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Date: August 25, 2025

Via email [Landuse@salisburyct.us](mailto:Landuse@salisburyct.us)

Dr. Michael Klemens  
Salisbury Planning and Zoning Commission  
Town of Salisbury  
27 Main Street  
PO Box 548  
Salisbury, CT 06068

Re: #2025-0287 / Wake Robin LLC & Ms. Serena Granbery (ARADEV LLC) / 104 & 106 Sharon Road & 53 Wells Hill Road / Special Permit for Hotel, Redevelopment of the Wake Robin Inn (Section 213.5) / Map 47/ Lot 2 & 2-1 /

**Transcription of December 12, 2024 PZC Meeting**

Dear Chairman Klemens and Commission Members:

I am herewith attaching for filing in the record of the above-captioned matter, the transcription of the PZC meeting of December 12, 2024. This Transcript contains, among other things, the four reasons for denial that were discussed and agreed upon by four out of the five Commission Members on December 12, 2024 in a straw vote. Page 42 of the Transcript starts the discussion of the special exception regulations that led to that vote.

All of those four reasons continue to apply in whole or part to Aradev's Second Application submitted in April of 2025.

We recognize that it is possible for people to access a recording of this meeting, but we feel that entering a written version, in the form of this transcript, will make access to the relevant statements more convenient and straightforward for any interested persons.

Very truly yours,

Perley H. Grimes, Jr.  
PHG:tc

cc: Charles Andres, Esq.  
Joshua Mackey, Esq.

**TOWN OF SALISBURY  
PLANNING & ZONING COMMISSION  
DECEMBER 12, 2024**

1  
2  
3  
4  
5  
6 Michael Klemens: [0:00] [Inaudible 0:00]. Okay. Uh, good evening. I'm gonna call to order [throat  
7 clearing 0:14] the special meeting of the Planning and Zoning Commission, uh,  
8 Thursday, December 12, at 7 p.m. Um, lemme look at establishing the quorum. I  
9 have Mr. Riva, Mr. Cockerline, Mr. Whalen and myself. So we have an  
10 establishment of a quorum. I'm hoping that Vice Chair Shyer will join us shortly.  
11 Uh, she's between things. So I [don't 0:50] – [0:50] do we have to accept the  
12 agenda? No. Not for this. No. I don't think so. Well let's do it just in case. [0:57]  
13 [Got a 0:57 ] motion to approve the agenda?  
14  
15 Male: So moved.  
16  
17 Male: So moved.  
18  
19 Michael Klemens: [1:01] [Inaudible 1:01].  
20  
21 Allen Cockerline: [1:02] Cockerline.  
22  
23 Michael Klemens: [1:03] Cockerline.  
24  
25 Allen Cockerline: [1:04] Cockerline second.  
26  
27 Michael Klemens: [1:05] Yep. Call the roll quickly. Uh, Secretary Whalen?  
28  
29 Martin Whalen: [1:09] Yes.  
30  
31 Michael Klemens: [1:10] Uh, Mr. Riva?  
32  
33 Robert Riva: [1:12] Yes.  
34  
35 Michael Klemens: [1:13] Mr. Cockerline?  
36  
37 Allen Cockerline: [1:14] Yes.  
38  
39 Michael Klemens: [1:16] And the Chairman says yes. Now, tonight, you all – I should've sent you a,  
40 a rough outline of what I hope we can cover tonight. Um, the first thing I'd like to  
41 discuss is the intervener's burden and unless, uh, Attorney Andres corrects me,  
42 um, the allegations in the intervention are impacts to surface and groundwater  
43 onsite and offsite and unreasonably destroying natural resources, specifically  
44 Connecticut-listed plant species. [Now 1:58], be aware that the intervener  
45 provided testimony on many topics but as far as meeting their burden, we should  
46 evaluate the 2 aforementioned topics only, unless advised by Counsel. Um, in the  
47 interest of a free and transparent dialogue during the hearings, we allowed the  
48 intervener broad latitude to submit materials on a variety of topics that we will

1 consider in our Section 800 deliberations. [2:34] So, uh, do you agree, Attorney  
2 Andres, that those are the two topics we should be deliberating upon?  
3

4 Chuck Andres: [2:42] Yes.  
5

6 Michael Klemens: [2:43] Thank you. And so I guess I'll start and hopefully we'll get your opinion. In  
7 the terms of the, um – the terms of surface and groundwater quality onsite, we  
8 had, um, Todd Ritchie, who is a PE. We had Todd. We had the work by our third-  
9 party reviewer, Tom Grimaldi, also. And at the intervener's side, George Logan  
10 who has extensive expertise in wetlands but is not a PE. So my sense on this is  
11 with, um – and please, this is just me – that with, um, 2 engineers agreeing, um...  
12

13 Abby Conroy: [3:35] Did you say [Verbecus as well though 3:35]? The, the intervener also had  
14 [Ribecus 3:39].  
15

16 Michael Klemens: [3:39] Unfortunately, Ribecus did not say much about the stormwater.  
17

18 Abby Conroy: [3:43] Okay.  
19

20 Michael Klemens: [3:44] Yes, you're right, Abby.  
21

22 Abby Conroy: [3:45] Okay.  
23

24 Michael Klemens: [3:46] Verbecus was a PE but the intervener chose to have George Logan, who  
25 was not a PE, uh, address those topics primarily. So one a the things one does in  
26 terms of conflicting witnesses – conflicting testimony is you weigh the credibility  
27 and credentials of the witnesses. And in this case, weighing the, um, the [CV's  
28 4:13], the credibility, the education of Mr. Ritchie and Mr. Grimaldi opposed to  
29 Mr. Logan, I think, in my sense, we should go with the testimony of Ritchie as  
30 supported by our third-party reviewer. But, Chuck, I think we need to hear from  
31 the other Commission members on this.  
32

33 Chuck Andres: [4:43] Correct.  
34

35 Michael Klemens: [4:44] So I'll start with Secretary Whalen.  
36

37 Martin Whalen: [4:48] [Yeah 4:48]. [4:49] Well can you hear me?  
38

39 Michael Klemens: [4:50] Yes, sir.  
40

41 Martin Whalen: [4:51] Okay. That's what I was thinkin' about today. And I've come to the same  
42 conclusion that, that, um, uh, I hold more – I'm a little bit more in line with Todd  
43 Ritchie's, um, um, uh, analysis of what, eh, eh, g-, what's goin' on at – in, uh – on  
44 that site [than 5:10] – because I think...  
45

46 Michael Klemens: [5:12] [Okay 5:12].  
47

48 Martin Whalen: ...it – ['cause 5:12] correlates more with, uh, with Tom Grimaldi's. That's the  
49 reason I, I feel that way.

1  
2 Michael Klemens: [5:19] Okay. Thank, thank you, Secretary Whalen. [5:23] Mr. Riva?  
3  
4 Robert Riva: [5:24] Yeah. I agree, um, with Marty, uh, Michael. [I knew 5:28] that, um, um,  
5 Todd's, um, analysis and, um, review did carry a little more weight. Um, Logan  
6 had some great questions, a-, a-, and, and brought some I thought good topics to  
7 the surface to discuss. Um, but I – I'm – I feel by far that, that I put more weight  
8 on Todd's review.  
9  
10 Michael Klemens: [5:56] Um, Allen, I guess. Uh, Allen, please.  
11  
12 Allen Cockerline: [5:59] Um, yeah. Um, I, I'm in a similar camp. I, I think one a the, one a the issues  
13 that i-, is a little bit outstanding in that, uh, one a the questions that I had for the  
14 applicant that was addressed by [Josh 6:14] Mackey. I said is there, is there, um,  
15 a, a net gain or loss in the amount of runoff that was gonna end up going into the  
16 catch basin and was there more, was there more infiltration. And, uh, h-, he said  
17 yes but it was vague. It wasn't really addressed by the engineers. Um, so that's,  
18 that's a little, a little vague. But, uh, I think...  
19  
20 Michael Klemens: [6:42] But did Mis-...  
21  
22 Allen Cockerline: ...the [take- 6:43]...  
23  
24 Michael Klemens: ...-ter, did Mr. Logan provide anything...  
25  
26 Allen Cockerline: [6:45] [The 6:45] – um, technically I liked – you know, what I really liked and I  
27 didn't think I would – the whole position of the intervener's. As soon as an  
28 intervener comes in, for me it's an immediate eye roll – oh, my God, this is just  
29 another layer. But I really think the cross-examination helped us tremendously.  
30 And, and, uh, and from that, I come to the conclusion that the, the applicant really  
31 comes out on top as far as, um, the, the, the, uh, surface and groundwater. So, uh,  
32 and I was glad to see that they were willing to make, when they were pushed on  
33 the nutrient...  
34  
35 Michael Klemens: [7:24] A-, A-...  
36  
37 Allen Cockerline: ...capac-...  
38  
39 Michael Klemens: [7:24] Allen...  
40  
41 Allen Cockerline: ...-ity...  
42  
43 Michael Klemens: ...that, Allen that's not germane for this part of the discussion. [Inaudible 7:29].  
44  
45 Allen Cockerline: [7:30] Okay.  
46  
47 Michael Klemens: ...[inaudible 7:30]...  
48  
49 Allen Cockerline: [7:30] So it's...

1  
2 Michael Klemens: ...[inaudible 7:30].  
3  
4 Allen Cockerline: ...a yes, a yes or a no? Yes.  
5  
6 Michael Klemens: [7:32] Yeah. Well...  
7  
8 Allen Cockerline: [7:33] Uh, uh, yes.  
9  
10 Michael Klemens: [7:33] I am sorry...  
11  
12 Allen Cockerline: [7:33] I am in favor...  
13  
14 Michael Klemens: ...to cut you off.  
15  
16 Allen Cockerline: [7:35] It's all right.  
17  
18 Michael Klemens: [7:36] Forgive me. Um...  
19  
20 Allen Cockerline: [7:38] It's okay.  
21  
22 Michael Klemens: [7:39] So basically on the first count of the intervention of the 4 members present,  
23 I'm hearing that the intervener did not meet their burden, that the t-, Chuck...  
24  
25 Chuck Andres: [7:52] [Inaudible 7:52].  
26  
27 Michael Klemens: ...go ahead.  
28  
29 Chuck Andres: [7:53] Yeah. Mr. Chairman, I did – I think the, uh – o-, one a the experts you  
30 referred to was the Town's consulting engineer, Mr. Grimaldi. I think his last  
31 report indicated that the revised drainage report was received. I mean the letter  
32 was dated December 10, received today and he hadn't re-, he hadn't had a chance  
33 to review it yet. Uh, s-, so the – y-, you may – there may be some additional  
34 information [from 8:20]...  
35  
36 Abby Conroy: [8:20] Which...  
37  
38 Chuck Andres: ...[inaudible 8:20].  
39  
40 Abby Conroy: ...I did re-, uh, just – I did receive that this afternoon. I was just going through my  
41 emails to check and see. I did get a final review from Tom.  
42  
43 Michael Klemens: [8:27] Let's, let's – I think given that this [background noise] is, uh, critical to  
44 understand, let, let's take a look please [inaudible 8:34]. And for the record, Vice  
45 Chair Shyer has just joined us. Good evening. [banging] Uh, we would look at  
46 that letter as if [they're 8:43] – and that just – [8:45] Chuck, would you explain  
47 about getting information from c-, from our technical consultants after the close  
48 of the hearing, please?  
49

1 Chuck Andres: [8:53] Yes. That's legal. In other words, we can't hear – I, I haven't mentioned this  
2 in the hearing – what you can't get is new factual information from the applicant,  
3 third-par-, uh, or public...  
4  
5 Male: [9:04] [Okay 9:04].  
6  
7 Chuck Andres: ...whether for or against the application. What you can do is, uh, your, your  
8 consultants can review the information that is already in the record and give you  
9 comments on that. And consultants – like Abby is a consultant. I'm a consultant.  
10 You can hear me. So and y-, that's – that was – that is permissible, uh, to do that,  
11 uh, and, uh, so that's...  
12  
13 Male: [9:27] [Well 9:27]...  
14  
15 Chuck Andres: ...it's, it's legal.  
16  
17 Michael Klemens: [9:28] Thank you. So let's take a look because in the interest let's look at that, uh –  
18 what Mr. Grimaldi sent to us. Thank you, Chuck. [pause] For the record, I was  
19 going off of the previous review of Mr. Grimaldi but this is good to get yet ano-,  
20 another review.  
21  
22 Abby Conroy: [10:28] [Correct 10:28]. So there's the discussion, um, the intervener brought up  
23 the, the infield testing, um, the discussion of the [inaudible 10:37] versus stone  
24 bottom...  
25  
26 Michael Klemens: [10:39] Right.  
27  
28 Abby Conroy: ...quality...  
29  
30 Male: [10:40] Yeah.  
31  
32 Abby Conroy: ...treat...  
33  
34 Male: [10:40] Yeah.  
35  
36 Abby Conroy: ...water quality treatment. Um, he is still – I seen o-, on another job – Tom did  
37 talk to me about this – that on another job he had, um, recommended plantings  
38 [and 10:50] dispersed throughout the stone. Uh...  
39  
40 Michael Klemens: [11:00] And those conditions are [probably 11:01] proforma for everything he  
41 does.  
42  
43 Abby Conroy: [11:04] Mm-hm.  
44  
45 Michael Klemens: [11:05] So basically, uh, what I'm seeing – oh.  
46  
47 Abby Conroy: [11:08] Sorry.  
48  
49 Michael Klemens: [11:09] Yeah. WPCA's – yep. Those would be all [that there were con- 11:16]...

