300 range.

25 CHAIRMAN KLEMENS: I understand that.

1 MR. COCKERLINE: And my preference, if there's
2 one thing that they could do would be to do true divided
3 light windows. It's going to be very expensive. I --

4 CHAIRMAN KLEMENS: When you say true --

5 MR. COCKERLINE: I don't want to put that
6 burden on them. That's --

7 MS. SHYER: By --

8 CHAIRMAN KLEMENS: We're not talking about the
9 ones that are between the glass. You are talking about
10 real --

11 MR. COCKERLINE: True divided lights.

12 CHAIRMAN KLEMENS: You don't --

13 MR. COCKERLINE: And that was mentioned by
14 Rachel Carley. You know, a really high quality window
15 would be nice. I just -- I --

16 CHAIRMAN KLEMENS: That's divided there.

17 MR. COCKERLINE: I don't see how it would fit.

18 CHAIRMAN KLEMENS: What's going on there, that
19 the --

20 MR. COCKERLINE: How it would fit in the
21 budget. It's just --

22 CHAIRMAN KLEMENS: That's not our concern.
23 We're not here --

24 MR. COCKERLINE: Well, we have to be aware that
25 it is affordable housing.

1 CHAIRMAN KLEMENS: Yes. But we also are going
2 to be very clear --

3 MR. COCKERLINE: I understand.

4 CHAIRMAN KLEMENS: On the 24 fiscal
5 considerations germane to our deliberations. We heard a
6 lot of testimony that we discounted from Mr. Muecke. I
7 think that we're not concerned about fiscal issues beyond
8 our purview.

9 MR. COCKERLINE: Correct.

10 CHAIRMAN KLEMENS: -- Allen, to get a nice
11 building we shouldn't necessarily be stuck on that -- I'm
12 just trying -- Why is the front -- do we have a better
13 view of the front? There is divided light?

14 MR. COCKERLINE: They don't look like -- at
15 least in the renderings.

16 CHAIRMAN KLEMENS: What do you think those are?

17 MR. COCKERLINE: Looks like a single light --
18 they are a simulated window more than likely.

19 MR. RIVA: Grills, it looks like.

20 CHAIRMAN KLEMENS: Grills on the inside or
21 grills between the two panels of glass?

22 MR. COCKERLINE: It could be either. We don't
23 really know.

24 MR. RIVA: Well, even the cheaper windows are
25 going to be double panes, they are going to be two panes

1 with a space in between. And I think even the cheaper
2 ones you can get them in between that now. So, it's hard
3 to say what this is spec'd as. If it's a grill on the
4 interior of the window, on the second pane or if it's in
5 between. It's hard to say.

6 CHAIRMAN KLEMENS: The bottom line is whatever
7 that is, it will present when hit by the light as, you
8 know, present as a single pane of glass.

9 MR. RIVA: Yeah, yeah.

10 MR. COCKERLINE: More than likely.

11 CHAIRMAN KLEMENS: So, the question is -- I
12 mean.

13 MR. COCKERLINE: To me there's a lot in the
14 fenestration that they can take care of things. But it's
15 always the windows. It comes back to the windows, for
16 me, are the biggest factor.

17 CHAIRMAN KLEMENS: Bob, you work in the trade.
18 There's something about the window you know something
19 about them. What's the difference between the, you know,
20 modestly priced vinyl window and a true, divided-light
21 window?

22 MR. RIVA: Well, Allen was pretty close. You
23 are probably looking at \$280 for a bottom of the line
24 vinyl window and you're looking at probably 8 or \$900 for
25 an authentic, divided-light window at a minimum on the

1 high side.

2 MR. COCKERLINE: More like 1,000, Bobby.

3 CHAIRMAN KLEMENS: How many windows do we have?

4 MR. WHALEN: A lot.

5 MR. COCKERLINE: Several.

6 CHAIRMAN KLEMENS: Let's count them. Count
7 them. There's thousands.

8 There's 14 on the front. Flip the building
9 around.

10 CHAIRMAN KLEMENS: 14. We have the sides,
11 too.

12 MR. COCKERLINE: 12 on the sides.

13 CHAIRMAN KLEMENS: We're talk about a \$50,000
14 cost.

15 MR. WHALEN: Easily. All the windows up there?
16 Those are expensive, the ones on the top.

17 CHAIRMAN KLEMENS: Yes. Those are the circular
18 ones.

19 MS. SHYER: It reinforces my comment there's 14
20 windows on the front and 20 on the back.

21 CHAIRMAN KLEMENS: Yes. Unfortunately, that's
22 the building -- I mean, you can also -- Cathy, you can
23 vote to deny.

24 MS. SHYER: Okay. I haven't decided yet.
25 Still --

1 CHAIRMAN KLEMENS: Right. But, I mean, that's
2 your option. If you find this so repugnant, the back of
3 the building, to you, that's why you have five
4 Commissioners. You can vote against it. If it gets to
5 that. If we get to -- or we can have two options
6 prepared.

7 MR. RIVA: We're outnumbered as we started here
8 and we're talking about the quality of the materials, I
9 mean, even siding, you know, if you look at the firehouse
10 that we did, that has some PVC trim. I mean, it's got
11 stuff on there that we wanted to have the lowest
12 maintenance that we could when we built that firehouse.
13 It has some high-end siding which I'm sure they're not
14 going to be able to afford on this project. That cement
15 board siding.

16 CHAIRMAN KLEMENS: I thought they were talking
17 about Hardie board.

18 MR. RIVA: Were they talking Hardie plank?
19 That's a material that's not going to rot, it's not going
20 to deteriorate. If they are going that grade, you know,
21 and the trim is PVC or it's -- I don't know. If they are
22 going to go--

23 CHAIRMAN KLEMENS: I've seen some very good PVC
24 trim. There's a house in Falls Village, an historical
25 house, you probably know it, Allen, No. 20 Prospect.

1 She's actually replacing those -- it would be the porch
2 on that. Looks just like wood, but it's PVC. I mean --

3 MR. WHALEN: Prefab.

4 CHAIRMAN KLEMENS: There is PVC trim that is
5 not bad. I mean, we tend to think of PCV, you know, sort
6 of what the way it used to look on the siding.

7 MR. RIVA: No, it's textured now. It looks
8 like a piece of wood. You can see the grain in it. So,
9 I think that quality is fine. And I agree with them
10 having something low maintenance. That's what they need
11 to have. Especially for this affordable housing.

12 CHAIRMAN KLEMENS: I can't see asking them for
13 windows to put in \$50,000 extra. But maybe they could
14 raise the money from the neighbors that object to this,
15 each buy a window. You know. There are ways you can do
16 fund raising campaign.

17 MR. COCKERLINE: I was going to say this is why
18 you're not in development, right? Sorry.

19 CHAIRMAN KLEMENS: No, I'm not into
20 development, but I do a lot of work on developments.

21 MR. COCKERLINE: I mean development as far as
22 fund raising.

23 CHAIRMAN KLEMENS: Oh, I'm --

24 MS. SHYER: [Unintelligible] Allen.

25 CHAIRMAN KLEMENS: I used to. I used to raise

1 quite a bit of money. But I don't do it any more.

2 MR. COCKERLINE: All right. Well, I mean, I --
3 the materials are very important and --

4 MS. SHYER: And the quality of this build is
5 very important.

6 CHAIRMAN KLEMENS: What did you say, Cathy?

7 MS. SHYER: I think the quality of this build
8 is important for the durability here.

9 CHAIRMAN KLEMENS: The durability, the look and
10 also it is a -- has to be within a budget. So, what are
11 we going to do with No. 10? Are we going to ask to see
12 materials? I think the windows I'm hearing are not going
13 to go with divided light, true divided light.

14 MR. COCKERLINE: I don't know that we can make
15 that a stipulation.

16 CHAIRMAN KLEMENS: We can stipulate anything we
17 want.

18 MR. COCKERLINE: I know, but --

19 CHAIRMAN KLEMENS: But --

20 MR. COCKERLINE: I would not support making it
21 a stipulation. I would support making it a wish.

22 MS. SHYER: [Unintelligible] because divide
23 light windows, from what I understand of this
24 conversation, will make a very big difference to the look
25 of the back of that building.

1 MR. COCKERLINE: All sides, yeah.

2 CHAIRMAN KLEMENS: Maybe we can do every second
3 window true divided light.

4 MR. COCKERLINE: No.

5 MS. SHYER: I think that's a little off.

6 CHAIRMAN KLEMENS: I'm getting a bit off.

7 MR. COCKERLINE: Then only half of the people
8 will hate you.

9 CHAIRMAN KLEMENS: Well, I do not think, given
10 that that is an affordable housing building that has to
11 come within a certain budget that we can stipulate for
12 true divided light. I think we can say it will be
13 desirable and possibly you could find a community way to
14 raise the money; but I don't feel comfortable stipulating
15 that.

16 MR. COCKERLINE: I would support that. I would
17 support that position.

18 CHAIRMAN KLEMENS: And Bob, how do you feel
19 about stipulating.

20 MR. RIVA: I would also, as you've stated and
21 Allen said, yeah, that's fine.

22 CHAIRMAN KLEMENS: Marty?

23 MR. WHALEN: Yeah, I agree with Allen and Bob,
24 yeah.

25 CHAIRMAN KLEMENS: So, there's four of us,

1 Cathy, that are not willing to go as far as stipulating
2 for true divide light.

3 MS. SHYER: I'm okay with it, too. I think we
4 haven't I finished our list yet. I think there's going
5 to be a number of requests about the materials, the
6 colors, all sorts of things. Window treatments is the
7 next one. So, you know, I'm with you guys so far.

8 CHAIRMAN KLEMENS: Well, I think, do we want,
9 as a condition for them to come back, with palettes of
10 different materials for approval by the Commission? Like
11 a planting plan. Because they gave very scant
12 information really on the materials.

13 MS. SHYER: Yes, I do. And a planting plan.
14 [Unintelligible] plan.

15 CHAIRMAN KLEMENS: Let's go one at a time. How
16 do you all feel about having them come back for an
17 approval of materials? Or a discussion?

18 MR. COCKERLINE: How would we do that? Am I --
19 how would we do that outside of the hearing?

20 CHAIRMAN KLEMENS: Well, we condition -- as a
21 condition of approval that -- we do this often they have
22 to come with a planting plan. They have to come with a
23 design palette.

24 MR. COCKERLINE: Yeah, they are usually
25 presented beforehand and -- yeah, okay.

1 CHAIRMAN KLEMENS: Not always.

2 MR. COCKERLINE: Okay.

3 MS. CONROY: Perhaps Chuck can answer it, too,
4 if you feel more comfortable?

5 CHAIRMAN KLEMENS: Chuck?

6 MR. ANDRES: Sure, the issue because this
7 sounds like what you are doing is you would like to have
8 it a condition of approval that they come back with some
9 show at a least some design modifications of certain
10 aspects and that sort of raises the issue of the finality
11 of the decision, I guess. And whether you have
12 authority, as a condition, to require them to come back.
13 And actually I was kind of looking up some case law on
14 that while you guys were talking because that's where it
15 seems like you're talking about.

16 I have seen it done and there are some cases
17 that I'm aware of, there's old cases wetlands where
18 someone challenged the condition of approval on the
19 ground that it involved ex parte contacts and they
20 wouldn't have a chance to comment on it. It was a
21 wetlands case. And the court rejected the claim and
22 said, hey, we don't even allow a public hearing on it.
23 So, I sort of have taken that to be that if you do that,
24 then you should allow public comment on it, you know, for
25 something like that. But I haven't found a definitive

1 answer.

2 CHAIRMAN KLEMENS: No, I think you have given
3 me my definitive answer. I don't think we want them to
4 return with palettes.

5 MR. COCKERLINE: Strike that -- strike that
6 last phrase there.

7 CHAIRMAN KLEMENS: That's not -- that's
8 certainly --

9 MS. CONROY: Do you mind if I ask -- this is
10 Abby. Does that essentially mean it would come as a site
11 plan approval that they could allow a public hearing on
12 it at any point anyways?

13 MR. ANDRES: Well, if you're -- as a condition
14 of approval that they come in with design modifications
15 or, you know, show additional plantings or redesign the
16 bottom area or whatever it is you're talking about, then
17 you should allow public comment on that to get around the
18 issue that, hey, they're going to submit something after
19 the close of the hearing that I never got a chance to
20 comment on.

21 So, you fix that procedural claim by allowing
22 public comment on it. I'm just saying it's certainly
23 not -- what it does is it extends the -- it sort of
24 extends the process. I mean, you would limit it. You
25 know this is not -- it's simply a condition of approval

1 is that they return with a modified plan or to show -- I
2 mean, there's two options: One is you say -- you just
3 say -- one, approve it as is and recommend that they make
4 changes. But they don't have to because there may be
5 budgets, whatever. But you can do that and maybe they
6 will act in good faith. That's something you can do,
7 I've seen. Second is you require them to come in with
8 different -- to make the changes, lower the height of the
9 chimney, whatever it is you want to do and say that's
10 going to be approval. If they can't, they can always
11 seek a modification of that, of the approval. They can
12 come in and say we want to show you why we can't do that
13 and then you say okay, then we will remove that
14 condition.

15 Then, the third thing is, this what I was sort
16 of talking about is that you actually require, as a
17 condition of approval, that they come in with a plan to
18 show X and you have a public hearing on that.

19 So, those are sort of universal ways to deal
20 with that. Like I say, I haven't seen a lot of the
21 latter one. Even though there's one case I'm familiar
22 with that kind of talks a little bit about it.

23 CHAIRMAN KLEMENS: My feeling, after hearing
24 your discourse on this, is that we will make condition,
25 changes but they're not going to come back to us again.

1 We'll approve it with some changes. And if they can't
2 live with the changes, then they can come back. But I do
3 not want to begin a whole new process -- because, let me
4 be honest, once we do that, can we have an intervention
5 again?

6 MR. COCKERLINE: Okay, counter to that,
7 Michael. A counter to that is what we were saying right
8 there. Approve letter A, approve as is with recommended
9 changes.

10 CHAIRMAN KLEMENS: That's what I believe is
11 good.

12 MR. COCKERLINE: Okay, okay. I thought you
13 were saying that --

14 CHAIRMAN KLEMENS: No, that's what I'm saying.
15 I don't want --

16 MR. COCKERLINE: As is with recommended
17 changes. They really demonstrated --

18 CHAIRMAN KLEMENS: With conditions -- with
19 conditions, not recommended.

20 MR. COCKERLINE: I say recommended.

21 CHAIRMAN KLEMENS: It's a condition if we
22 approve.

23 MR. COCKERLINE: I -- well, then it's not as
24 is.

25 CHAIRMAN KLEMENS: When do you say, Chuck?

1 Conditioned.

2 MR. ANDRES: A is approve as is, but we
3 recommend changes. But they are optional. They don't to
4 have do them. B is you require the changes and then if
5 they can't do them, they come in and seek to modify the
6 condition. So, those are the -- in the category, those
7 are the two.

8 CHAIRMAN KLEMENS: I think B is what I want
9 because I would like to require certain things and if
10 they can't do them, they can come back and open up --
11 they are the ones who are opening up the process.

12 MS. SHYER: I support that.

13 MR. COCKERLINE: So, if they open up the
14 process, what does that mean?

15 CHAIRMAN KLEMENS: That's what I was trying to
16 get from Chuck. Are we right back where we started?

17 MR. ANDRES: Well, they can -- whether you
18 approve it A or B, there could be appeals in any event.

19 CHAIRMAN KLEMENS: I'm not talking about
20 appeal.

21 MR. ANDRES: Right. Okay.

22 CHAIRMAN KLEMENS: A new site plan. Can you
23 intervene on a site plan?

24 MR. ANDRES: Can they -- if you approve and
25 they come in with a modification, sure. Anyone can file

1 22A-19 for any application. So, yes, they could. If you
2 require something and they want it modified, a condition,
3 someone can file a 22A-19 as part of that.

4 CHAIRMAN KLEMENS: I think we should go with B,
5 require changes, say what they are and call it a day.

6 I mean, that's -- you know we're balancing
7 the -- we're to balance. We heard a lot of testimony of
8 the neighbors and other people. And I think we have to
9 try to address some of those in conditions. And a
10 condition is not a recommendation. The condition is a
11 condition.

12 MS. CONROY: Is C off the table?

13 CHAIRMAN KLEMENS: Yes, for me it is. And A is
14 off the table for me. But I don't know what my
15 colleagues think.

16 MR. COCKERLINE: I -- it's still on the table
17 for me.

18 MS. SHYER: C is off the table because we don't
19 want to get into a cycle of public hearings; is that the
20 reason?

21 CHAIRMAN KLEMENS: Just play this thing -- one
22 could filibuster this to oblivion if we keep on doing
23 this. We have got to make -- if we approve, it's got to
24 be an approval but these are the conditions.

25 MR. COCKERLINE: I think they've demonstrated

1 that they -- they've demonstrated that they are really
2 willing to work with the community. They've revised the
3 plans. They've bent over backwards.

4 CHAIRMAN KLEMENS: Well, yes and no.

5 MR. COCKERLINE: That's why I say with -- as is
6 with recommended changes.

7 CHAIRMAN KLEMENS: I don't agree with that,
8 because, on advice of counsel, I specifically asked
9 Attorney Smith, assuming the burden wasn't met for
10 feasible and prudent alternatives, is there anything you
11 could do to mitigate the neighbor's concerns. They
12 produced nothing. So, I don't think they bent over
13 backwards. I think they created a new building. They
14 were responsive to the Commission. But I think -- when
15 asked that specific question, could you do more, could
16 you mitigate some of this, there was no mitigation.

17 MR. COCKERLINE: But these are just
18 architectural details we're talking about now.

19 CHAIRMAN KLEMENS: Yes, they are architectural
20 details.

21 MR. COCKERLINE: During the hearing know one
22 was discussing, other than Rachel Carley, no one was
23 discussing true divided lights versus inexpensive
24 windows.

25 CHAIRMAN KLEMENS: People were discussing the

1 massing and the appearance.

2 MR. COCKERLINE: The massing, yes. I agree.

3 CHAIRMAN KLEMENS: Some -- for example, going
4 back to the stone cladding in the garage, that is
5 basically dealing with a way to soften that sort of
6 ponderous poured concrete columns of cinder block.