1  
2  
3 Abby Conroy: [11:17] Yeah. The...  
4  
5 Michael Klemens: ...[-ditions 11:17]...  
6  
7 Abby Conroy: ...standard...  
8  
9 Michael Klemens: ...[inaudible 11:17].  
10  
11 Abby Conroy: ...ones. Yeah.  
12  
13 Michael Klemens: [11:18] The standard – yeah. [pause] And, Vice Chair Shyer, we're right in the  
14 midst of, uh, the intervener's burden, which are – [were 11:39] 2 topics. It's, uh,  
15 stormwater, surface water and the next one'll be plants, biodiversity. And I think  
16 your colleagues so far have found that the, that, uh, the applicant's team met –  
17 provided good data and there was nothing significant provided by the intervener.  
18 So we're leaning toward, uh, saying that they have not met their burden. [12:09]  
19 But I'll ask again, after seeing Mr. Grimaldi's letter, do you still, Mr. Whalen, um,  
20 concur that, um, the intervener did not meet their burden?  
21  
22 Martin Whalen: [12:21] Yes.  
23  
24 Michael Klemens: [12:22] Uh, Mr. Riva?  
25  
26 Robert Riva: [12:23] Yes, still, Michael. Thank you.  
27  
28 Michael Klemens: [12:25] Thank you. [12:26] Mr. Cockerline?  
29  
30 Allen Cockerline: [12:27] Yes.  
31  
32 Michael Klemens: [12:28] And Miss Shyer?  
33  
34 Cathy Shyer: [12:30] No. I thought the intervener's comments were very helpful with the  
35 stormwater management, um, actually. [laughter] [Inaudible 12:37].  
36  
37 Michael Klemens: [12:37] [Inaudible 12:37]. Okay. [12:39] But did they provide anything that was  
38 dif-, different and new to that that wasn't met?  
39  
40 Cathy Shyer: [12:48] Well I thought we just saw some of it, that they, that they changed what  
41 they were doing in the bottom of the basins. And b-, and providing [inaudible]  
42 [sound playing 12:57] that they weren't doing before. So I thought the intervener  
43 took them to a different standard actually.  
44  
45 Michael Klemens: [13:05] Okay.  
46  
47 Cathy Shyer: [13:07] And...  
48  
49 Chuck Andres: [13:07] Uh...

1  
2 Cathy Shyer: ...it was...  
3  
4 Chuck Andres: ...Mis-...  
5  
6 Cathy Shyer: ...very important for me.  
7  
8 Michael Klemens: [13:10] [All right 13:10].  
9  
10 Chuck Andres: [13:10] A-, and Mi-, Mr. Chairman, I'm assuming, uh – I know Mr. Ritchie – one  
11 a the e-, experts you're relying on was Mr. Ritchie. Mr. Ritchie, uh, I, I think  
12 stated that he was suggesting some [banging] alterations I believe in direct  
13 response to some of Mr. Logan's comments at the public hearing. He kind of, uh,  
14 said, w-, [we'll used 13:29] a, a few different things. And I'm assuming that  
15 you're, you're considering his testimony as well as, as being responsive, a-, at  
16 what he said at the last public hearing.  
17  
18 Michael Klemens: [13:43] Can you explain the legal, the legal – what are the legal implications if the  
19 intervener meets versus doesn't meet their burden? Are there any legal...  
20  
21 Chuck Andres: [13:51] Sure.  
22  
23 Michael Klemens: ...[inaudible 13:52]?  
24  
25 Chuck Andres: [13:52] I-, if the intervener meets the burden, then you go on to the second part,  
26 uh, which – and, and again the burden is – involves conduct which is reasonably  
27 likely to have the effect of unreasonably polluting, impairing and destroying the  
28 public trust [in your 14:06] water resources. Again the claim is that the surface  
29 and groundwater would be impaired w-, with this current design. And then if you  
30 find that the case, then, uh, there's', there's a second element, uh, of, of 22a-19,  
31 was that you can't approve it, um – lemme grab the statute. Um, [banging] you  
32 can't approve it, uh, that you have to show that there is a, uh – is there a feasible  
33 and prudent alternative consistent with the reasonable requirements of public  
34 health and safety. If there is, then they've met their burden. So, there's, there's 2  
35 elements of proof. One is the – is there unreasonable – likelihood of unreasonable  
36 pollution of the resource and then the second, um, have they shown that there is,  
37 um – if you make the finding of unreasonable pollution, you have to determine  
38 whether considering the relevant circumstances there's a feasible and prudent  
39 alternative consistent [with 15:16] the reasonable requirements of public health  
40 and safety. So that would...  
41  
42 Michael Klemens: [15:20] [Okay 15:20].  
43  
44 Chuck Andres: [14:20] If y-, if you did find [inaudible 15:22] you can stop if you find that they  
45 haven't met their burden on the first element. But even if they have met their  
46 burden, then you gotta go consider the second element.  
47

1 Michael Klemens: [15:30] Well Vice Chair Shyer brings up a point that s-, she contends and I think  
2 the record shows that they made modifications in response to the intervener.  
3 [15:40] Does that mean the intervener met their burden or not?  
4

5 Chuck Andres: [15:46] D-, are you asking me?  
6

7 Michael Klemens: [15:47] Yes, I am, sir.  
8

9 Chuck Andres: [15:49] Oh. I, I, I think if the responses addressed the concerns raised by the  
10 intervener and you credit those responses, then you find that they haven't met  
11 their burden. In other words, [in y- 15:59], what [you're 16:00] – you would be  
12 approving presumably the revised plan that made the changes in response to the r-  
13 , to the comments made. And if you find those comments have in fact addressed  
14 the unreasonable pollution, um, then I, I would think you would find that they  
15 hadn't met their burden.  
16

17 Michael Klemens: [16:19] Did anybody – did everyone understand that?  
18

19 Cathy Shyer: [16:23] Uh...  
20

21 Michael Klemens: [16:24] Cathy certainly doesn't understand it. She's looking...  
22

23 Cathy Shyer: [16:26] No. No. And this may be because I joined the meeting late and I  
24 apologize to everyone. I did my best to be here on time. So maybe I have  
25 misunderstood that, um – I'm thinking that the intervener met their burden of  
26 proof because information they provided to us was responded to and improved the  
27 plans. [16:48] So what have I missed there?  
28

29 Chuck Andres: [16:50] W-, y-, uh, w-, y-, you wouldn't be approving the first version. Y-, y-, if  
30 you approve the application, you're presuming the, the revision, the revised  
31 versions. That's public hearing...  
32

33 Cathy Shyer: [17:00] Uh, yeah. I under-...  
34

35 Chuck Andres: [17:00] [Inaudible 17:00]...  
36

37 Cathy Shyer: ...-stand.  
38

39 Chuck Andres: ...a number of changes were, were made at the public hearing throughout the  
40 process, the whole design and including the, the stormwater management design  
41 in response to what I understand you're saying is very legitimate concerns. And,  
42 and so if you find that those cha-, those changes made did address those concerns,  
43 then you would find that they hadn't met their burden because, frankly, they've  
44 been addressed.  
45

46 Michael Klemens: [17:24] [Inaudible] [circular 17:24] that I think I understand this now. So if they  
47 had, had met their burden would only be if things that they had brought up were  
48 not addressed, hadn't been remedied, then they, then they would - [there's 17:42]  
49 still a problem. [17:43] Is that what you're saying?

1  
2 Chuck Andres: [17:44] Yes. Yes.  
3  
4 Michael Klemens: [17:46] Okay. Yep. Thank you for that.  
5  
6 Allen Cockerline: [17:49] Um, Michael...  
7  
8 Michael Klemens: [17:50] [Inaudible 17:50].  
9  
10 Allen Cockerline: ...I think o-, on the issue of the stormwater, um, uh, Mr. Logan responded  
11 positively to the suggestions that Todd Ritchie made and so, uh, I, I don't see  
12 where, uh, uh – if, if the, uh, if, if the applicant had not made any changes, then  
13 they, they would be in discord. But as it was, Logan, Logan agreed.  
14  
15 Michael Klemens: [18:22] Well right. So I think [we've got that] [inaudible 18:23]. Next we go to the  
16 unreasonable destroying natural resources, specifically Connecticut-listed plant  
17 species. And, you know, we heard testimony, um, [background noise] um, Mr.  
18 Stam-, Sanford and Miss Gadwa. And I must say for the record, the only time I  
19 got testy with the applicant was I thought the badgering of, of Sigrun was just  
20 inappropriate. Uh, there was no way that an intervener is generally allowed onto  
21 an applicant's property. And if they go on surreptitiously, they can be sued for  
22 devaluing the applicant's property. So I thought that line of questioning was sort  
23 of a red herring, personally. [19:55] But the question remains, um, did the  
24 testimony of Miss Gadwa had anything or resulted in anything that was not met in  
25 the testimony of Mr. Sanford? And also direct your attention to the fact that the  
26 Wetlands Commission looked at those issues, I believe, in their review. [19:40] Is  
27 that correct, Abby?  
28  
29 Abby Conroy: [19:44] Uh, the – which part? Uh, what issues?  
30  
31 Michael Klemens: [19:47] The [inaudible 19:47] plants, was that considered [inaudible 19:49]?  
32  
33 Abby Conroy: [19:50] [Inaudible 19:49] plants didn't come up because they were upland plants.  
34  
35 Michael Klemens: [19:53] There was...  
36  
37 Abby Conroy: [19:53] I mean...  
38  
39 Michael Klemens: ...some...  
40  
41 Abby Conroy: ...typi-, uh, the plants that they had shown in their survey were in the upland.  
42  
43 Michael Klemens: [19:58] So the Wetlands Commission never discussed...  
44  
45 Abby Conroy: [20:03] Uh-huh.  
46  
47 Michael Klemens: [20:03] Okay.  
48

1 Abby Conroy: [20:04] Remember they have to discuss the physical characteristics of the wetland  
2 itself.  
3  
4 Michael Klemens: [20:10] Can you c-, can you, can you pull up the approval of the Wetlands  
5 Commission, please?  
6  
7 Abby Conroy: [20:15] Sure. Just give me...  
8  
9 Michael Klemens: [20:15] To make sure.  
10  
11 Abby Conroy: ...a moment.  
12  
13 Michael Klemens: [20:18] Make sure they didn't speak to those plants.  
14  
15 Chuck Andres: [20:23] Michael, can I also address one other issue with this, this one? Th-, th-,  
16 the – a-, another element of the 2219 intervention is that the subject matter has to  
17 be something within your jurisdiction. In other words, um, th-, th-, there were a  
18 couple case-, and, and that's established by case law and then it's embodied in the  
19 statute itself. There was a case that went back, for example, there was a Wetlands  
20 Commission and someone filed a 22a-19 and raised a-, all this air pollution it's  
21 gonna cause and, and the Court said, "Hey, that's..." they, they don't consider it  
22 air pollution. So, uh, that you can't – that's y-, y-, eh, eh, y-, even if you credit it,  
23 it's not grounds for denial. And it happened in an [es- 21:04], in another case  
24 where the – there was a State Traffic Commission looking at public safety and  
25 traffic and they said these environmental issues, you don't even – it's not even in  
26 your jurisdiction. That's in the statute. This is a little bit more tenuous because the  
27 [idea 21:19] of, of threatened and endangered species, there's not a lot in your  
28 [laughter] regulations that, that addresses that [and 21:28] your zoning regulations  
29 address that.  
30  
31 It does say on the site plan that in the areas of disturbance you're supposed to  
32 show the location of any threatened or endangered species or species of special  
33 concern. So you're supposed to show it on the site plan. And I think they did show  
34 the location. But it's never identified as what your duty is with respect to that and  
35 whether you could deny it on, on the basis of that. That's not necessarily in your  
36 regulations. I know there's a, there's a endangered species act that applies to state  
37 projects and, and state applications but it's a little – it's a bit of a reach and there's  
38 some general environmental stuff to, to – w-, w-, when you go here. I'm – I – that  
39 may be a moot issue depending on your discussion but I'm, I'm throwing that out  
40 there, that this – the stormwater, I think was clear. There's tons a stuff in the  
41 regulations that say you are to consider stormwater impacts. It's a little more  
42 tenuous when you're taking...  
43  
44 Michael Klemens: [22:20] [Inaudible 22:20]...  
45  
46 Chuck Andres: ...about...  
47  
48 Michael Klemens: ...[all the 22:21]...  
49