7 MR. COCKERLINE: But it has nothing to do with
8 massing. It's an architectural detail, like windows.

9 CHAIRMAN KLEMENS: No, I think the way that
10 that garage looks adds to the massiveness. It's having
11 this floating federal ship on pilons that are totally
12 modern. If we could soften those pilons, I think it
13 would look better.

14 MS. SHYER: Yes, and I --

15 CHAIRMAN KLEMENS: Do you agree with that?

16 MR. COCKERLINE: Agreed.

17 MS. SHYER: I reiterate that, for a lot of
18 people that will look at this building every day, many
19 times a day, from the back, that things such as the
20 windows -- and we just counted 20 without the third
21 floor, in addition to the mass of the building, that I do
22 think we want to be as clear as we can that they can
23 improve this with the quality and type of materials they
24 use, including the windows. And if we don't ask, we
25 won't get.

1 MR. COCKERLINE: But from 700 feet -- from 700
2 feet away are they going to be able to distinguish
3 whether they are true divided lights?

4 MS. SHYER: We are not talking 700 feet. We're
5 talking --

6 MR. COCKERLINE: Well, what's the distance to
7 Ethan Allen?

8 MS. SHYER: I don't know.

9 MR. COCKERLINE: It's 6 or 700 feet, easily.

10 MS. SHYER: Okay.

11 CHAIRMAN KLEMENS: You won't know until the sun
12 hits them. Then it will look like a single pane of
13 glass. But for a lot of the time, they will look like
14 divided light. The only time is when you have an
15 oblique, you know, whatever it is -- I just can't do
16 that. I just can't require that level of expense.

17 MS. SHYER: Look, I'm sympathetic to that. I'm
18 just saying that, you know, if we're looking at A as an
19 option, I think it is also actually kind of a basic rule
20 of development, too, that if you don't ask, you don't
21 get. And I think that we are representing the community
22 here and the back of this building needs attention. And
23 this is our opportunity to require it.

24 CHAIRMAN KLEMENS: You are you are thinking the
25 back of the building should have true divided light that

1 may be more important because of how it sits than the
2 front?

3 MS. SHYER: I don't know that we want to get
4 into that level of detail.

5 CHAIRMAN KLEMENS: Oh, no, I think that's -- I
6 think that's -- I think -- I mean, that's the area where
7 the sun is going to hit. That's the area that produces
8 the mass. Maybe we ask for true divide light in the
9 back.

10 MS. SHYER: Okay.

11 CHAIRMAN KLEMENS: I mean, that's one way.

12 MS. CONROY: This is Abby. I just want to
13 throw something out there. So, we are on item 10 of
14 28-plus. Just a thought. Maybe tonight -- I mean, if
15 you think this is going to go longer than tonight, then
16 maybe we should be focusing on, okay, we all agree that
17 the windows should be considered, maybe you can agree on
18 that tonight. But at a later date you decide is that
19 going to be a required --

20 CHAIRMAN KLEMENS: Yes.

21 MS. CONROY: Or is it going to be a recommended
22 change.

23 CHAIRMAN KLEMENS: Because what time is it? I
24 don't have a watch.

25 MR. COCKERLINE: Approved as is with

1 recommended changes.

2 CHAIRMAN KLEMENS: Allen --

3 MR. COCKERLINE: Snuck that in there.

4 CHAIRMAN KLEMENS: Not funny.

5 MS. SHYER: I think that's a good question,
6 Abby, because we do have other things.

7 CHAIRMAN KLEMENS: Okay. Number 11.

8 That's very common in many buildings,
9 condominiums, other things.

10 MS. SHYER: I think it's a great idea.

11 CHAIRMAN KLEMENS: I do, too. That's why I put
12 it in. Anyone else have an objection to that?

13 MR. COCKERLINE: No.

14 CHAIRMAN KLEMENS: White curtains with shears.
15 Something that will make it look soft and -- okay.

16 Exterior lighting. So, that's okay, Abby.
17 Number 11 is a yes.

18 MR. COCKERLINE: So, dark skies compliant.
19 Yes.

20 CHAIRMAN KLEMENS: Yes, white.

21 MR. WHALEN: Wait a minute. Hang on.

22 MR. COCKERLINE: I'm sorry. You're on the
23 wrong line, Abby. I'm jumping ahead. Sorry.

24 CHAIRMAN KLEMENS: Yes, for that and the
25 palette should be white.

1 Thank you, Abby.

2 MR. WHALEN: We're going to require every
3 person that rents an apartment in this thing to have
4 white curtains? Is that how it goes?

5 CHAIRMAN KLEMENS: Basically how it goes is
6 there's an outer -- like, a sheer that's white provided
7 by the building and then they could put other curtains --

8 MR. WHALEN: I can't enforce that. You won't
9 be able to enforce it.

10 CHAIRMAN KLEMENS: Well, a lot of people do in
11 condos.

12 MR. WHALEN: Wow.

13 MS. SHYER: I'm not familiar with the white
14 curtain. I am more familiar with the concept of
15 venetians or blinds that go to several levels so there's
16 some harmony from the outside of the building.

17 CHAIRMAN KLEMENS: Okay, do you want to do it
18 with blinds? That's fine.

19 MR. WHALEN: It's affordable housing we're
20 talking about.

21 CHAIRMAN KLEMENS: I agree. Let's do Venetian
22 blinds.

23 MR. COCKERLINE: We can keep it, again, if we
24 keep it very general, restrictions on window treatments
25 avoided disharmonious appearance suggest white and it

1 becomes a management issue.

2 CHAIRMAN KLEMENS: Okay. I agree with you for
3 once.

4 MR. COCKERLINE: Keep it more general.

5 CHAIRMAN KLEMENS: Okay.

6 MR. COCKERLINE: Michael, we always agree
7 except when you're wrong.

8 CHAIRMAN KLEMENS: Apparently in your eyes,
9 which is about 75 percent of the time.

10 MR. COCKERLINE: No, no, no.

11 CHAIRMAN KLEMENS: Okay.

12 MR. COCKERLINE: The screening issue on number
13 13 is kind of difficult because there's just not a lot of
14 real estate there.

15 CHAIRMAN KLEMENS: Right.

16 MR. COCKERLINE: You could put in some sort
17 of --

18 CHAIRMAN KLEMENS: Fence.

19 MR. COCKERLINE: Columnar trees maybe, but they
20 would always be kind of at risk.

21 CHAIRMAN KLEMENS: They showed us in their
22 planting plan where they could do it. So, I mean, I
23 think the two areas shown on the plan is fine. I don't
24 think all they could do on the parking lot is put a
25 white, you know, fence, which I think will look very

1 unattractive.

2 Let's talk about those lights. Because those
3 lights at the back --

4 MR. COCKERLINE: Yeah, there was criticism from
5 Rachel Carley about the light fixture because it was too
6 modern.

7 CHAIRMAN KLEMENS: And I agree with her.

8 MR. COCKERLINE: If there's something that is
9 more period specific --

10 CHAIRMAN KLEMENS: Yes.

11 MR. COCKERLINE: -- to that building, that
12 would be great. But.

13 CHAIRMAN KLEMENS: Right.

14 MR. COCKERLINE: But they also --

15 CHAIRMAN KLEMENS: They can do it.

16 MR. COCKERLINE: Most important is that they
17 are dark sky compliant.

18 CHAIRMAN KLEMENS: Right. I think you can have
19 both.

20 MS. SHYER: I agree. I think dark sky
21 compliant is one issue and I think neighborhood
22 sensitivity is very important.

23 CHAIRMAN KLEMENS: Sensitivity and I think we
24 need Federal style [Unintelligible] lights.

25 MR. COCKERLINE: Period specific.

1 CHAIRMAN KLEMENS: I mean, you can go on
2 lighting site, New York Lighting, I looked at it, there
3 are heaps of dark sky compliant things that look more
4 like carriage lights. Don't look like -- that's part of
5 the trouble with the back is that it presents through the
6 lights and those big pilons very modern. Okay.

7 MS. SHYER: I suspect that part of the problem
8 with the back was they were in a hurry.

9 CHAIRMAN KLEMENS: Well, it's what we have.

10 MR. COCKERLINE: I think on No. 14, I think
11 they came up with some good solutions for incorporating
12 the stone from the wall into the faces of the building in
13 the front and on Holley Street.

14 CHAIRMAN KLEMENS: Do you want the entire
15 wall --

16 MR. COCKERLINE: And some of that stone is
17 easily, as you come around the corner by the garage,
18 those pilons, you know, that's --

19 CHAIRMAN KLEMENS: I don't know if you can turn
20 that into fascia. But I think they should incorporate
21 all the stones in walls and they should move those
22 various design elements and put them along somewhere
23 visible where one can see them. The Bruce Pond or the
24 [Unintelligible] picture showed all the various sort
25 of -- I don't know what you call them. And the time

1 capsule is in the wall. And that needs to be moved. I
2 think the logical place is a wall along Holley -- Holley
3 Place at the sitting area.

4 15, no.

5 MR. COCKERLINE: I agree.

6 CHAIRMAN KLEMENS: After what Chuck said, it a
7 big old no.

8 MR. COCKERLINE: But it's so minimal, too,
9 there's really not much there.

10 CHAIRMAN KLEMENS: Correct. Okay.

11 I don't think the case has been made, despite
12 all of it, that this parking, these ten spaces or
13 whatever -- how many spaces are being lost on that lot.