1 Chuck Andres: ...threatened...  
2  
3 Michael Klemens: ...interpreta-...  
4  
5 Chuck Andres: ...[and 22:22] endangered...  
6  
7 Michael Klemens: [22:22] Sorry.  
8  
9 Chuck Andres: ...species.  
10  
11 Michael Klemens: [22:23] Sorry, Chuck. The broad interpretation of Section 800, which talks to a lot  
12 things, I think one could potentially wrap that into – but, uh, we're looking for the  
13 Wetlands, um, approval. [pause] And maybe while Abby's looking for that,  
14 maybe, Miles, you could look for the site plan to see if they did show the  
15 locations of the listed species, which is part of the site plan review, please. [pause]  
16 Okay. This is the – okay. Thank you. This is the Wetlands approval. Oh. There  
17 it...  
18  
19 Male: [23:23] Yeah. But...  
20  
21 Michael Klemens: ...is.  
22  
23 Male: ...[y- 23:23 ]...  
24  
25 Miles Todaro: [23:24] [Inaudible 23:24] was to also I see have the NDDDB State-Listed Plants  
26 Survey Report. [23:29] Is that what – one of the documents we were looking for?  
27  
28 Michael Klemens: [23:32] Well I think what, uh, Attorney Andres said is those plants need – the  
29 locations of those plants need to be the site plan. That's what I'd like to confirm,  
30 that they are or are not on the site plan. [23:46] And, Chuck, is it possible to have  
31 a, a split on the burden on – there are 2 separate components? Is it possible to  
32 have a, a split?  
33  
34 Chuck Andres: [23:59] Yeah. I mean ya could find that they haven't met their burden for  
35 stormwater but they have for species. Sure. [Inaudible 24:04].  
36  
37 Michael Klemens: [24:07] Thank you, Chuck. So there's nothing in the – [24:11] where did the  
38 Wetland approval go? [pause]  
39  
40 Abby Conroy: [24:23] For some...  
41  
42 Male: [24:23] [Inaudible 24:23].  
43  
44 Abby Conroy: ...reason the, the PDF, it, eh – the, the permit itself had the resolution attached but  
45 it wasn't attached to the one for some reason. So...  
46  
47 Michael Klemens: [24:33] Just slow down.  
48  
49 Abby Conroy: [24:33] This is the resolution.

1  
2 Michael Klemens: [24:35] [Right 24:35].  
3  
4 Female: [24:35] [Right 24:35].  
5  
6 Michael Klemens: [24:36] [Inaudible 24:36] slow down please [inaudible 24:37].  
7  
8 Abby Conroy: [24:37] Whoop. Sorry.  
9  
10 Michael Klemens: [24:39] [Inaudible 24:39].  
11  
12 Abby Conroy: [24:39] Uh...  
13  
14 Michael Klemens: [24:40] You're gonna make my eyes bounce outta my head. [Inaudible]. [Okay  
15 24:43]. That's fine. There's nothing. [24:47] Could you please keep going down  
16 then? [pause] Okay. You can continue, please. [Yeah. Okay 25:02]. [pause] Yeah,  
17 there's, there's landscaping but nothing about the – any of the rare plants.  
18 [Inaudible 25:15].  
19  
20 Abby Conroy: [25:21] Again, Mr. Chairman, the Commission dealt with direct impacts to the  
21 wetland resource.  
22  
23 Michael Klemens: [25:29] I, I'm well aware of that. So I just wanna make sure because – that we  
24 didn't miss something. I wanna be very careful here on, on this, on this  
25 deliberation. There's been 6 public hearings, huge amount of testimony and there's  
26 a lot of interest in this on both sides.  
27  
28 Abby Conroy: [25:49] There were some, uh, nonnative plants on their planting plan, so that was  
29 – oh, sorry – cultivars.  
30  
31 Michael Klemens: [25:56] Yep.  
32  
33 Abby Conroy: [25:57] So they included that condition as they have in the past on other  
34 applications.  
35  
36 Michael Klemens: [26:02] So I, I seen – [26:03] is this the end of it? Okay. [Inaudible 26:06]  
37 engineer, preconstruction. Yep. Yep. Yep. Okay. I think that we're done with [any  
38 plants 26:14].  
39  
40 Abby Conroy: [26:15] [Mm-hm 26:15].  
41  
42 Michael Klemens: [26:15] So were you able to find the site plan that shows the location of the rare  
43 species, please?  
44  
45 Miles Todaro: [26:26] I have the site plan open. I can share it. I'm sure not shows the location.  
46  
47 Abby Conroy: [26:32] [Inaudible 26:32]. Um, I'll see if I can find it. [pause] No. It's not on that.  
48 It's on their – it's on the actual pl-, listed plant survey report.  
49

1 Miles Todaro: [26:51] Oh, okay. I was, I was lookin' at...  
2  
3 Abby Conroy: [26:52] Yeah.  
4  
5 Miles Todaro: ...that.  
6  
7 Abby Conroy: [26:53] Here.  
8  
9 Miles Todaro: [26:54] That was the first thing.  
10  
11 Abby Conroy: [26:57] Okay.  
12  
13 Male: [26:59] Oh.  
14  
15 Abby Conroy: [27:00] So...  
16  
17 Miles Todaro: [27:01] [Inaudible 27:01].  
18  
19 Abby Conroy: ...in their r-, rare plant survey report, this was the areas where they were  
20 identified.  
21  
22 Michael Klemens: [27:09] Is that part of the Site Plan Application? Is that part of – is that [inaudible  
23 27:13]...  
24  
25 Abby Conroy: [27:13] It's part...  
26  
27 Michael Klemens: ...[inaudible 27:13]...  
28  
29 Abby Conroy: of the...  
30  
31 Michael Klemens: ...[inaudible 27:14]?  
32  
33 Abby Conroy: ...application submission.  
34  
35 Michael Klemens: [27:16] Does that constitute the site plan, Chuck?  
36  
37 Chuck Andres: [27:20] [Inaudible 27:20], um, [and it's just 27:21] I, I'm reading this from – a site  
38 plan shall c-, contain the following information and then it says, um, within the  
39 disturbed area limits, the following existing conditions shall be shown: Location  
40 of any threatened or endangered species. What I assume – I, I, I mean I believe  
41 the Commission has, i-, i-, i-, interpreted some of these things. It d-, as, as s-,  
42 separate submissions being able to comply with that but that's up to you to, to, to  
43 decide whether if it's on a separate sheet somewhere, you know, and not on the  
44 site plan itself, if, if that is a, a material issue for you guys or [you know 28:07].  
45  
46 Michael Klemens: [28:10] Okay. Let's...  
47  
48 Abby Conroy: [28:10] Real quick...  
49

1 Michael Klemens: ...[inaudible 28:11].  
2  
3 Abby Conroy: ...that's section [800 too 28:11], right? That's not intervention?  
4  
5 Chuck Andres: [28:14] This is just in the application materials for...  
6  
7 Abby Conroy: [28:17] [Inaudible 28:17].  
8  
9 Chuck Andres: ...site plans. Yeah. And this is...  
10  
11 Michael Klemens: [28:19] [Okay 28:19].  
12  
13 Chuck Andres: [28:19] It's 800.3...  
14  
15 Michael Klemens: [28:21] Yeah.  
16  
17 Chuck Andres: ...Site Plan Application [with 28:23]...  
18  
19 Michael Klemens: [28:23] O-...  
20  
21 Chuck Andres: ...[inaudible 28:24].  
22  
23 Michael Klemens: ...-kay. We're gonna have to poll the Commission. [28:26] Do you feel that  
24 having the endangered plants on a report that was part of the application  
25 constitutes mapping on the Site Plan Application? And I'll start with Vice Chair  
26 Shyer.  
27  
28 Cathy Shyer: [28:41] I don't think so. [laughter]  
29  
30 Michael Klemens: [28:42] Okay. [28:44] Uh, Secretary Whalen?  
31  
32 Martin Whalen: [28:46] Oh, I don't know. I'll have to think about that. I'm not, I'm not sure. I'm  
33 not sure. [28:50] It's not on the plan, right?  
34  
35 Abby Conroy: [28:51] Um...  
36  
37 Martin Whalen: [28:52] [Couldn't 28:52]...  
38  
39 Abby Conroy: ...I'm...  
40  
41 Martin Whalen: ...[find it 28:52]?  
42  
43 Abby Conroy: ...double checking the plan 'cause there's a lotta sheets and those are very small...  
44  
45 Martin Whalen: [28:56] [Yeah. I know 28:56].  
46  
47 Abby Conroy: ...dots.  
48  
49 Martin Whalen: [28:57] Yeah. [laughter] I know they are. I know they are.

1  
2 Abby Conroy: [29:02] Uh, I know...  
3  
4 Michael Klemens: [29:02] [So 29:02]...  
5  
6 Abby Conroy: ...for sure the plan shows the list – the mitigation relocation area, so I have to  
7 imagine it's on there somewhere but I'll try and find it 'cause they're small dots.  
8  
9 Michael Klemens: [29:13] So I understand if we have a split decision on the burden, we have ta then  
10 look for something that better protects the plants than the applicant? Is that  
11 [inaudible 29:26] we have ta do? What, what is our legal obligation if we found  
12 that the applicant did not meet their burden, um, [inaudible 29:37]...  
13  
14 Chuck Andres: [29:37] If you find...  
15  
16 Michael Klemens: ...[inaudible 29:37]?  
17  
18 Chuck Andres: ...that the applicant has not met their burden of showing unreasonable, uh, harm  
19 to, uh, a, a s-, a species and that's within your jurisdiction – again I've bracketed  
20 that issue – then, um, then you go on to the feasible and prudent alternative or,  
21 you know, uh, uh, is there a way of doing this and I, I, I think there were some  
22 and, and I s-, you, you could also – this comes up also – you could address it by a  
23 condition as well. You could say okay, it's on something [inaudible 30:09] site  
24 plan as a condition of approval shown on the site plan. Um...  
25  
26 Michael Klemens: [30:14] [Inaudible 30:14] that doesn't...  
27  
28 Chuck Andres: ...but, but...  
29  
30 Michael Klemens: [30:15] That doesn't solve the burden issue, does it?  
31  
32 Chuck Andres: [30:20] Well with, with the condition, I m-, I mean typically you, you find – when  
33 you, when you approve an application, you find that it's compliance with the  
34 regulations as with the conditions. Without the conditions, it wouldn't be. So, so  
35 in other words, you find that w-, eh – that, that, uh – I'm, I'm not – it's up to you.  
36 You could say th-...  
37  
38 Michael Klemens: [30:40] [Inaudible 30:40].  
39  
40 Chuck Andres: ...th-, th-, that would be apart from 22a-19. You could say you haven't complied  
41 with this reg; reg says this has a site plan that shows this and, and, and you haven't  
42 complied with the regs, therefore deny. But, um, eh, eh, eh, for, for the burden  
43 issue, for the 22a-19, then, then the trigger is, uh, the, uh, eh, are there feasible  
44 and prudent alternatives. But uh, uh, a-, and I think ya, ya haven't gotten into the  
45 substance as to what the, what the claims or what the protections – there were  
46 certain [scratching] claims made about how they're going to protect the s-, the, uh,  
47 enumerated s-, the bat and the 4 species and...  
48  
49 Michael Klemens: [31:17] [Inaudible 31:17]...