14 MR. COCKERLINE: Ten, I believe.

15 CHAIRMAN KLEMENS: I look around, there's so
16 much unused space, I don't believe that it going to
17 reasonably impair, impact. I mean, if Argazzi Gallery is
18 having a 50-person reception, they are going to be spread
19 all over the place. That being said, this is not for
20 them. Curtis has commented and Debra has strongly
21 advocated that we need to look at that entire area for
22 parking opportunities to creatively use that entire area.
23 That's not a condition of this, but I strongly believe
24 that that is a very important study that needs to be done
25 how they could maximize parking and maximize pedestrian

1 circulation in that entire area. To me, I look at it,
2 it's so much vacant space.

3 MR. COCKERLINE: I agree.

4 MS. SHYER: I agree.

5 MR. COCKERLINE: So, the parking standards are
6 met as they apply to our regulations. But I think we
7 should strongly urge the Selectman to take a very close
8 look at what Pat Hackett submitted for a parking plan.
9 And any other plan that comes forward.

10 CHAIRMAN KLEMENS: We need to make that even
11 bigger than that.

12 MR. COCKERLINE: Well, that was a pretty
13 substantial plan, and yes, there are others, too.

14 CHAIRMAN KLEMENS: Yeah.

15 MS. SHYER: One was done by Judy Swanson some
16 years ago and I would --

17 CHAIRMAN KLEMENS: I think it's time we look at
18 this very seriously, the whole Lakeville area and look at
19 it all globally. Not sort of in segmented, like, a few
20 here and a few there.

21 But I don't believe they made a case that this
22 is going to affect their businesses. I don't believe
23 they have made a case that they're, in some way, entitled
24 and will be thrown into non-conformity. I don't believe
25 -- with the exception of Deano who has enough spaces.

1 There was satellite parking there requested as part of
2 his approval. I just don't think that made a case.

3 MR. COCKERLINE: Since this --

4 CHAIRMAN KLEMENS: Do you --

5 MR. COCKERLINE: Since this --

6 CHAIRMAN KLEMENS: Anyone think they made a
7 case?

8 MR. COCKERLINE: No.

9 MS. SHYER: No, they don't. And I think the
10 photographs that have come in, even from the Selectman's
11 office, over the years that have shown, you know, 3 to 5
12 cars parked there. I think supports that there isn't
13 going to be a problem in the long run. There probably is
14 in the short term during construction.

15 MR. COCKERLINE: Construction will be a real
16 pain.

17 MR. WHALEN: You think?

18 MR. RIVA: Michael, the parking -- I'm glad to
19 see Curtis committed in that letter that we have here on
20 file. And I firmly believe to -- I have said it before,
21 when this started I drove down there every morning at
22 6:15, 6:15 to 6:30 and some days, you know there would be
23 three cars in the parking lot overnight. I wasn't there
24 during the day. I would come back again at night at 5:30
25 to 6 o'clock and I would drive through again. So, that's

1 some of the lower times, no doubt about it. But I
2 firmly, firmly believe that the town has to be behind
3 parking for these businesses. In Canaan, the town owns
4 three major parking areas in town for us. And it is
5 critical for the town. Curtis has some good ones, even
6 the athletic field and Pat Hackett's were great. I just
7 think we need to keep pressure and make sure that we get
8 some of these, if not all of these accomplished for these
9 businesses.

10 The town needs to be behind this for the
11 businesses.

12 CHAIRMAN KLEMENS: I agree.

13 MR. RIVA: Yep.

14 CHAIRMAN KLEMENS: I don't believe this little
15 parking lot being halved is going to be the tipping
16 point. I think it's a much larger opportunity. And I
17 agree with you. But continue the POCD, too.

18 MR. RIVA: Good point. Very good point.

19 CHAIRMAN KLEMENS: POCD -- I think that should
20 be a very high priority, that is to create parking and to
21 maximize.

22 MS. SHYER: And I think perhaps the timing of
23 this is more important to mitigate some of the challenges
24 during the construction phase. I won't support putting
25 paved parking on existing grass, though, in Bower Park.

1 That I would not like to see.

2 CHAIRMAN KLEMENS: Traffic and pedestrian
3 safety.

4 MR. RIVA: You know, Michael, again, I think
5 the town has a problem with traffic speeding through
6 town.

7 CHAIRMAN KLEMENS: Yeah.

8 MR. RIVA: There's no doubt when we did these
9 bump outs, it gets very scary coming through there where
10 it tightened up. That's what the State wanted to do.
11 But now the State needs to help us and they need -- In
12 the morning, when I pull out of my road here at 6 o'clock
13 in the morning, Michael, I can get people right on my
14 tail. I get people that pass me at the light. They pass
15 me in front of the Town Hall if I'm doing 30 or 35. We
16 need to -- it's a town problem of the it's not just that
17 one location.

18 I would be all for, like, we have at as a
19 Salisbury School, something automatic. When people pull
20 up to the light at this Holley Street corner and they are
21 going to exit or pull in, maybe down by the boathouse we
22 get the State to put some flashing lights to caution
23 people to slow down, because it is kind of hidden there
24 as you get up that hill.

25 CHAIRMAN KLEMENS: I agree.

1 MR. RIVA: You know, and I think the
2 combination of that and I think that again we need to
3 push Curtis a little. We need to push the state police.
4 The resident trooper needs to hear from us. You guys
5 need to have some monitoring on these roads. I've got
6 four grandkids down on the other side that I'm worried
7 about them crossing going to the bike path by Lion's
8 Head.

9 CHAIRMAN KLEMENS: I decided to follow up after
10 our last meeting, have lunch at the boathouse with a
11 friend on the terrace closest to the sunshine, close to
12 the road, and it is unbelievable the speed that which
13 trucks are moving through that intersection. Both ways.
14 It's not just the ones that are coming down the hill.
15 They are the ones going up the hill.

16 MR. RIVA: Yep. I have -- I have a video of
17 camera in my car now in the windshield. I call the state
18 police when I can get the license plate numbers and if
19 it's extreme cases of speed, I will turn them in because
20 I get so irritated.

21 MS. SHYER: Well, good for you. I'm pleased to
22 hear that. That's great.

23 CHAIRMAN KLEMENS: But I think the fundamental
24 thing I never understood is there was an assumption that
25 people are going to walk out the front door of the

1 building and then walk across the street. And I think
2 there are many other ways and safer places to cross.
3 They can go out the back at Holley place -- Street.
4 There are a lot of areas and they can cross outside of
5 Petco. I just don't think that this assumption that
6 everyone is going to go right out the front door and jump
7 across the street there. I just don't see it happening.

8 MR. COCKERLINE: Well, they also have the
9 highest level of crosswalks available to them where you
10 can walk up to it, push the button and the light flashes.
11 And those are pretty effective. The next higher level
12 would be an actual stop light. But I think it's pretty
13 good.

14 The report that we got, the traffic report I
15 thought at 56 pages was very detailed. And then the
16 other submission that we got from Pom Shillingford was
17 pretty impressive as well. So, I'm comfortable. Yes,
18 there are traffic problems. But I'm comfortable with
19 this application and the traffic data that we have on
20 file.

21 CHAIRMAN KLEMENS: Thank you for saying amateur
22 report. Thank you. Because Pom Shillingford is not a
23 traffic --

24 MR. COCKERLINE: I didn't say amateur report.
25 But, yes, I understand that.

1 CHAIRMAN KLEMENS: And we also should make note
2 that there was no traffic consultant provided by the
3 Intervenor or the Intevenor's team. Mr. Virbickas said
4 he's not a traffic expert. So, when you basically, in
5 these sort of proceedings, that you -- if you don't have
6 two experts that are dueling, you almost need to accept
7 what the single expert says. Because certainly none of
8 us have the bona fides to question that and no other
9 traffic expert was provided.

10 I know we have indigenou knowledge of speed.
11 We all know that traffic expert was traffic expert of
12 record.

13 MR. COCKERLINE: True.

14 CHAIRMAN KLEMENS: We all know it's not
15 pleasant and we've got to do what Bob says. We've got to
16 do something. I don't know without those bump outs
17 [Unintelligible].

18 MR. COCKERLINE: Abby, I was just looking at,
19 we just have -- we have the single page summary. But
20 somewhere in the submissions we do have the whole Balskus
21 report, Joseph Balskus, we have it somewhere I'm sure.
22 Oh, all right. That's the one. Yes, I'm sorry.

23 I was only coming up with the single page.

24 MS. CONROY: I think, because --

25 CHAIRMAN KLEMENS: What are you looking for?

1 MS. CONROY: Because of the scale of the
2 report, so there's, like -- you know, this size scale.
3 It makes it awkward to open the file. So you just need
4 to use the zoom --

5 MR. COCKERLINE: It is here? Okay.

6 CHAIRMAN KLEMENS: What are you looking for in
7 there, Allen?

8 MR. COCKERLINE: I was just looking for the
9 whole report because it was a really extensive report. I
10 can almost say that I enjoyed it.