1  
2 Chuck Andres: ...so forth.  
3  
4 Michael Klemens: ...[inaudible 31:17].  
5  
6 Chuck Andres: [31:17] You haven't gotten there yet.  
7  
8 Michael Klemens: [31:19] The bat is, the bat is not in debate here. It's the plants. And one thing that I  
9 saw in Miss Gadwa's testimony – I mean, they have not found any of the 2 plants  
10 that'll grow on the calcareous rock outcroppings. And they said they didn't find  
11 them. She said they didn't look appropriately. She put...  
12  
13 Male: [31:39] Well...  
14  
15 Michael Klemens: ...a lot of detail about having to, you know, clip away the invasive plants, look  
16 below. They didn't provide that level of detail. So I'm sort of, you know, I'm sort  
17 of in a quandary here whether or not their methodology was robust. And certainly,  
18 uh, Miss Gadwa – if you look at the professional qualifications, um, of the 2, Miss  
19 Gadwa has many, many years of doing this. And, uh, I would find her on, on all –  
20 potentially if you're gonna say who is the g-, the better credibility and experience,  
21 I would, I would tend to think Miss Gadwa is that person. [32:26] But...  
22  
23 Allen Cockerline: [32:26] [Inaudible 32:26]...  
24  
25 Michael Klemens: ...what do you...  
26  
27 Allen Cockerline: ...you didn't...  
28  
29 Michael Klemens: ...do with it, Chuck?  
30  
31 Allen Cockerline: You didn't finish polling the whole Commission on whether we thought that  
32 representation was, uh, of, uh, their location on a plan.  
33  
34 Michael Klemens: [32:37] I am sorry about that. You're absolutely correct. We got sidetracked. So  
35 hold that thought...  
36  
37 Male: [32:44] [Inaudible 32:44].  
38  
39 Michael Klemens: ...to the back.  
40  
41 Allen Cockerline: [32:45] Okay.  
42  
43 Michael Klemens: [32:46] Are you happy with the way – that you consider that part of the site plan,  
44 that report?  
45  
46 Allen Cockerline: [32:53] And you're asking me. Yes. I think that they show the site plan overlay on  
47 uh, uh, Google, uh, Google Earth, uh, background and I, I – that is a good  
48 representation for me. It is not an A-2 s-, survey but it is a fair representation.  
49

1 Michael Klemens: [32:11] Thank you. I'm sorry. Thank you for [inaudible 33:14] that I'd stopped  
2 halfway through. [33:17] Uh, Mr. Riva?  
3  
4 Robert Riva: [33:19] Um, I agree with Allen. I remember seeing, um, a documentation there  
5 with it somewhere and, and it coulda been that Google Earth view that I saw it.  
6 And, and that was fine with me. Sure.  
7  
8 Michael Klemens: [33:30] So the question that, that remains is the adequacy of the survey and you  
9 have the SLR [inaudible 33:40] botanist, she...  
10  
11 Male: [33:41] Hm.  
12  
13 Michael Klemens: ...never testified. [Matt 33:43] Sanford testified. Though she was there. And you  
14 have Miss Gadwa basically, uh, basically, um, saying that they didn't look  
15 adequately and properly. And Mr. Sanford's cross just got – went down a rabbit  
16 hole – have you ever been on the property and things like that, which was an  
17 impossibility given it wasn't – that it wasn't accessible. So what – I'm gonna start  
18 with Vice Chair Shyer. [34:17] In the issue of the endangered plants, what is your  
19 sense of the burden of the intervener?  
20  
21 Cathy Shyer: [34:27] Uh, I have to be honest. I'm not sure that I understood quite where this  
22 question, i-, is going because, eh, eh, I would lean on what Attorney Andres said,  
23 is that you could accept the second – the graphic that we saw shows some, e-,  
24 endangered species. It's not on the site plan, but you could say, uh, if I'm – if I've  
25 understood you correctly, Attorney Andres, that we could say well we accept that  
26 because it's on something else.  
27  
28 Michael Klemens: [34:53] No. But...  
29  
30 Cathy Shyer: [34:54] [Inaudible 34:54].  
31  
32 Michael Klemens: ...we're talking about something else, Cathy. We're talk-...  
33  
34 Cathy Shyer: [34:56] Yeah. I know. I understand that and I think this goes back to me missing  
35 the first 5 minutes of the damn meeting. So I think I should just...  
36  
37 Michael Klemens: [35:02] No. No. No. [35:03] Basically do you feel that the conflicting testimony  
38 we heard [of the 35:09] adequacy of the Rare Plant Survey, um, do you feel that  
39 Mr. Ga-, Miss – excuse me – Miss Gadwa made a strong point that they had not  
40 looked adequately for some a those outcroppings that live on the outcrops? There  
41 were 2 species and she said quite clearly that you really have to cut back the  
42 invasives, cut back the barberry and look to see if they're there.  
43  
44 Cathy Shyer: [35:40] Yes. I understand that. I heard that. And, and, um, so – yeah. I'm leaning  
45 towards accepting what she said. Yeah.  
46  
47 Michael Klemens: [35:51] Okay. Let's go to Wha-, uh, Secretary Whalen.  
48

1 Martin Whalen: [35:56] Well [inaudible] [it's 35:56] Mrs. [Caldwell 35:58], was that – that's her  
2 name? Well she's...  
3  
4 Michael Klemens: [35:00] Miss...  
5  
6 Martin Whalen: ...[inaudible 35:00].  
7  
8 Michael Klemens: ...Gadwa. Yeah. Sigrun...  
9  
10 Martin Whalen: [35:01] [Inaudible 35:01].  
11  
12 Michael Klemens: ...Gadwa...  
13  
14 Martin Whalen: [35:02] [Okay 35:02].  
15  
16 Michael Klemens: ...from [Inaudible 36:02].  
17  
18 Male: [35:03] Yeah.  
19  
20 Martin Whalen: [35:04] Well she was assuming that they're there and they just didn't cut, didn't  
21 cut that stuff back to find it. [36:09] How does she know that they're there? I  
22 mean you c-, how do you prove a negative?  
23  
24 Michael Klemens: [36:15] You actually...  
25  
26 Martin Whalen: [36:15] I don't know.  
27  
28 Michael Klemens: ...ask a very...  
29  
30 Martin Whalen: [36:17] I know...  
31  
32 Michael Klemens: ... very [good 36:17]...  
33  
34 Martin Whalen: [36:17] I know – I realize she has, she has, uh, a wealth of experience but she's  
35 assumin' that they were there and they didn't look, look for – [didn't 36:34] look  
36 hard enough for'm. [Inaudible 36:27].  
37  
38 Michael Klemens: [36:27] The biological, the biological reality of any of these surveys is proving  
39 conclusively the presence is relatively easy. Doing enough fieldwork intensively  
40 enough to conclusively or almost conclusively prove an absence is a much more  
41 difficult – and I think that's what Miss Gadwa was driving at – they didn't look...  
42  
43 Martin Whalen: [36:53] Well how...  
44  
45 Michael Klemens: ...[inaudible 36:53].  
46  
47 Martin Whalen: ...does she know that? How does sh-, how does she know? She's just assuming  
48 they didn't look hard enough. That's, that's her assumption.  
49

1 Michael Klemens: [37:00] From the report. Okay. Um, all right. Um, I think – do you have anything  
2 more to say on this, Marty?  
3  
4 Martin Whalen: [37:12] No.  
5  
6 Michael Klemens: [37:12] Thank you. [37:13] Allen?  
7  
8 Allen Cockerline: [37:15] Um, I think in part I rely on your expertise here because you're more  
9 familiar with this. But, um, to me, I just wonder w-, why the intervener didn't ask  
10 to have access to the property. I mean they've seemed to have been fairly  
11 cooperative, the applicant on, eh, [on 37:37] all the other information. I don't  
12 know why they, they wouldn't do that. So it seems a, a bit of a shortcoming to me.  
13 Um, but as I say, I, I will defer to you. You have a wealth of experience in this  
14 area. But, um, I, uh, I, I tend to, I tend to lean in the direction of the applicant on  
15 this one.  
16  
17 Michael Klemens: [38:02] Uh, but you do raise an important point. [They 38:05], um – in all that  
18 back and forth between Mr. Sanford and, uh, Miss Gadwa, there were never, [you  
19 know 38:12], have ya been on the site, never a question as did you ever ask to go  
20 on the site. That was the threshold question, which was [not 38:19]...  
21  
22 Male: [38:19] Yeah.  
23  
24 Michael Klemens: [38:21] You're correct, Allen, [inaudible 38:22].  
25  
26 Allen Cockerline: [38:22] Yeah. [laughter]  
27  
28 Cathy Shyer: [38:23] [Inaudible 38:23]...  
29  
30 Michael Klemens: [38:23] [Inaudible 38:23].  
31  
32 Cathy Shyer: ...raise the point, uh, Chairman Klemens, wasn't there [inaudible 38:26] speak to  
33 this too, that even if they'd gone on the site this late in the season that they  
34 wouldn't have found them?  
35  
36 Male: [38:32] Right.  
37  
38 Michael Klemens: [38:34] There was some a that too. Yes.  
39  
40 Allen Cockerline: [38:35] Well not for the sedges though. The sedges would be there.  
41  
42 Michael Klemens: [38:38] But the important – really the endangered and threatened species, the 2  
43 [inaudible 38:43] species, uh, were the things that come on the, the rock outcrops.  
44 Those were more – the sedges was special concern. The – one a those [rock  
45 38:55] outcrop was state endangered. The other one state threatened. That is far  
46 more gravitas, uh, to the DEEP and probably will come up in the stormwater  
47 permit, if we get to that point, when they get to it.  
48

1 Abby Conroy: [39:11] Dr. Klemens, can I ask – so again since you have a lot of experience in  
2 dealing with interventions of this nature, w-, w-, how do you – how would you  
3 think that in-, the DEEP would respond to that? Would the [in 39:28]...  
4  
5 Male: [39:28] [Inaudible 39:28].  
6  
7 Abby Conroy: [39:28] Would the DEEP say hey, you know, Matt Sanford, I don't think you  
8 looked hard enough?  
9  
10 Michael Klemens: [39:35] I think – [but 39:36] I think Miss Gadwa actually has in testimony she  
11 anticipated that the DEEP is gonna ask for more surveys as part of the stormwater  
12 permit. She said she, she anticipated they would.  
13  
14 Abby Conroy: [39:49] I mighta missed that when my internet went out.  
15  
16 Michael Klemens: [39:51] Yeah. She did. She had, um...  
17  
18 Abby Conroy: [39:55] I guess the question though is [of th- 39:05], does that demonstrate  
19 unreasonable likely harm?  
20  
21 Michael Klemens: [40:01] Well let's, let's, uh, let's hear from Bob and then let's go back to our  
22 attorney and ask what an unreasonable like-, likelihood [inaudible 40:10].  
23  
24 Robert Riva: [40:10] Uh...  
25  
26 Michael Klemens: [40:11] Bob?  
27  
28 Robert Riva: [40:12] Um, I, I, I agree with Allen. [laughter] Um, it's a hard area for us. We're  
29 not well versed in it as you are but I wish – and it was a couple other cases that I  
30 wish they would've asked permission to be on site. And I think, uh, uh, in this  
31 case, I've – I wish they would've asked some more details to get some other  
32 information for us based on this. But I agree with Marty and Allen, I think, on  
33 this.  
34  
35 Michael Klemens: [40:40] So I think, uh – [inaudible 40:41] thank you, Mr. Riva. [40:43] Uh,  
36 Attorney Andres, so, uh, the Land Use Director asked the question what constitute  
37 unreasonable harm.  
38  
39 Chuck Andres: [40:56] Well I, I, I think first of all the, the intervener has their burden of proof  
40 too. In other words, th-, th-, they have the burden of proving the allegations in  
41 their petition. So th-, they're burden, I, uh – as I understand the characterization is,  
42 is the claim that the applicant's expert didn't do a thorough enough search. So it,  
43 uh, uh – I, I – and I think that, that's what the claim was. And I think the applicant  
44 disagreed but, you know, that, that's for you guys to credit or, [you know 41:32],  
45 believe or credit. So, so your, your question is have they met their burden of  
46 proof, you know, b-, by saying [inaudible 41:41] I think that f-, for that, for un-, I,  
47 I, I – f-, for showing that this is reasonably likely to have an, uh, a ch-, uh,  
48 evolution effect. Uh...  
49

1 Michael Klemens: [41:56] [Right 41:56].  
2  
3 Chuck Andres: ...[inaudible 41:56] the language. It's such a complicated, uh...  
4  
5 Michael Klemens: [42:00] Yeah.  
6  
7 Chuck Andres: [42:01] Uh, the 22a-19 text is, um...  
8  
9 Michael Klemens: [42:06] Right.  
10  
11 Chuck Andres: ...ridiculous. Uh, [laughter] [inaudible 42:09] got it in front a me.  
12  
13 Michael Klemens: [42:10] Yeah.  
14  
15 Chuck Andres: [42:11] So I'll repeat it again though, is it, uh, is it conduct – have they sh-, h-,  
16 have they met the burden [and 42:22] shown the conduct which has or is  
17 reasonably likely to have the effect of unreasonably polluting, impairing or  
18 destroying the public trust in air, water or natural resources. And again they're  
19 talkin' about a natural resource, the particular species. And again the – and, and  
20 what's – what does your regulations – is that within your regulations that, that you  
21 address. So that's a – that, that's h-, have they met their burden, uh, of  
22 demonstrating that, that this, this is – this project is reasonably likely to have the  
23 effect of unreasonably – and again that's unreasonable – that's the adjective that's  
24 used there – uh, impairing, uh, a public trust in natural resources of the state.  
25  
26 Michael Klemens: [43:11] Uh, [inaudible 43:12]...  
27  
28 Chuck Andres: [43:11] There's a lotta...  
29  
30 Michael Klemens: ...[inaudible 43:12]...  
31  
32 Chuck Andres: ...language...  
33  
34 Michael Klemens: ...[inaudible 43:12].  
35  
36 Chuck Andres: ...within this. Unreasonably is, is part of this in there too...  
37  
38 Michael Klemens: [43:15] Yeah.  
39  
40 Chuck Andres: ...so.  
41  
42 Michael Klemens: [43:17] So I guess I'm gonna ask the commissioners. We don't have to all agree  
43 on everything. [43:21] Uh, Vice Chair Shyer?  
44  
45 Cathy Shyer: [43:25] I think the applicant did not show their burden here. [43:29] That right  
46 language?  
47  
48 Michael Klemens: [43:31] The intervener.  
49