11 CHAIRMAN KLEMENS: Okay. Have we taken care of
12 traffic and pedestrian safety?

13 MR. COCKERLINE: Yes.

14 CHAIRMAN KLEMENS: Let's move to loading and
15 unloading. Millerton Road versus loading and unloading
16 on Holley Place or Holley Street.

17 MR. COCKERLINE: We could just say yes to
18 that.

19 CHAIRMAN KLEMENS: I believe we all feel that.
20 And I think we should have signage put in by the town
21 that the front of the building is a no loading -- it's no
22 loading and unloading. It's parking.

23 MR. COCKERLINE: Holley Street and parking lot.

24 MS. SHYER: The exception to that has to be the
25 school bus from what we heard of -- what they told us

1 about their existing route, that they will be pulling up
2 both -- you know, when they pick up children and drop
3 them off in front of their building. So, if you put up a
4 no loading signs, would that mean the school bus can't
5 stop there.

6 CHAIRMAN KLEMENS: If there's a car there
7 parked, the school bus will stop, the lights will flash,
8 traffic will stop, and that's fine. It not -- that is a
9 short duration. I'm not -- I wish they would come around
10 the corner. But they stop traffic.

11 MR. COCKERLINE: They do.

12 MR. WHALEN: They do.

13 CHAIRMAN KLEMENS: So, I mean -- if there are
14 cars parked there, that's even better, the school bus
15 will stop in the traffic lane and everyone else is going
16 to stop. Until which time the children have debussed
17 and, you know -- I don't see the school bus being a
18 problem. But everything else -- I don't want to see
19 those precious parking spaces there turned into a stop
20 and load. They should be on the side -- frankly, that's
21 how Lakeville Interiors gets deliveries, also, along the
22 side of Holley Street.

23 Do we want to restrict the times of days and
24 days of the week for moving in and out?

25 MR. WHALEN: No.

1 MR. COCKERLINE: I think we can eliminate
2 that.

3 CHAIRMAN KLEMENS: No. Anybody else?

4 MS. SHYER: If everything is happening from
5 Holley Street, I don't think we need to restrict.

6 CHAIRMAN KLEMENS: Good. Wonderful. Don't do
7 it. They'll need it.

8 Number 20. This is really an important one. I
9 believe Bob has brought this up. How do we ensure that?
10 They have claimed that they are not. Is there something
11 we can do to strengthen that? I mean, someone said that
12 the right-of-way does not cross through to Holley Street
13 par-- to the Bicentennial Park.

14 MR. COCKERLINE: Yeah. I said that when you
15 look, there's no survey that shows any right of way
16 through there.

17 CHAIRMAN KLEMENS: Through that --

18 MR. COCKERLINE: The right-of-way that shows
19 right there, that dotted line, is around the buildings.

20 CHAIRMAN KLEMENS: So, let's go to that --

21 MR. COCKERLINE: Who actually owns that -- oh,
22 that is the right-of-way on the property, yes. So, you
23 see the boundary comes to the corner and then goes --
24 that right-of-way goes beyond the building.

25 CHAIRMAN KLEMENS: But that right-of-way also

1 connects with that dark path beyond Joe Schaefer's place;
2 right?

3 MR. COCKERLINE: Exactly. Exactly. But that's
4 not -- I don't see how that could ever be a corner
5 delivery people would be using. The only question I have
6 is: Should we make it a condition that delivery trucks
7 can go through the parking lot from Holley Street to
8 access the back of the -- of those three buildings?

9 CHAIRMAN KLEMENS: Yes, I think we should say
10 that we almost should say that they have the right.

11 MR. WHALEN: Yeah, I agree.

12 CHAIRMAN KLEMENS: They have the right.
13 Actually, put a right of way, have it surveyed and put on
14 in favor of those properties.

15 MR. COCKERLINE: Well, it's actually town-owned
16 property because they are just leasing it.

17 CHAIRMAN KLEMENS: I definitely want to make
18 sure that no one says that -- I think we come up with a
19 solution that that is a right-of-way as part of the
20 conditions of approval.

21 Let's also talk about this whole one-way,
22 two-way business on that -- that Mr. Schaefer needs.
23 We're not making that one way; are we?

24 MR. COCKERLINE: I don't think so.

25 CHAIRMAN KLEMENS: I think he objected to that.

1 But as far as the residents of this building and the
2 people using the parking lot, I should think that they
3 should be discouraged from using that.

4 MR. COCKERLINE: Because of the topography at
5 the bottom there, it's not a comfortable access to
6 approach. I go through there, you know, if I go to lunch
7 at Deano's, I usually drive through the parking lot and
8 go behind the building and then park in Deano's parking
9 lot.

10 CHAIRMAN KLEMENS: That's fine. I just --

11 MR. COCKERLINE: But I never consider using
12 that other one. Never considered using that. But --

13 CHAIRMAN KLEMENS: How do we discourage use of
14 that and still maintain Mr. Schaefer's right to have a
15 two-way situation there? Just leave it alone?

16 MR. COCKERLINE: Leave it alone.

17 CHAIRMAN KLEMENS: What was all this fire
18 striping?

19 MR. COCKERLINE: Let Mr. Schaefer park there.
20 That's fine.

21 MS. CONROY: That actually brought up a good
22 question. Was that -- I remember Danella had asked about
23 that, right? She asked about arrows on the concrete -- I
24 mean on the parking lot?

25 CHAIRMAN KLEMENS: Yes.

1 MR. COCKERLINE: Hopefully for the in and out?

2 MS. SHYER: And they put a fire lane in there,
3 too, all the way around the building.

4 MR. COCKERLINE: Yeah, they had painted that.

5 MS. CONROY: It may be self regulating if the
6 arrows are here.

7 CHAIRMAN KLEMENS: Yes.

8 MS. CONROY: Just a suggestion. Not that I'm
9 part of this deliberation.

10 CHAIRMAN KLEMENS: Good one -- could one
11 actually put a sign there, no -- that pertains to these
12 people in this parking lot and this building that they're
13 not to use that alleyway?

14 MR. RIVA: No through traffic.

15 CHAIRMAN KLEMENS: There you go. Beautiful.
16 No through traffic. That pertains to these people. No
17 through traffic. I like that. That deals with
18 Mr. Schaefer's concerns.

19 And the other thing is the striping for the
20 fire lane is just striping. It's not affecting his
21 ability to use that right of way. Only in the case the
22 building is burning down, then he may not get egress
23 through that.

24 MR. COCKERLINE: Yeah, I don't think we should
25 restrict the adjoining neighbors' access to that driveway

1 whether --

2 CHAIRMAN KLEMENS: The adjoining neighbors,
3 what do you mean.

4 MR. COCKERLINE: Well, Schaefer.

5 CHAIRMAN KLEMENS: I'm not saying the exact
6 opposite. I'm restricting the people in the new building
7 and in the parking lot.

8 MR. COCKERLINE: Correct.

9 CHAIRMAN KLEMENS: Going through there.

10 MR. COCKERLINE: Right. But I think we should
11 make it clear that the adjoining neighbor has the ability
12 to ingress or egress.

13 CHAIRMAN KLEMENS: Why don't we call it private
14 road, no through traffic?

15 MR. COCKERLINE: Sounds good.

16 MR. RIVA: Good, yeah. Yeah.

17 CHAIRMAN KLEMENS: We just don't want everyone
18 in the parking lot using it.

19 MR. COCKERLINE: Right.

20 CHAIRMAN KLEMENS: We want it left for
21 Mr. Schaefer.

22 MR. RIVA: Correct. Very good.

23 MR. WHALEN: Do I understand that there is no
24 deeded right-of-way to cross the parking lot for the --

25 MR. COCKERLINE: Doesn't seem to be. Nothing

1 that shows in the survey.

2 CHAIRMAN KLEMENS: It's amazing, isn't it,
3 Marty?

4 MR. WHALEN: Yeah.

5 CHAIRMAN KLEMENS: But we're going to put in
6 our conditions that this parking lot serves as the --
7 serves as a connection to that other thing.

8 MR. WHALEN: Okay.

9 CHAIRMAN KLEMENS: We don't want that lost.

10 MR. WHALEN: Okay.

11 CHAIRMAN KLEMENS: I'm surprised it's not
12 deeded.

13 MR. COCKERLINE: But it is -- it's been public
14 property for so long.

15 CHAIRMAN KLEMENS: What do you call that use?
16 It's by --

17 MR. COCKERLINE: Like, adverse possession.

18 CHAIRMAN KLEMENS: Adverse possession almost.
19 Or custom.

20 MR. WHALEN: I said adverse possession is a
21 tough row to hoe.

22 CHAIRMAN KLEMENS: What did you say, Marty?

23 MR. WHALEN: I said adverse possession is a
24 tough row to hoe.

25 CHAIRMAN KLEMENS: Right. But we're going to

1 say in our resolution very specifically that that is --
2 we recognize that the access to that road comes through
3 the parking lot.

4 MR. WHALEN: Okay. All right.

5 CHAIRMAN KLEMENS: I mean, should we require
6 them to survey out and put that as an access -- as an
7 easement or should we ask them to put that on the plot,
8 in the Mylar?

9 MR. COCKERLINE: I'm not comfortable with that
10 because it remains --

11 CHAIRMAN KLEMENS: Chuck is about to say
12 something.

13 MR. ANDRES: Again, these are the lessees, not
14 the owners. The owners or the town. If you put some
15 restrictions on it, I think you need the owner to do it.

16 MR. COCKERLINE: That's what I was going to --

17 CHAIRMAN KLEMENS: Okay. So, we can ask
18 Curtis.

19 MR. COCKERLINE: Right.

20 CHAIRMAN KLEMENS: I was -- Concerning fire
21 safety, I was satisfied with the responses that we
22 received how Bridgitt Ruthman, I think, explained how
23 fires -- she's a fire fighter. I think they explained I
24 think we got the sign-offs that we needed from the local
25 fire department. That they would not bring a big truck

1 into there. They would fight it other ways. I --

2 MR. COCKERLINE: They're not going to build
3 something that they can't get a C.O. for and they won't
4 get a C.O. if they don't meet the standards of the fire
5 marshal.

6 CHAIRMAN KLEMENS: I think this, again, was
7 more technique of obstruction to have those bumpouts and
8 obviously you can't get a fire truck through. If you
9 can't get a fire truck through, why is there a fire lane
10 then?

11 MR. WHALEN: Good question.

12 MR. COCKERLINE: They can run with buckets.

13 CHAIRMAN KLEMENS: Why do we need a fire lane?
14 I mean, it's counter intuitive, we hear testimony they
15 fight the fire, they'll fight it from the street, from
16 Holley Street, from Route 44, maybe they'll have to go in
17 the back parking lot and push a few cars out of the way,
18 so be it. But why is there a fire lane.

19 MR. COCKERLINE: I think what they don't want
20 is people parking there, like, parallel parking next to
21 the building. I think they just don't want to see that
22 area filled up with traffic.

23 CHAIRMAN KLEMENS: Why not No Parking?

24 MR. COCKERLINE: I think the fire lane
25 accomplishes the same thing.

1 MR. WHALEN: Yeah, I agree.

2 CHAIRMAN KLEMENS: Fire lane assumes that
3 trucks are going to go through up an around and out
4 that -- Mr. Schaefer's easement. It seems a bit silly,
5 in my opinion.

6 MR. COCKERLINE: I'm assuming they put it on
7 there to meet the standards that are on the drawings to
8 satisfy someone. It's just painted on the pavement.

9 MS. SHYER: I don't think we get into this, do
10 we? I think it's being done.

11 MR. COCKERLINE: Fire marshal.

12 CHAIRMAN KLEMENS: All right.

13 Are we satisfied with fire safety?

14 MR. COCKERLINE: Yes.

15 CHAIRMAN KLEMENS: And the building is going to
16 be sprinklered.

17 MR. WHALEN: Right.

18 CHAIRMAN KLEMENS: We're going to condition,
19 although because that was brought up by the EMTs,
20 elevators to accommodate a stretcher and attendant EMT
21 personnel. They said they would do that. But I think
22 that's a condition.

23 MR. COCKERLINE: I think they covered that in
24 the Applicant's testimony, that they -- that it -- the
25 elevator accommodates a stretcher.

1 MR. WHALEN: Right.

2 CHAIRMAN KLEMENS: I think we can put it in as
3 a condition.

4 MR. COCKERLINE: All right.

5 CHAIRMAN KLEMENS: Belts and suspenders. Don't
6 you agree?

7 MR. COCKERLINE: Correct, yes.

8 MS. SHYER: Do we need to consider the size of
9 the elevator for the things moving in and out. It's only
10 three stories. So, if people to have carry beds and
11 couches upstairs. So, do we worry about that or do we
12 just leave that.

13 CHAIRMAN KLEMENS: Service elevator you're
14 talking about.

15 MR. COCKERLINE: Not a problem.

16 MS. SHYER: -- elevator, but if people are
17 coming in through the back, furniture people moving in, I
18 don't think we to have worry about how long they're going
19 to take, but they are going to take longer if they have
20 to carry things up the stairs.

21 CHAIRMAN KLEMENS: Well, so be it.

22 MS. SHYER: Okay.

23 CHAIRMAN KLEMENS: We can condition everyone
24 there has to have knock-down furniture along with white
25 curtains.

1 I think actually that's really I'm with Allen
2 on this one. That's really the problem of the management
3 there. I don't think we can order a service elevator.

4 MS. SHYER: No, I'm not suggesting a service
5 elevator. I beg your pardon. I was talking about the
6 size of one elevator. I'm not talking about a service
7 elevator.

8 CHAIRMAN KLEMENS: I think if it can house a
9 gurney and attending personnel, you should be able to put
10 furniture on its side.

11 MR. WHALEN: Right.

12 CHAIRMAN KLEMENS: Right?

13 MR. WHALEN: Right.

14 CHAIRMAN KLEMENS: Garbage removal, I think we
15 want to make sure that it is as they represented, a
16 condition that there will be these -- what do you call
17 them, roll-aways or whatever. That they are going to be
18 stored in a room that is enclosed. And wheeled out to
19 the garbage truck. Any objection to that?

20 MR. COCKERLINE: Just the nature of the
21 enclosure. Could it just be a mesh -- could it be wire?
22 A wire cage kind of thing so that it would ventilate?

23 CHAIRMAN KLEMENS: Yeah, ventilation is a
24 problem. But so is small vermin, like rats.

25 MR. COCKERLINE: Right.

1 CHAIRMAN KLEMENS: I think the way I've seen it
2 done is it's done with cinder blocks and the top two feet
3 are screened. I agree you cannot have it totally
4 enclosed for odors and circulation, so you do have
5 venting. But you don't want to use screen all the way
6 down because of small vermin.

7 Are you okay on that?

8 MR. COCKERLINE: Yes.

9 MR. WHALEN: Yes.

10 MS. SHYER: Yes.

11 CHAIRMAN KLEMENS: Abby, I think there has to
12 be ventilation. Okay.

13 Number 24. Now, although we've had some
14 discussions about is this going to cost them too much, I
15 believe, personally, that fiscal considerations are not
16 germane to our discussion. I think that's what we told
17 Mr. Muecke and I believe that, you know, I don't believe
18 they are germane. But how do the rest of you feel.

19 MR. COCKERLINE: Agreed.

20 MR. WHALEN: Agreed.

21 MR. RIVA: Agreed.

22 CHAIRMAN KLEMENS: Anybody disagree? Done.

23 MS. SHYER: I agree with you.

24 CHAIRMAN KLEMENS: Okay. That's agreed. Not
25 germane. That will be -- again, this will be in the

1 findings.

2 Any approval be contingent upon SHPO sign off?

3 MR. COCKERLINE: You skipped over prudent and
4 feasible alternatives.

5 CHAIRMAN KLEMENS: Oh, my God. Yes. Well, we
6 don't, because the Intervenor, they were not -- their
7 burden wasn't met, therefor we don't have to consider it.
8 Correct, Chuck?

9 MR. ANDRES: Correct.

10 CHAIRMAN KLEMENS: Thank you.

11 MR. COCKERLINE: I was going to say they are
12 not prudent or feasible.

13 CHAIRMAN KLEMENS: No, they are not -- we don't
14 to have go there because they didn't make their -- meet
15 their burden.

16 Okay, No. 26. I say yes. I think --

17 MR. COCKERLINE: I'm not sure I know enough
18 about it.

19 CHAIRMAN KLEMENS: I think as I understand it,
20 it will render an approval for this -- they aren't going
21 to render an approval when everyone's bugging them; but I
22 think SHPO has to -- I think we need SHPO sign off.

23 MR. COCKERLINE: Okay.

24 CHAIRMAN KLEMENS: Does anyone --

25 MR. COCKERLINE: Agreed.

1 CHAIRMAN KLEMENS: Chuck?

2 MR. ANDRES: Yeah, assuming it remains publicly
3 funded, then they will need SHPO sign off.

4 CHAIRMAN KLEMENS: Yeah --

5 MR. COCKERLINE: Okay, yes.

6 MS. CONROY: Doesn't it fall under the lines of
7 any other required approvals shall be issued prior to
8 local zoning and building permitting?

9 MR. COCKERLINE: Yes, but we might as well put
10 it on our list of things that we approve.

11 CHAIRMAN KLEMENS: What are you saying, Abby?
12 I'm sorry.

13 MS. CONROY: That it's just like, you know, a
14 health district approval or something else --

15 CHAIRMAN KLEMENS: Yes, yes. That's fine.

16 MS. CONROY: -- that no new building and zoning
17 approval shall be granted until all prior approvals have
18 on obtained.

19 CHAIRMAN KLEMENS: So, now we're going to have
20 an approved plan, if they do, then it goes to --

21 So what about No. 27?

22 MR. WHALEN: Wow.

23 CHAIRMAN KLEMENS: Don't they have -- they have
24 to re-do the application. They have to submit -- I
25 believe they have to submit a corrected application to

1 CHFA.

2 MR. COCKERLINE: I agree with that. I think
3 they probably do. My guess is they probably have already
4 done it. But -- I think that is considered an amendment.

5 CHAIRMAN KLEMENS: So, do we even have to
6 basically make it a condition? I mean, I would think --

7 MR. COCKERLINE: I don't think so, but --

8 MR. RIVA: I mean, it's out there now.
9 Everyone's aware of it. They have to correct it.

10 MR. WHALEN: They don't have to do it.

11 CHAIRMAN KLEMENS: I think it was very
12 embarrassing, actually, because Mr. McCoy didn't prepare
13 that. Someone else -- they had someone prepare the
14 application.