1 Chuck Andres: [43:33] The...  
2  
3 Female: [43:33] [Inaudible 43:33].  
4  
5 Chuck Andres: ...intervener has...  
6  
7 Female: [43:33] [Inaudible 43:33].  
8  
9 Chuck Andres: ...has s-...  
10  
11 Michael Klemens: [43:34] [But 43:34]...  
12  
13 Chuck Andres: ...has...  
14  
15 Michael Klemens: ...we're not...  
16  
17 Chuck Andres: ...has met...  
18  
19 Michael Klemens: ...talkin' about the applicant. We're talkin' about...  
20  
21 Cathy Shyer: [43:36] Yeah. The...  
22  
23 Michael Klemens: ...the intervener...  
24  
25 Cathy Shyer: ...intervener...  
26  
27 Michael Klemens: ...[inaudible 43:37].  
28  
29 Cathy Shyer: ...has shown their burden. Yes.  
30  
31 Chuck Andres: [43:40] Uh, like – a reasonable likelihood of unreasonable pollution [inaudible  
32 43:43]...  
33  
34 Cathy Shyer: [43:43] Yes.  
35  
36 Chuck Andres: ...[inaudible 44:44].  
37  
38 Michael Klemens: [44:44] [Inaudible 44:44]...  
39  
40 Chuck Andres: [44:46] Okay.  
41  
42 Michael Klemens: ...[inaudible 43:45]. Thanks. [I'll 43:46] go to the Secretary Whalen.  
43  
44 Martin Whalen: [43:50] I think the applicant has, has, has shown reasonable...  
45  
46 Michael Klemens: [43:55] Okay.  
47  
48 Martin Whalen: ...[c- care 43:56].  
49

1 Michael Klemens: [43:58] Uh, Mr. Cockerline?  
2  
3 Allen Cockerline: [44:00] Uh, I don't think the intervener, uh, meets the standard.  
4  
5 Michael Klemens: [44:05] Mr. Riva?  
6  
7 Robert Riva: [44:07] Um, I agree. I – no, I do not think the intervener met the standard. Was  
8 that – yeah.  
9  
10 Michael Klemens: [44:16] And I, uh, [and 44:17] I, I believe I'm with Vice Chair Shyer on this one.  
11 So I think the fact we have 3 members who feel they didn't meet and 2 that did, I  
12 think – basically I think the conclusion of this discussion is that the intervener did  
13 not meet their burden on either of the counts. So [when 44:41] we go to – [44:42]  
14 do we take a vote on that now, Chuck, or do we do it as part a the resolution?  
15  
16 Chuck Andres: [44:48] Yeah. I, I wouldn't take a vote on that now. I, I think it's – we'll address  
17 that in the resolution, one single...  
18  
19 Michael Klemens: [44:53] Okay.  
20  
21 Chuck Andres: ...resolution that'll include this.  
22  
23 Michael Klemens: [44:55] That's what we did in the past, so, uh – okay. So we're gonna move on –  
24 that only took us, uh, 45 minutes – um, to Section 200. Abby's gonna quickly  
25 walk us through Section 200. [throat clearing] [pause] And that's the – it's the one  
26 200 [inaudible 45:27]. [pause] I think it's the part of 200 that deals with hotels.  
27  
28 Abby Conroy: [45:42] I'm working on it.  
29  
30 Male: [45:44] Six-...  
31  
32 Michael Klemens: [45:44] Okay.  
33  
34 Male: ...-teen.  
35  
36 Michael Klemens: [45:45] Sorry.  
37  
38 Abby Conroy: [45:45] As we know – this is a perfect example of where the regulations kinda fall  
39 down – um, Section 209 refers to additional requirements for uses in residential  
40 zones and then we – this Section 213.5 falls under that. So you would think it  
41 would actually be a 209 structurally. [laughter] We'll be fixing that.  
42  
43 Michael Klemens: [46:05] [Inaudible 46:05].  
44  
45 Abby Conroy: [46:07] Uh, so, um, 213.5 is on page 27 – hotels and residential zones. So hotels  
46 are permitted in the RR1 Zone, which both properties are in the RR1 Zone.  
47 Subject to a special permit in accordance with Section 8. Uh, the following  
48 additional standards are specific [o-, of 46:31] requirements apply: Minimum lot  
49 size shall be 10 acres, so, uh, we know that the Granbery parcel is less than 10 but

1 that the Wake Robin parcel is more than 10. Combined they're more than 10.  
2 Therefore, in order to...  
3  
4 Male: [46:47] Mm-hm.  
5  
6 Abby Conroy: ...technically comply, merger would have to be a condition. And we've done that  
7 before on...  
8  
9 Male: [46:52] Mm-hm.  
10  
11 Abby Conroy: ...on...  
12  
13 Male: [46:52] [inaudible 46:52].  
14  
15 Abby Conroy: ...applications.  
16  
17 Michael Klemens: [46:54] But, but...  
18  
19 Male: [46:55] [Inaudible 46:55].  
20  
21 Michael Klemens: ...but to be...  
22  
23 Female: [46:56] [Inaudible 46:55].  
24  
25 Michael Klemens: ...clear here, the Wake Robin Inn without the Granbery parcel had significant  
26 acreage by itself.  
27  
28 Male: [47:05] [Inaudible 47:05].  
29  
30 Abby Conroy: [47:05] Correct. Correct. So by itself it, it complies.  
31  
32 Michael Klemens: [47:07] Yeah.  
33  
34 Abby Conroy: [47:08] Um, and then frontage and access, obviously there's access off of Sharon  
35 Road, which is a state road. Um, if we go over to the survey, they have to have  
36 more than 150 feet of frontage, um, and then water and sewer service, which we  
37 know water, the property's served by – both properties are served by both water  
38 and sewer. Um, so in that – from that standpoint, um, the criteria that Michael will  
39 be continuing the conversation on would be Article 8.  
40  
41 Michael Klemens: [47:39] [Inaudible 47:39]. Yeah. Okay. [47:41] So does anyone have any  
42 questions to counsel or Land Use Director about what we just heard. [It appears  
43 47:50] – when I read it, it complies.  
44  
45 Cathy Shyer: [47:54] I have no questions...  
46  
47 Robert Riva: [47:55] Agr-...  
48  
49 Cathy Shyer: ...[Shyer 47:55].

1  
2 Robert Riva: ...-eed.  
3  
4 Michael Klemens: [47:56] Yeah.  
5  
6 Robert Riva: [47:58] Agreed.  
7  
8 Michael Klemens: [48:00] So now we're gonna go to section 800 and we heard a lot of testimony,  
9 um, and we had the interveners – we – and the public repeatedly reminding us  
10 about Section 800. And I gave you – t-, told you to come prepared with a list of  
11 your thoughts on these topics, not to circulate them. And I gave you some  
12 suggested topics but that I was very clear some but not all the topics to be  
13 discussed include noise, traffic, parking, engineering design, stormwater, tree  
14 cover, species protection, lighting, property values and I think the compatibility  
15 with surrounding neighborhoods, which I think is a very, very important one, uh,  
16 that has come up. So I don't know how you wanna proceed. [49:01] Do any of  
17 you have anything else on your list that I didn't mention?  
18  
19 Allen Cockerline: [49:10] Why don't we just go through it numerically? I, I've got a lotta notes and  
20 they're all over the place. But if we do – start with 801, I think my first note is on  
21 [801-2 49:31].  
22  
23 Michael Klemens: [49:23] Well let's go look at 801-2, please.  
24  
25 Allen Cockerline: [49:27] Relationship of the building to the environment.  
26  
27 Michael Klemens: [49:31] Yeah.  
28  
29 Allen Cockerline: [49:32] And, um, that's kind of sub-, subjective, um, but, um, the other one in  
30 relation to that was [801-10 49:45]. [49:57] Is this building subject to the historic  
31 district?  
32  
33 Robert Riva: [49:52] Yeah. That's what I was wondering.  
34  
35 Allen Cockerline: [49:57] Is it within the historic district or under the jurisdiction?  
36  
37 Michael Klemens: [50:00] No.  
38  
39 Male: [50:01] No.  
40  
41 Michael Klemens: [50:01] I don't believe so. Abby, could you...  
42  
43 Allen Cockerline: [50:02] Okay.  
44  
45 Michael Klemens: ...confirm that?  
46  
47 Allen Cockerline: [50:06] Just wanted to ask.  
48  
49 Abby Conroy: [50:08] Not that's I'm aware of. I'll double-check.

1  
2 Allen Cockerline: [50:11] Okay. [throat clearing] So relationship of the building to the environment.  
3 [50:23] How do we judge that? What are the criteria we use to judge that? I say  
4 it's very subjective because you got a really traditional building that's going to  
5 have – a very contemporary addition is being proposed for the back of it. In my  
6 opinion, to my tastes, I don't object to that. There will certainly be people who do.  
7  
8 Michael Klemens: [50:53] Yes. We had the letter from Lee Potter who waxed quite at length on that.  
9 Well, the way I look at it is basically what I think of is the way they actually did  
10 with the event barn, the way they did the cottages, I thought that they were  
11 respecting the existing terrain more than – certainly the cottages along Wells Hill  
12 were much more compatible with the land than the swimming pool and the spa,  
13 which they moved, and the wall. I kind of [inaudible 51:31] in terms of the land  
14 but I didn't think about what you're saying, Allen, the fact that part of the old and  
15 part of the new addition. And there is a sort of sense sometimes in architecture  
16 when you have a vintage building, you make your addition to look quite  
17 dissimilar from the original so you're not trying to mimic but you're clearly stating  
18 here is the new part of it. And there are many, many examples of that where you  
19 don't try to. But I don't have a feeling on that. Let's see what everybody else  
20 thinks about that. Let's go to Vice Chair Shyer.  
21  
22 Cathy Shyer: [52:18] Shyer here. I don't have a problem with the juxtaposition of a  
23 contemporary building as an addition on the old building or the contemporary  
24 styling of the cottages and the event barn. I think what I struggled with was when  
25 I first walked up there, it's quite a small site. And to put all those build-, even  
26 though it's 11-something acres going to 13, it struck me how close all these  
27 buildings were and how small it actually was. And to get all of that on, in my  
28 mind meant there's going to be a huge change in what happens up there. And it  
29 will be so different to get all those buildings in there let alone the parking and the  
30 paths and the driveways. It's very hard for me to visualize it because it is such a  
31 [dramatic 53:20] change. That's what struck me before we saw most of these  
32 hearings when I went up there [inaudible 53:27].  
33  
34 Michael Klemens: [Inaudible 53:27] go back to the – I think there's a section about – isn't that further  
35 down where we get safety on-site? In 803, yeah. I think a lot of what you're  
36 talking about is in 803. The size, intensity, and design. [Harmony 53:48] of the  
37 scales. I think that's where you're going is 803.2.  
38  
39 Cathy Shyer: [53:56] Okay.  
40  
41 Michael Klemens: [54:00] I think that concern probably is appropriately discussed there.  
42  
43 Cathy Shyer: [54:05] Okay, that's a fair comment.  
44  
45 Michael Klemens: [54:08] But let me continue. Secretary Whalen. Let's go back to – oh, we're there.  
46 Thank you, Abby. [54:15] Do [you have 54:15] anything about the building, the  
47 structure?  
48  
49 Martin Whalen: [54:22] You're talkin' to me, Michael?