15 MR. COCKERLINE: It was Dave Berto from --

16 CHAIRMAN KLEMENS: Really?

17 MR. COCKERLINE: Yeah. He's the one who signed
18 it anyway.

19 MS. SHYER: I don't think they knew when they
20 filled out that application, I don't think anybody in the
21 town knew that it was the historic district that it was
22 registered in --

23 MR. WHALEN: Oh, I think they did. Yeah. I
24 think --

25 MR. COCKERLINE: Bicentennial Park.

1 MR. WHALEN: Bicentennial Park? Oh, yeah,
2 yeah.

3 CHAIRMAN KLEMENS: Well, I think it's out there
4 in the open. They have to -- they're going to have to
5 submit an amended but that's not really our business.

6 MR. WHALEN: Right, I agree.

7 CHAIRMAN KLEMENS: Now, it's out there in the
8 public domain. Everyone knows it.

9 MR. COCKERLINE: Yep.

10 CHAIRMAN KLEMENS: Number 28.

11 MR. COCKERLINE: Our Land Use Administrator can
12 determine what the excavation volume is.

13 CHAIRMAN KLEMENS: Really. I think that's
14 really a punt. What's the threshold?

15 MR. COCKERLINE: I've always been pushing for
16 this.

17 CHAIRMAN KLEMENS: What is the threshold?
18 250 --

19 MR. COCKERLINE: 250 cubic yards.

20 CHAIRMAN KLEMENS: Well, I think we have to
21 make a condition they may not exceed more than 250 cubic
22 yards.

23 MR. COCKERLINE: Or come in for an excavation
24 permit.

25 CHAIRMAN KLEMENS: Right. That's what we

1 should say.

2 MR. COCKERLINE: Okay.

3 MS. CONROY: Well, do you have to? Because the
4 regulations say general requirement.

5 MR. COCKERLINE: Wait a minute. It does.

6 MS. CONROY: The following activities may be
7 undertaken without a special permit for excavation,
8 filling and grading. So, if it's excavation connected
9 with a bona fide construction of a building or structure,
10 provided it's combined to the premise on which the
11 structure is located, a zoning permit and building permit
12 has been issued and not more than 250 cubic yards will --

13 MR. COCKERLINE: But is it the --

14 CHAIRMAN KLEMENS: Why don't we just say that
15 should comply with whatever the section is.

16 (People spoke at the same time.)

17 MS. CONROY: And excavation in connection with
18 the installation of improvements in accordance with
19 subdivision and/or construction plans approved by the
20 Planning & Zoning --

21 CHAIRMAN KLEMENS: It that an exempt then?

22 MS. CONROY: Yeah.

23 MR. COCKERLINE: Right, but the one that really
24 is the key point there is it the 250.

25 CHAIRMAN KLEMENS: Why don't we just say --

1 MR. COCKERLINE: If they exceed 250 --

2 CHAIRMAN KLEMENS: Why don't we just say no
3 more than 250 a cubic yards shall permitted to be removed
4 from the premises. I don't think --

5 MR. COCKERLINE: Or it complies with 60--

6 CHAIRMAN KLEMENS: I don't think any --

7 MS. CONROY: I -- yeah, I don't even think that
8 applies, though. Because this would be excavation in
9 connection with improvements in accordance with a
10 Planning & Zoning Commission approval -- plan approval.

11 MR. COCKERLINE: Abby, are those numbers right?
12 Right? You have 602.2 is before 601.3. Are those
13 numbers correct?

14 CHAIRMAN KLEMENS: It's not a subdivision. No.

15 MR. COCKERLINE: 601 -- 602 -- I think it's
16 60-- I think it should be 601.2.

17 CHAIRMAN KLEMENS: Can I see -- Can you stop
18 moving it.

19 MS. CONROY: Sorry.

20 MS. SHYER: Allen's right. It's a typo.

21 MR. COCKERLINE: So, just say that it must
22 comply with 601.2.

23 CHAIRMAN KLEMENS: See, I don't think that's --
24 I think --

25 MS. CONROY: So, I know Michael and I have had

1 a discussion about this before which is that is the -- it
2 seems like the intent of the excavation filling and
3 grading regulations is primarily to prevent earth mining
4 operations under the guise of construction. And I've
5 been involved with an application where the developer was
6 primarily looking to remove highly valuable materials and
7 so was kind of painting this earth excavation as a
8 development.

9 CHAIRMAN KLEMENS: Oh, yeah. That was not
10 Falls Village; was it?

11 MS. CONROY: No.

12 CHAIRMAN KLEMENS: Because in Falls Village,
13 that's exactly what O&G is trying to do.

14 MS. CONROY: Yes. Well, they were -- they were
15 actually partially involved. But that --

16 MS. CONROY: Go ahead.

17 MR. COCKERLINE: The way I read it, it says
18 that one phrase, there where your cursor is, those three
19 conditions. And then the one that we're really concerned
20 with is not more than 250 cubic yard.

21 CHAIRMAN KLEMENS: What's the harm in putting
22 it? What's the harm?

23 MS. CONROY: But I think that is like if
24 somebody wants a zoning permit for something, which is --
25 and its a bona fide construction of a building or an

1 addition, I can only issue a zoning permit if they're not
2 going to be removing more than 250 cubic yards.

3 MR. COCKERLINE: Correct.

4 MS. CONROY: This one is similar, but it allows
5 for -- provided the plan has been approved by Planning &
6 Zoning, there is no limit to the scale. I mean --

7 CHAIRMAN KLEMENS: So, we -- if we approve this
8 plan, D is what kicks in?

9 MS. CONROY: Right.

10 CHAIRMAN KLEMENS: Chuck, are you in agreement?

11 MR. ANDRES: Yeah, Abby's point is that this is
12 covered by D.

13 CHAIRMAN KLEMENS: Okay.

14 MR. ANDRES: The question is -- and it seems to
15 be -- certainly is an excavation installation of
16 improvements in accordance with construction plans. Have
17 you approved construction plans? I assume, is that the
18 site plan? Is that what construction plans are? I
19 assume that's what it is. So then it's covered by D.
20 There's a separate question it seems like A and D kind of
21 overlap because, you know, why do you even need that
22 because D would sort of cover -- maybe you wouldn't --
23 oh, because A would be just single-family dwelling and
24 wouldn't you even need a site, a construction --

25 MS. CONROY: Right, yeah. It would be an

1 administrative approval.

2 CHAIRMAN KLEMENS: So basically, let's go back
3 to the list of questions.

4 So basically, not required. Covered by P&Z
5 approval.

6 MR. ANDRES: So, you don't have to address that
7 in this.

8 CHAIRMAN KLEMENS: I think we talked about 29
9 already.

10 MR. COCKERLINE: We did. And we determined
11 that it was -- I think we determined that it was really
12 the town's responsibility for that. We should make it a
13 recommendation?

14 CHAIRMAN KLEMENS: Recommend it to the town.

15 MR. COCKERLINE: Yeah.

16 CHAIRMAN KLEMENS: We can't --

17 MR. COCKERLINE: We don't have any
18 jurisdiction, really.

19 CHAIRMAN KLEMENS: That's right because the
20 town still owns the property. They are leasing it. It's
21 not about that. But I think we definitely -- I mean,
22 I've already --

23 We have to talk about a couple things now.

24 I guess going back to the windows. Looks like
25 we're getting through everything tonight.

1 MR. COCKERLINE: Oh, yeah, we're back to that.
2 Okay.

3 CHAIRMAN KLEMENS: I would like to require that
4 they lower the chimney. Yep, there we got it. What are
5 we doing about the windows? That's the last thing.

6 MR. COCKERLINE: Well, you know, I can -- of
7 course, I like mine better, but B, require changes, but
8 have the Applicant come with modifications if
9 unattainable. In think --

10 CHAIRMAN KLEMENS: We are going to -- so we are
11 going --

12 MR. COCKERLINE: I can support that. But I
13 just want us to make that clear to them that --

14 CHAIRMAN KLEMENS: I think they are listening.
15 They don't need to have us make it clear. So, we're
16 going to condition on true divided light windows? I
17 certainly would support that.

18 MR. COCKERLINE: Yeah, I mean, it's -- it's
19 something we should ask them to certainly reach for.

20 CHAIRMAN KLEMENS: I think it will go a long
21 way to solving the problems with the back along with
22 those columns clad.

23 MS. SHYER: Sorry, Michael, have we got these
24 columns clad business? Is that up on 9; is it?

25 CHAIRMAN KLEMENS: I believe.

1 MR. COCKERLINE: Stone veneer, is that what we
2 were talking about.

3 CHAIRMAN KLEMENS: Yeah, I think we should do
4 stone cladding, yeah. I mean, this is just our thought
5 process. We're going to have --

6 So, anything more you want to deliberate on?
7 Have we exhausted --

8 MR. COCKERLINE: Let's see.

9 CHAIRMAN KLEMENS: Bring it up.

10 MS. SHYER: -- color of the building.

11 CHAIRMAN KLEMENS: What?

12 MS. SHYER: What about the color of the
13 building?

14 CHAIRMAN KLEMENS: I imagine it would be white
15 and gray.

16 MS. SHYER: That's going to be very big. What
17 about gray with white trim?

18 CHAIRMAN KLEMENS: Okay.

19 MS. SHYER: I'm not proposing a color. I'm
20 just saying --

21 CHAIRMAN KLEMENS: No, think gray with white
22 trim would be better. Would you like to have a specific
23 color gray?

24 MS. SHYER: No.

25 CHAIRMAN KLEMENS: Do you have a color chart

1 there?

2 MS. SHYER: No, I don't. And that's not my --

3 CHAIRMAN KLEMENS: Okay.

4 MS. SHYER: I'm just saying should we have, you
5 know, a --

6 CHAIRMAN KLEMENS: That's what they have shown.
7 Gray with white trim.

8 MS. SHYER: The darker the better, but --

9 CHAIRMAN KLEMENS: The darker the better?

10 MR. COCKERLINE: Well, I like what's
11 represented there.

12 CHAIRMAN KLEMENS: I do like --

13 MR. COCKERLINE: That's a fairly light gray.

14 MS. SHYER: It's not what's represented on one
15 of the other renderings we saw where it was quite dark
16 blue.

17 MR. COCKERLINE: Well, that was the nighttime
18 one that was sort of bluish.

19 MS. SHYER: Oh.

20 CHAIRMAN KLEMENS: That's nice. That's very
21 nice.

22 MR. COCKERLINE: I'm uncomfortable making this
23 recommendation.

24 CHAIRMAN KLEMENS: Not a recommendation. It's
25 a condition.

1 MR. COCKERLINE: Yeah. Even worse.

2 CHAIRMAN KLEMENS: I think it should be appear
3 in color as of the renderings. Why don't we pick a
4 rendering or is this -- pick a rendering and it should
5 appear --

6 That, to me, is very nice.

7 MR. COCKERLINE: That's kind of a warm gray.

8 CHAIRMAN KLEMENS: It is. And it's not
9 overpowering.

10 CHAIRMAN KLEMENS: That's nice. Let's use that
11 as the --

12 MS. SHYER: Well, that's in keeping with the
13 neighborhood.

14 CHAIRMAN KLEMENS: That's right there -- that's
15 the color we will condition it on that color scheme.
16 That's fine. Done.

17 It's very attractive.

18 MR. COCKERLINE: I'm glad that works for you,
19 Michael.

20 CHAIRMAN KLEMENS: Is it don't work for you?

21 MR. RIVA: It works.

22 CHAIRMAN KLEMENS: Does that not work for
23 you.

24 MR. COCKERLINE: It works, it works.

25 CHAIRMAN KLEMENS: I think we want to make sure

1 that we're getting something that's tasteful.

2 MS. SHYER: And it's going to go with Michael's
3 white curtains.

4 CHAIRMAN KLEMENS: Oh, wow.

5 MR. COCKERLINE: Correct.

6 CHAIRMAN KLEMENS: Yes. I wonder what the
7 various proponents must -- It's a good thing the chat is
8 silenced. I can just imagine I'm going to be called a
9 moron again in this hearing.

10 MS. SHYER: [Unintelligible] Michael, in the
11 garden?

12 CHAIRMAN KLEMENS: Hm?

13 MS. SHYER: I was just kidding.

14 CHAIRMAN KLEMENS: Is there anything more.
15 Thank you, Abby.

16 MR. COCKERLINE: So, Michael, will you -- will
17 this be put into the form of a resolution?

18 CHAIRMAN KLEMENS: We haven't gotten -- we
19 haven't even decided what kind of -- do you want a
20 resolution to deny with prejudice --

21 MR. COCKERLINE: No.

22 CHAIRMAN KLEMENS: Without prejudice to
23 approve? What resolution?

24 MS. CONROY: Abby. Chuck, isn't it better to
25 have just a resolution in the positive that it either

1 passes or fails?

2 MR. ANDRES: Yeah, it's always good to start
3 with a resolution in favor. If I'm asked to doublecheck,
4 yeah.

5 CHAIRMAN KLEMENS: Okay. That's fine. That's
6 going to be Abby, Chuck -- you are directing Abby, Chuck
7 and --

8 MR. ANDRES: Yeah.

9 CHAIRMAN KLEMENS: And me to prepare an
10 affirmative resolution with all these points.

11 MR. COCKERLINE: So moved.

12 CHAIRMAN KLEMENS: We have to move it, Chuck?

13 MR. COCKERLINE: No. I was just trying to
14 help --

15 MR. ANDRES: No.

16 CHAIRMAN KLEMENS: No, it's a direction --

17 MR. COCKERLINE: It's a recommendation.

18 CHAIRMAN KLEMENS: This time you can recommend.

19 MR. COCKERLINE: It's a requirement.

20 CHAIRMAN KLEMENS: No. It's a recommendation.

21 So, now let's talk with Chuck, Abby and I.
22 Could we get this done by May 11th? I don't think so.
23 Or can we?

24 MS. CONROY: Would we just -- would it just be
25 on the regular agenda or would you want a special meeting

1 for that?

2 CHAIRMAN KLEMENS: No, let's -- What do you
3 think?

4 MS. CONROY: I think you know your
5 Commission better than I do.

6 CHAIRMAN KLEMENS: I think it's going to be
7 wordsmithing of the resolution.

8 MS. CONROY: That's what I'm wondering. How
9 much wordsmithing will there be if three of us have
10 already looked at it, is my question?

11 MS. SHYER: I prefer to have it on the regular
12 meeting than a special meeting for this. But I have no
13 idea what volumes are coming through the office now.
14 Abby?

15 MS. CONROY: Too soon to tell also what else
16 would be on the agenda at this point.

17 CHAIRMAN KLEMENS: Yeah.

18 MS. CONROY: I think we know we have one
19 hearing for an accessory apartment, so that shouldn't
20 be -- those generally don't bring too much.

21 CHAIRMAN KLEMENS: Well, until we get -- we are
22 running on near empty until we get Abby a full-time
23 [Unintelligible] up there. All of the people who were
24 the decision makers that I see out there. Abby needs
25 full-time help. Can we do this? Should we just do it

1 for the next meeting which is what?

2 MS. SHYER: May 17.

3 MS. CONROY: Correct.

4 CHAIRMAN KLEMENS: Is that the reference? It
5 gives us a bit more time.

6 MR. COCKERLINE: I support that.

7 MR. WHALEN: Yeah, I agree.

8 CHAIRMAN KLEMENS: And Chuck, would you please
9 opine on whether the ex parte rules are still in effect
10 until we vote on this?

11 MR. ANDRES: Yes. That's absolutely correct.
12 No one should engage in any conversations with the
13 Applicants, Applicant's representative, Intervenor,
14 Intervenor's representative or the public at large at
15 all. So you should respectfully decline if you are
16 approached, you should -- don't read any e-mails and
17 other public comments on the thing. Just basing your
18 decision on the documents in the record.

19 MR. COCKERLINE: What to we do with letters to
20 the editor?

21 MR. ANDRES: Try not to read.

22 MR. COCKERLINE: Cover our eyes.

23 CHAIRMAN KLEMENS: You're kidding. We can't
24 read -- that's --

25 MR. ANDRES: Yeah, look, it's an end around the

1 ex parte. So, just avoid them.

2 CHAIRMAN KLEMENS: But it's public --

3 MR. ANDRES: It's an ex parte. You know,
4 it's -- you know, it --

5 CHAIRMAN KLEMENS: It's public information.

6 MR. ANDRES: It's public information that you
7 should try to avoid.

8 MR. COCKERLINE: Avert your eyes.

9 MR. ANDRES: Like sequestered juries. Just try
10 to avoid it.

11 CHAIRMAN KLEMENS: Why don't we just stop
12 having the "Lakeville Journal" delivered to our homes the
13 next couple weeks.

14 MR. RIVA: Come to work for me for a couple
15 weeks. You will be busy. You won't have time to read
16 them.

17 MS. CONROY: Come to work for me for a couple
18 weeks, too.

19 MR. RIVA: I said that first, Abby.

20 CHAIRMAN KLEMENS: So, I have to go to Town
21 Hall and decide if I want to work with the Land Use
22 Office or go work for Lee Ace now.

23 MR. RIVA: Ace.

24 CHAIRMAN KLEMENS: Ace is the place. Or I can
25 just go and continue to have [Unintelligible] to do what

1 I want to do.

2 MR. ANDRES: There you go.

3 CHAIRMAN KLEMENS: All right. So, I guess we
4 would like to have a motion to adjourn the meeting.

5 MR. COCKERLINE: So moved.

6 MR. WHALEN: Second.

7 CHAIRMAN KLEMENS: All those in favor?

8 ALL: Aye.

9 CHAIRMAN KLEMENS: Anyone opposed? It's
10 adjourned. Until the 17th. Until next time a we're
11 gathering.

12 MS. CONROY: May 17th.

13 (Whereby, the meeting adjourned)

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C E R T I F I C A T I O N

I hereby certify that the above and
foregoing is a true and correct transcript of the audio
recording provided, limited only by the technology of the
recording.

Dated this 19th day of July, 2021.

Victoria Stockmal

VIKTORIA V. STOCKMAL, CRR, RMR

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