1  
2 Michael Klemens: [54:23] You need to go back up, Abby. You need to go back up, please.  
3  
4 Martin Whalen: [Inaudible 54:28] talkin' about architecture? [Inaudible 54:29] talkin' about?  
5  
6 Michael Klemens: [54:32] Well, it's somewhat...  
7  
8 Allen Cockerline: [54:33] Yeah, 801.2.  
9  
10 Michael Klemens: [54:35] 801.2  
11  
12 Allen Cockerline: [54:37] Relationship of buildings to the environment.  
13  
14 Martin Whalen: [54:44] Well, I saw that the – on the architectural plan where the event barn was  
15 like tucked into the existing hill, it looked like it was – one side of it is pretty  
16 much in the side of the terrain. As far as the original Wake Robin Inn, the  
17 building at the addition, I think the addition will be – if I'm right, will be to the  
18 right of the original building and pushed back. I keep thinkin' to myself I drive by  
19 that place I don't know how many times a week. I'm sometimes on Wells Hill  
20 Road, sometimes on Sharon Road, but I can't see it. I can't see any part of the  
21 Wake Robin Inn from those 2 vantage points. The architectural thing part of this  
22 doesn't concern me. I realize it's not the same architectural height as the old  
23 building but – I don't think so 'cause we've never seen any elevations that show  
24 exactly what this thing is gonna look like.  
25  
26 Michael Klemens: [55:55] Well, I think they did have in the record that it complied with the height  
27 standards.  
28  
29 Martin Whalen: [56:01] Right, that they did have. [Inaudible] [they knew] [inaudible 56:02].  
30  
31 Michael Klemens: [Inaudible 56:02] Yeah, [so that 56:04]...  
32  
33 Martin Whalen: [56:05] The first rendition that we saw, the height of the addition was too high  
34 and they realized it and went back to the drawing board on that one. I remember  
35 that distinctly.  
36  
37 Michael Klemens: [Inaudible 56:20].  
38  
39 Martin Whalen: [56:23] The architectural thing is not a big deal to me, no.  
40  
41 Michael Klemens: [56:27] Relation of the buildings to the environment. Okay. I'll go to – well, that  
42 was your question, Mr. Cockerline. I guess you led that. You have already...  
43  
44 Allen Cockerline: [56:36] Yeah.  
45  
46 Michael Klemens: ...spoken on that. You have [inaudible 56:38]...  
47  
48 Allen Cockerline: [56:39] Yeah. The only thing I can add is that really it's not – it's more of a private  
49 environment and it's not a streetscape. If it were presenting as a streetscape...

1  
2 Martin Whalen: [56:50] Be different.  
3  
4 Allen Cockerline: ...I could see where it would be an issue.  
5  
6 Michael Klemens: [56:56] Mr. Riva.  
7  
8 Robert Riva: [57:00] Michael, in regards to 801.2, Marty, years ago, you used to be able to see  
9 that building going up Wells Hill. There was a time where you could see it but  
10 you can't now. That's right, you can't see that main building.  
11  
12 Martin Whalen: [57:13] No.  
13  
14 Robert Riva: [57:13] I can remember years ago though before everything grew up there, you  
15 could see that without a problem. But I think they did a good job, Michael. They  
16 tried to soften it with the cedar siding. The additions, yeah, they're huge. We'll  
17 talk about that after, I guess, as you said. I like the way that they didn't put  
18 foundations on those cabins. That softened it a little. That really – if there was  
19 concrete there, it really would've stood out more. And again, I think they're  
20 putting cedar on everything up there trying to get it to fit into that environment.  
21 Which is a hard thing because the buildings are big. There's no doubt.  
22  
23 Michael Klemens: [57:58] I think Vice Chair Shyer had something she wanted to say?  
24  
25 Cathy Shyer: [58:02] Sorry, just a comment on Marty that I understand – actually if you go  
26 along Sharon Road at this time of the year, you can see the motels quite clearly up  
27 the road. Unless you're driving a lot faster, Marty.  
28  
29 Martin Whalen: [58:16] I wasn't talkin' about that. I was talkin' about the main building. You  
30 can't...  
31  
32 Robert Riva: [58:19] Yeah.  
33  
34 Martin Whalen: ...see the main building [inaudible 58:20].  
35  
36 Cathy Shyer: [58:20] I agree with you. I know that but you can see the motels.  
37  
38 Martin Whalen: [58:25] They're gonna tear the motel down, right?  
39  
40 Cathy Shyer: [58:27] Yeah.  
41  
42 Martin Whalen: [58:27] That's going.  
43  
44 Robert Riva: [58:27] Yes.  
45  
46 Martin Whalen: [58:28] Okay. Sorry, Cathy.  
47  
48 Michael Klemens: [58:33] Are we – do we have anything more on 801.2?  
49

1 Cathy Shyer: [58:40] Yeah, Shyer does. Because I agree we'll go talk about my comment later  
2 but I still think that if you read the heading, relation of buildings to environment,  
3 that is what I was struggling with because the environment is going to be so  
4 fundamentally different. So much is gonna be cleared and changed to put those  
5 buildings on.  
6  
7 Michael Klemens: [59:03] So you don't believe [inaudible 59:04] basically saying that you do not  
8 believe with the size of it that it's gonna be harmonious to the terrain and the  
9 design and siting of the existing buildings. That's the threshold.  
10  
11 Cathy Shyer: [59:18] I am saying that it's very difficult for me to visualize it and it's not my  
12 strength, it's not my area. If we had architects in the room, they'd probably be able  
13 to speak to that more. But for me, it's a struggle.  
14  
15 Michael Klemens: [59:31] Okay. Fair enough. I think there are elements of all of this we're all gonna  
16 be struggling with as we go further along. Are we – everyone happy with 801.2?  
17 801.3. Do they respect the setbacks?  
18  
19 Allen Cockerline: [59:53] Yes.  
20  
21 Michael Klemens: [59:53] I believe they did.  
22  
23 Allen Cockerline: [59:58] Yeah.  
24  
25 Robert Riva: [59:59] Agreed.  
26  
27 Michael Klemens: [1:00:00] And the landscaping. Hold on, please. Don't go so fast. We've had 6  
28 nights of hearings. I'm not gonna rush through this, be accused of being not  
29 deliberative. [1:00:14] And the landscaping is compatible with the nearby  
30 properties [or 1:00:22] acting more screening. Correct? There's nothing that you  
31 would say on the landscaping that is not compatible, not a benefit. Or not  
32 [inaudible 1:00:35].  
33  
34 Allen Cockerline: [1:00:35] No.  
35  
36 Michael Klemens: [1:00:36] Again, the landscaping alone.  
37  
38 Allen Cockerline: [1:00:38] I think they had a very good plan and a very comprehensive plan.  
39  
40 Cathy Shyer: [1:00:46] Shyer. I'll support that comment. And also their intent and flexibility  
41 with the Wells Hill side to try and bring it back more to look like what it does  
42 now.  
43  
44 Michael Klemens: [1:00:56] Okay.  
45  
46 Cathy Shyer: [Overgrown 1:00:57].  
47  
48 Michael Klemens: [1:01:04] 80 – may I move on? Everyone's okay? May I move on?  
49

1 Allen Cockerline: [1:01:07] Yes.  
2  
3 Male: [1:01:08] Mm-hm.  
4  
5 Michael Klemens: [1:01:09] 801.4, please.  
6  
7 Allen Cockerline: [1:01:14] Circulation doesn't refer to traffic in the general area. It's traffic – it's  
8 circulation within the property.  
9  
10 Michael Klemens: [1:01:21] And the access points, yes.  
11  
12 Allen Cockerline: [1:01:23] Yeah, and I think that they've done a good job with that.  
13  
14 Cathy Shyer: [1:01:31] Shyer here. I was concerned at the meeting on Tuesday night that we  
15 really hadn't discussed things about the circulation of emergency vehicles. And  
16 that just hit me hard because we've done that in all our other special permits. And  
17 I guess it's because the complexity of this application has meant that we  
18 [inaudible 1:01:51] looked at that. [1:01:52] I've looked at some of how are these  
19 people gonna park and get to their cottages up there? [1:01:57] They're gonna be  
20 able to back – are they gonna have to back out? I was conscious of that but we  
21 never discussed it. There were so many other issues. And we certainly never  
22 discussed emergency vehicles.  
23  
24 Michael Klemens: [1:02:11] Well, we did. We discussed the emergency entrance from Wells Hill  
25 Road. [Inaudible 1:02:17].  
26  
27 Cathy Shyer: [1:02:16] Yeah, but in terms of circulation around that site, we didn't. On-site. We  
28 did not.  
29  
30 Allen Cockerline: [1:02:25] Yeah, just access.  
31  
32 Cathy Shyer: [1:02:28] Yeah.  
33  
34 Michael Klemens: [1:02:34] So what are we gonna do with that? [1:02:37] I guess the question I  
35 wanna ask our attorney is if this was never brought up by the Commissioners, any  
36 of the Commissioners questioning that specifically, what do we do with that now?  
37 Because no one asked [inaudible 1:02:52] question.  
38  
39 Allen Cockerline: [1:02:54] Just a question on that. Is this...  
40  
41 Michael Klemens: [1:02:57] Sorry, Allen. I'm asking Chuck that question.  
42  
43 Allen Cockerline: [1:02:59] Oh, okay.  
44  
45 Charles Andres: [1:03:02] Well, there has to be some evidence in the record to support whatever  
46 decision you come up with. I know there was a traffic study. I don't know if they  
47 looked at the internal circulation. I don't know if Police and Fire weighed in on  
48 the internal circulation. I didn't attend all the hearings. If that's the issue, I'm not

1 exactly sure what is in the record about the internal circulation safety issues if  
2 that's what you're talking about.  
3  
4 Michael Klemens: [1:03:29] Allen?  
5  
6 Allen Cockerline: [1:03:31] Well, I was gonna say is this something that is more the domain of the  
7 fire marshal and that is a normal – a mandatory condition? But we could also cite  
8 it as a condition if we were to go that route.  
9  
10 Michael Klemens: [1:03:48] We had a letter from the fire marshal in the record stating basically that  
11 he's gonna have to prove adequacy of water and that. So I think it is a fire marshal  
12 call on that. [1:04:02] But did anyone think differently on that? Thank you, Abby.  
13  
14 Robert Riva: [1:04:09] No, I agree that the fire marshal is involved in some a this, Michael, but  
15 as I looked at the plans, I looked at some a that and I felt comfortable with the  
16 way they had the layout and the circulation. Someone did ask though at our last  
17 meeting – and it may have been Danella – about the deck and the flow and what's  
18 gonna be used for. Concerns and ramps. We did kinda broach that a little, I feel.  
19  
20 Cathy Shyer: [1:04:40] Shyer here. Bob, I asked that question about [inaudible 1:04:43]...  
21  
22 Robert Riva: [1:04:43] Okay.  
23  
24 Cathy Shyer: ...was the [inaudible 1:04:45]...  
25  
26 Robert Riva: [1:04:45] Yeah.  
27  
28 Cathy Shyer: ...and what were they gonna use it for. We never really...  
29  
30 Robert Riva: [1:04:47] Yeah.  
31  
32 Cathy Shyer: ...answered that. They did answer my question by showing us the site plan of  
33 where the ADA access was gonna be on the newly...  
34  
35 Robert Riva: [1:04:56] Mm-hm.  
36  
37 Cathy Shyer: ...redesigned party barn. But we weren't talking about – in my recollection, we  
38 weren't talking about the circulation [clicking] of emergency vehicles through  
39 [inaudible 1:05:06]. That's all.  
40  
41 Michael Klemens: [1:05:08] Well, the thing is do you think that emergency vehicles can get around  
42 the site? Doesn't seem to be anything really that would impede them. You've got a  
43 huge oversized road going to the cell tower. You have [inaudible 1:05:24] –  
44 there's nothing here...  
45  
46 Male: [1:05:24] Right.  
47  
48 Michael Klemens: ...that would lead me to think you couldn't get ambulances and fire equipment  
49 through that network.

1  
2 Cathy Shyer: [1:05:32] Well, if we could just look – Chairman Klemens, if you look up at the  
3 Wells Hill – what are we calling – cottages, there are, what, 5 of them, 6 of them?  
4 [Inaudible 1:05:45] 3, 4...  
5  
6 Robert Riva: [1:05:46] Eight of'm.  
7  
8 Cathy Shyer: [1:05:47] I was looking at those myself. We didn't get into a discussion about this  
9 in a hearing to my recollection. [1:05:54] Well, okay, so people are gonna park  
10 where those parks are and then they're gonna walk to these cabins? [1:06:00] Or  
11 are they gonna drive up to their cabins and then are they gonna back out? I had  
12 looked at that myself. I never raised it as an issue. I don't recall any discussion. I  
13 have no idea whether that will work if somebody has an emergency in Cottage #2.  
14 We don't have the specifications on those. That's something we can ask for, I  
15 assume, and condition it on. I'm just saying we didn't discuss the circulation of  
16 emergency vehicles around places [like there on the site 1:06:29].  
17  
18 Michael Klemens: [1:06:31] What you're saying is a condition of approval, if we go there, we could  
19 mandate that they have larger – more regular road there.  
20  
21 Abby Conroy: [1:06:42] Or just let the fire marshal approve?  
22  
23 Michael Klemens: [1:06:45] Hm?  
24  
25 Abby Conroy: [Inaudible 1:06:45] the fire marshal and fire chief?  
26  
27 Michael Klemens: [1:06:49] Yes, I think it would involve them but I think...  
28  
29 Abby Conroy: [1:06:51] Yeah.  
30  
31 Michael Klemens: ...that that could be a condition that we're gonna have to make sure that the  
32 cottages – and likewise, you see in front of the spa, it's also – there's not really a  
33 road there. [1:07:03] Is there? It's a trail.  
34  
35 Allen Cockerline: [1:07:05] Where's...  
36  
37 Michael Klemens: [Inaudible 1:07:06].  
38  
39 Allen Cockerline: [1:07:08] Where's the scale on this 'cause I don't think that's – can be any more  
40 than 200 feet of walkway. And it seems...  
41  
42 Michael Klemens: [Inaudible 1:07:14].  
43  
44 Allen Cockerline: ...clear to me that the parking is near the roadway and they walk to the cabins.  
45  
46 Martin Whalen: [1:07:27] I agree. Build a sidewalk.  
47  
48 Allen Cockerline: [1:07:30] Yeah.  
49

1 Michael Klemens: [Inaudible 1:07:32]. Yeah. [1:07:34] But that raises the question if they're just  
2 sidewalks, are there sidewalks that actually – you can be big enough to run a fire  
3 truck or an ambulance on?  
4  
5 Abby Conroy: [1:07:44] I don't know the answer to that but this area looks like a turnaround area  
6 to me at the end of both of these.  
7  
8 Michael Klemens: [1:07:54] Yeah.  
9  
10 Abby Conroy: [1:07:55] Again, I don't know the answer to that but if it weren't – if it were just  
11 intended to be walkway here, wouldn't it just be the same width all the way?  
12  
13 Allen Cockerline: [1:08:05] Fire marshal question.  
14  
15 Abby Conroy: [1:08:07] Yeah.  
16  
17 Michael Klemens: [1:08:08] Yeah, but that would have to be a condition that they'd have to be – it  
18 could be significantly changed for public health and safety. You've identified a  
19 very good point. The other cottages. [1:08:21] That's a walkway to the other  
20 cottages too?  
21  
22 Abby Conroy: [1:08:24] These ones here?  
23  
24 Michael Klemens: [1:08:25] Yeah.  
25  
26 Abby Conroy: [1:08:26] Yeah.  
27  
28 Cathy Shyer: [1:08:27] Where's the parking for those ones?  
29  
30 Michael Klemens: [1:08:29] Yeah, right there.  
31  
32 Abby Conroy: [1:08:29] Right here.  
33  
34 Martin Whalen: [Inaudible 1:08:30].  
35  
36 Cathy Shyer: [1:08:32] I'm pleased I'm not staying there.  
37  
38 Michael Klemens: [1:08:34] Well, I guess the question is [laughter] are these...  
39  
40 Female: [Inaudible 1:08:37].  
41  
42 Michael Klemens: ...can something move over that...  
43  
44 Female: [Inaudible] [walk 1:08:38].  
45  
46 Michael Klemens: [1:08:40] Oh, I think it has to be wide enough to basically have a vehicle go over.  
47  
48 Martin Whalen: [Inaudible 1:08:45].  
49

1 Allen Cockerline: [1:08:45] Well, why not just a gurney?  
2  
3 Abby Conroy: [1:08:50] Yeah, I hesitate to go down this path because none of us have the  
4 expertise to go down this path [laughter] [inaudible 1:08:58].  
5  
6 Michael Klemens: [1:08:58] Oh, we have the [expertise] [inaudible 1:08:59] questions.  
7  
8 Allen Cockerline: [Correct 1:08:59].  
9  
10 Abby Conroy: [1:09:01] Yeah. I just don't think it's – okay, you flagged it. [1:09:06] How do you  
11 address the concern? We don't speculate about tryin' to figure out what the  
12 solution is because none of us are qualified to develop a solution if it hasn't  
13 already been provided on the plan 'cause nobody asked about it.  
14  
15 Michael Klemens: [1:09:17] Well, we can also...  
16  
17 Male: [Inaudible 1:09:17].  
18  
19 Abby Conroy: [1:09:18] Yeah.  
20  
21 Michael Klemens: ...we can also approve it without...  
22  
23 Abby Conroy: [1:09:20] Yeah.  
24  
25 Michael Klemens: ...the cottages.  
26  
27 Abby Conroy: [1:09:22] Right.  
28  
29 Michael Klemens: [1:09:22] That would solve that.  
30  
31 Martin Whalen: [1:09:25] The solution is that most fire trucks carry hundreds of feet of hose.  
32  
33 Abby Conroy: [1:09:30] Hm.  
34  
35 Martin Whalen: [1:09:30] You don't have to drive right up to the fire. That's the solution to that.  
36  
37 Abby Conroy: [1:09:34] Right, and that's where the fire marshal mentioned that they may need  
38 to put additional dry hydrant or something.  
39  
40 Robert Riva: [1:09:40] Mm-hm.  
41  
42 Abby Conroy: [1:09:41] You don't know if buildings are gonna be sprinklered or not. Those are  
43 all...  
44  
45 Martin Whalen: [1:09:45] Yeah. In that case, Abby, those are small cottages...  
46  
47 Abby Conroy: [1:09:49] Mm-hm.  
48

1 Martin Whalen: ...[inaudible 1:09:49] vehicle. You have enough water to – if anything went wrong  
2 in one a those cottages, you would have enough water on board to take of it. It's  
3 not [inaudible 1:09:57].  
4  
5 Abby Conroy: [1:09:57] Mm-hm. Yeah.  
6  
7 Martin Whalen: [1:09:59] If you were talkin' about the main building, you're in big trouble. But  
8 those...  
9  
10 Abby Conroy: [1:10:01] Mm-hm.  
11  
12 Martin Whalen: ...small ones, no.  
13  
14 Abby Conroy: [1:10:04] Yeah.  
15  
16 Michael Klemens: [1:10:04] Marty does have some knowledge of this. [laughter] [1:10:08] The  
17 question is you think that as far as if there was someone sick, had a heart attack in  
18 the cottage, they could get the gurney, they could get help to them fast enough?  
19  
20 Martin Whalen: [1:10:19] Oh, yes. Absolutely.  
21  
22 Robert Riva: [1:10:21] Yeah.  
23  
24 Martin Whalen: [1:10:21] Yep.  
25  
26 Michael Klemens: [1:10:22] All right.  
27  
28 Martin Whalen: [1:10:23] Long as those sidewalks are paved. They are side-, I'm assumin' they're  
29 paved with something. Yeah, it's...  
30  
31 Michael Klemens: [1:10:30] Yeah, they're gonna be paved. [Inaudible 1:10:31] whole discussion  
32 about getting rid of the permeable pavers.  
33  
34 Martin Whalen: [1:10:35] Okay.  
35  
36 Michael Klemens: [Inaudible 1:10:35] proper paving. Yes. Okay, let's go back to where we were.  
37  
38 Abby Conroy: [Inaudible 1:10:47].  
39  
40 Michael Klemens: [1:10:47] That's the big thing on 801.4 is we really have to put language if –  
41 again, we approve it, it'll have to be language very clearly tying that to the fire  
42 marshal and there may need to be modifications. 801.5, please.  
43  
44 Allen Cockerline: [1:11:12] In my written correspondence to questions – I'm sorry, I'm just jumping  
45 in here, but – that was one a the questions I had was the stormwater improved or  
46 was it not as – was it less than? And of course they said it was improved and that  
47 was not challenged by the Intervenor's engineer. So I guess we have to – I accept  
48 that.  
49

1 Michael Klemens: [Inaudible 1:11:45]...  
2  
3 Allen Cockerline: [1:11:45] It seems...  
4  
5 Michael Klemens: ...Mr. [Grimaldi 1:11:47] woulda also flagged that if that was a problem?  
6  
7 Allen Cockerline: [1:11:51] Yeah, he woulda flagged it but I guess the thing that – what they were  
8 claiming was that it was an improvement. And I had mentioned the idea of trying  
9 to increase infiltration prior to the DOT catch basin. And they said they were  
10 doing improvements but they didn't really cite it specifically what they were  
11 doing. But it wasn't challenged.  
12  
13 Michael Klemens: [1:12:18] And I'm always very leery when any applicant says they're gonna  
14 improve things like that.  
15  
16 Allen Cockerline: [1:12:25] Right.  
17  
18 Michael Klemens: [1:12:26] It doesn't – it's – but again, those things can be dealt with, I guess,  
19 through conditions? The whole DOT thing is gonna have to be subject to state  
20 review, a lot of review.  
21  
22 Abby Conroy: [1:12:40] Right.  
23  
24 Allen Cockerline: [1:12:40] Exactly.  
25  
26 Abby Conroy: [1:12:41] Right. And they can't apply to the state until they've made it through the  
27 Commission.  
28  
29 Cathy Shyer: [1:12:50] Oh, th-, yeah, okay.  
30  
31 Abby Conroy: [1:12:52] That's what happened up at Hotchkiss for their building permits.  
32 Essentially they need to see local zoning authority saying yes, this complies, and  
33 then DOT invests the time in the detail – finalizing the details of what's  
34 acceptable on their territory.  
35  
36 Michael Klemens: [1:13:08] What was the thing that Hotchkiss had to get from the state?  
37  
38 Male: [1:13:13] Oh.  
39  
40 Michael Klemens: [1:13:14] Oh, yeah. Exactly. [Inaudible 1:13:15]...  
41  
42 Abby Conroy: [1:13:16] We talked about it so much and I can't – I blocked...  
43  
44 Michael Klemens: [1:13:18] Yeah.  
45  
46 Abby Conroy: ...that out. I don't ever want to have to talk about it again.  
47  
48 Michael Klemens: [Inaudible 1:13:21] but that'll be basic. They're gonna have to do – subject to any  
49 permits by others, right?

1  
2 Abby Conroy: [1:13:29] Right.  
3  
4 Michael Klemens: [1:13:29] Because the state did have a weird requirement about...  
5  
6 Abby Conroy: [1:13:34] Mm-hm.  
7  
8 Michael Klemens: ...I think the amount of vehicles being discharged [inaudible 1:13:38] state road.  
9  
10 Abby Conroy: [1:13:38] It's a combination of number of parking spaces and/or square footage of  
11 building space. I think it's 100,000 ft<sup>2</sup> of building.  
12  
13 Michael Klemens: [1:13:48] Right. And that applies obviously to a state road, not to...  
14  
15 Abby Conroy: [1:13:52] Right.  
16  
17 Michael Klemens: ...Wells Hill Road. Okay.  
18  
19 Abby Conroy: [1:13:54] Correct.  
20  
21 Michael Klemens: [1:13:56] Anything more on stormwater?  
22  
23 Allen Cockerline: [1:14:00] Their plans were extensive so I think stormwater was dealt with in great  
24 detail.  
25  
26 Michael Klemens: [1:14:07] Yeah.  
27  
28 Robert Riva: [1:14:08] Yeah, I agree. I was excited to see and I was hoping and I still hope if it  
29 was approved that it would improve the water flow for those folks down there in  
30 Sharon Road that had issues. I would really like to see it solve that problem for  
31 them.  
32  
33 Michael Klemens: [1:14:30] I don't mean to be – I can go around the room and ask all of you again.  
34 [1:14:34] Are we ready to move to 801.6?  
35  
36 Allen Cockerline: [1:14:37] Yes.  
37  
38 Robert Riva: [1:14:37] Mm-hm.  
39  
40 Michael Klemens: [1:14:37] All right.  
41  
42 Cathy Shyer: [1:14:39] Yes.  
43  
44 Michael Klemens: [1:14:45] Think that sort of a subset of the stormwater...  
45  
46 Allen Cockerline: [1:14:50] Right.  
47  
48 Michael Klemens: [1:14:52] Get to the detention basins. I don't see...  
49

1 Allen Cockerline: [Inaudible 1:14:55].  
2  
3 Michael Klemens: ...an issue there. [1:14:56] Does anyone see an issue in 801.6?  
4  
5 Allen Cockerline: [1:15:00] No.  
6  
7 Michael Klemens: [1:15:01] No. Allen. Cathy?  
8  
9 Cathy Shyer: [1:15:04] No.  
10  
11 Michael Klemens: [1:15:05] Marty?  
12  
13 Martin Whalen: [1:15:07] No.  
14  
15 Michael Klemens: [1:15:08] Okay.  
16  
17 Allen Cockerline: [1:15:16] Gee, it's kinda shocking we never talked about utilities.  
18  
19 Michael Klemens: [1:15:22] Well, it's all [underground 1:15:23].  
20  
21 Allen Cockerline: [Inaudible 1:15:23]. Let's move on. It's all underground I'm sure.  
22  
23 Michael Klemens: [1:15:27] Yeah. Again, we had a big discussion about screening the parking area  
24 and we even talked about getting a fence as well as the vegetation to the north  
25 parking lot.  
26  
27 Allen Cockerline: [1:15:47] Yeah.  
28  
29 Abby Conroy: [1:15:47] Sorry, so 80 – we moved on from 801.7?  
30  
31 Michael Klemens: [1:15:51] Yes, [inaudible 1:15:52].  
32  
33 Allen Cockerline: [1:15:52] Yeah.  
34  
35 Abby Conroy: [1:15:52] Okay. Sorry. Okay. I'm tryin' to quick make notes here...  
36  
37 Michael Klemens: [1:15:55] Sorry, Abby.  
38  
39 Abby Conroy: ...for my homework assignment.  
40  
41 Michael Klemens: [1:16:00] Yeah. Sorry. I think that I don't see any issues with this, the sheds. They  
42 were very concerned about screening from Wells Hill Road with vegetation for  
43 the north parking lot. [1:16:18] Is there anything that you're not – that you're  
44 unhappy with?  
45  
46 Allen Cockerline: [1:16:22] Well, I think that this ties in with the overall sound plan that I don't  
47 know if it really exists.  
48  
49 Michael Klemens: [1:16:31] We're not there [inaudible 1:16:33].

1  
2 Allen Cockerline: [1:16:33] Yeah, I know, but what I'm getting at is what their siting there is  
3 machinery. And that's HVAC and generators. You've even got the generator for  
4 the cell tower. There's a lotta mechanical noise that's going to be occurring.  
5  
6 Michael Klemens: [1:16:50] Correct.  
7  
8 Allen Cockerline: [1:16:52] And that, it's gonna have to come under the whole business of sound  
9 mitigation.  
10  
11 Michael Klemens: [1:17:01] Correct.  
12  
13 Allen Cockerline: [1:17:02] If it gets to that point.  
14  
15 Michael Klemens: [1:17:04] Right, because there were the 3 types of sound that Bennett Brooks  
16 talked about.  
17  
18 Allen Cockerline: [1:17:09] Right.  
19  
20 Michael Klemens: [Inaudible 1:17:09] potentially [inaudible 1:17:11] address are stuff that's coming  
21 from buildings, facilities. And the ones that are most difficult are those labeled  
22 human behavior.  
23  
24 Allen Cockerline: [1:17:22] Yep.  
25  
26 Michael Klemens: [1:17:23] Yeah. But there is definitely gonna be – we're gonna have to look –  
27 they're gonna have to look at that too. Safety. [1:17:34] Unless someone wants to  
28 – may I move on?  
29  
30 Robert Riva: [1:17:39] You may.  
31  
32 Allen Cockerline: [1:17:40] Mm-hm.  
33  
34 Michael Klemens: [1:17:40] Thank you. 801.9. Again, this is fire marshal and I think we had a big  
35 discussion in the event barn about breakaway doors and that. [Inaudible 1:17:59]  
36 gonna be determined by the fire marshal?  
37  
38 Allen Cockerline: [1:18:03] Again, yes.  
39  
40 Michael Klemens: [Inaudible 1:18:04].  
41  
42 Allen Cockerline: [1:18:06] Yes.  
43  
44 Michael Klemens: [1:18:09] Okay. [1:18:12] Abby, did you confirm that we did not...  
45  
46 Abby Conroy: [1:18:14] Correct, it's not in the local historic district.  
47  
48 Allen Cockerline: [1:18:18] Okay.  
49

1 Michael Klemens: [1:18:19] And is there anything locally significant, natural resources, there? Give  
2 you my perspective, if I may. Those kind of rock outcroppings [are there 1:18:36]  
3 go all the way down that ridgeline. There are seasonal use bald eagle nests up  
4 there. I just don't see anything locally significant from a natural resource  
5 perspective. And a lot of that was covered in the Docket 501 from the Siting  
6 Council. That's my take on it but I'm happy to have anybody else put their two  
7 cents in.  
8  
9 Cathy Shyer: [1:19:09] Well, I think there was a lotta work done about the water runoff in terms  
10 of the local significance of the lake. Yeah, I was wonderin' about the eagles  
11 actually, Michael. [1:19:23] How come they didn't come up in this discussion?  
12 The eagle nest is really very close to this. I was thinking about that today. How  
13 come it never came up? Anyway, it didn't.  
14  
15 Michael Klemens: [1:19:35] Think the eagles might've been delisted, for one thing.  
16  
17 Cathy Shyer: [1:19:39] Hm.  
18  
19 Michael Klemens: [1:19:39] But I also think if the DEEP didn't flag it for the siting for the cell tower  
20 which is right near where the nest is, I can't see us going down that rabbit hole.  
21 Though I do think it's interesting that you bring up impacts to Lakeville Lake.  
22 That is a locally significant natural resource. It is the deepest natural lake in  
23 Connecticut. It's also a resource with the smallest watershed of any of our 4 lakes  
24 in town. Tiny watershed. I think it's about 1,600 acres, I think, if I'm not mistaken.  
25 Maybe I'm wrong. Don't quote me on that.  
26  
27 Cathy Shyer: [1:20:29] It is small. I have to say this. It's terrible. I reported an eagle's nest to  
28 DEEP a long time ago but I never gave them the number on Sharon Road. There  
29 ya go. Somebody else may have subsequently reported it but when I called  
30 Audubon to tell them about it, they didn't know and they asked me to call DEEP,  
31 which I did. But I never specified the address of the actual nest. Anyway.  
32  
33 Michael Klemens: [1:21:02] Just for future reference, you should download the special animal report  
34 form, fill it out, and submit it to the Natural Diversity Database. That way it gets  
35 in the NDDDB database and that generates a hit when a development project comes  
36 up.  
37  
38 Cathy Shyer: [1:21:20] Yeah, I will mention that to the owner of the property where the nest is.  
39 It's not my place.  
40  
41 Michael Klemens: [1:21:24] Yeah.  
42  
43 Cathy Shyer: [1:21:24] Okay. Thank you.  
44  
45 Michael Klemens: [1:21:26] Sure. This is where I think it gets much more complicated for me.  
46 [Inaudible 1:21:42] talkin' about detrimental to properties in the neighborhood  
47 within the zone, the RR-1 zone. I think this is – we're beginning to get into the  
48 area where we had significant public comment both from the Intervenor, from the  
49 Crugers, but also very much from the general public. We have to assess the layout

1 of the buildings, structures, and uses in relationship to the topographical and other  
2 natural features of the land. Think in a way we did that already talking about  
3 [design] [inaudible 1:22:20]. But here we have impact of the uses upon the  
4 environment, health, safety, welfare, and convenience of the members of the  
5 community. And that is particularly relevant to the abutters on Wells Hill Road  
6 and on Sharon Road.  
7

8 Abby Conroy: [1:22:40] Can I just ask a sidebar? [1:22:43] As we look at regulation revisions,  
9 does this seem to you that it should be – that A should end at natural features of  
10 the land and then B should become assess the impact of uses?  
11

12 Michael Klemens: [1:22:59] Yeah. In a way, there's a lot of repetitive talk here because B then talks  
13 about it again.  
14

15 Abby Conroy: [1:23:07] Right. Sorry. I know. I'm just...  
16

17 Michael Klemens: [1:23:10] No, I see this [has all 1:23:11] the problems. [Inaudible 1:23:13].  
18

19 Abby Conroy: [1:23:12] Because it's as you're trying to do this, you're [struggling 1:23:16].  
20

21 Michael Klemens: [1:23:16] And as we have 73 people here and as there's been talk about the  
22 Planning and Zoning Commission doing things surreptitiously, maybe it's a good  
23 time to tell people about the registry. So if...  
24

25 Abby Conroy: [Yeah 1:23:35].  
26

27 Michael Klemens: ...you're concerned about what the Planning and Zoning Commission may be  
28 doing that is regulation revisions, plan of conservation and development, zoning  
29 maps, you can apply to be on a registry where you would be notified [inaudible  
30 1:23:51].  
31

32 Abby Conroy: [1:23:51] Right. We now have the registry available through the website.  
33

34 Michael Klemens: [1:23:55] Yeah. That's – for those that are concerned about that aspect, you can be  
35 notified every time – not for every application but anything that's generated by  
36 this Commission, regulation changes, plan of conservation and development,  
37 zoning maps...  
38

39 Abby Conroy: [1:24:15] Map changes.  
40

41 Michael Klemens: [1:24:17] What else, Abby?  
42

43 Abby Conroy: [1:24:18] Map changes. Yeah.  
44

45 Michael Klemens: [1:24:19] Map changes. Anything. You could be automatically notified by that.  
46 Okay.  
47

1 Allen Cockerline: [1:24:28] The big question I have in this section and also in 803.3 is what's  
2 unreasonable? [1:24:36] What's an unreasonable detriment? [1:24:40] What is an  
3 unreasonable impact on – negative impact on value?  
4  
5 Abby Conroy: [1:24:48] Wait, are we going...  
6  
7 Michael Klemens: [Inaudible 1:24:48].  
8  
9 Abby Conroy: ...are we going [through the 1:24:49]...  
10  
11 Allen Cockerline: [1:24:49] Well, I mean, we have right here the, again, the modifier unreasonable  
12 in Section B. Will not result in an unreasonable decrease in property values or a  
13 detriment.  
14  
15 Michael Klemens: [1:25:02] Where is that? [Inaudible 1:25:03]?  
16  
17 Abby Conroy: [1:25:04] Are we not starting with A?  
18  
19 Allen Cockerline: [1:25:05] B. We're on...  
20  
21 Michael Klemens: [1:25:06] No, we're starting – Allen, please let me – let's start with A. I know  
22 [inaudible 1:25:10].  
23  
24 Abby Conroy: [1:25:10] Okay, so I think...  
25  
26 Allen Cockerline: [1:25:10] I thought we [inaudible 1:25:12].  
27  
28 Abby Conroy: ...I think you all agreed – right? – that this part was discussed already.  
29  
30 Michael Klemens: [1:25:17] Correct.  
31  
32 Abby Conroy: [1:25:18] Okay. Okay, so...  
33  
34 Michael Klemens: [1:25:19] We discussed that earlier.  
35  
36 Martin Whalen: [1:25:20] Yeah.  
37  
38 Abby Conroy: [1:25:20] But now the question is the impact of the use upon the environment.  
39 Does that make sense to start out that way?  
40  
41 Michael Klemens: [1:25:28] Yeah.  
42  
43 Abby Conroy: [1:25:28] Impact of the use on the environment?  
44  
45 Allen Cockerline: [1:25:34] And I think all of that was addressed in the application.  
46  
47 Michael Klemens: [1:25:40] The environment. Oh, there was a lotta discussion about the safety.  
48 There [are 1:25:47] a lotta people that were concerned about the safety.  
49

1 Allen Cockerline: [1:25:51] Mm-hm.  
2  
3 Michael Klemens: [Inaudible 1:25:51] is an odd one. But I think now we go to number B. [1:25:58]  
4 Does it constitute suitable and appropriate development in character with the  
5 neighborhood? Let's start there.  
6  
7 Charles Andres: [1:26:08] Michael, can I just add a caveat? This whole section is a purpose  
8 section. The standards that you're looking at are 803 but these are purposes.  
9  
10 Michael Klemens: [1:26:16] I know, but the group wanted to go through the whole thing. I know  
11 [that you don't 1:26:20]...  
12  
13 Charles Andres: [1:26:20] It's a little just...  
14  
15 Michael Klemens: ...agree.  
16  
17 Charles Andres: [1:26:21] Right.  
18  
19 Michael Klemens: [1:26:22] Yeah, I know the purpose...  
20  
21 Abby Conroy: [1:26:22] I see what you're saying, Chuck. That's interesting. [1:26:25] But those  
22 are [inaudible 1:26:27] the purpose, they're not specific criteria for evaluation?  
23  
24 Charles Andres: [1:26:31] Correct.  
25  
26 Michael Klemens: [Inaudible 1:26:32] the standards. [Inaudible 1:26:33].  
27  
28 Abby Conroy: [1:26:33] Yet another reason to...  
29  
30 Michael Klemens: [1:26:35] I was actually gonna start at 803 because I think everything earlier is  
31 encompassed in 803. But we're almost at 803. I agree but this is sort of – we'll  
32 have less to do in 803 then.  
33  
34 Cathy Shyer: [Inaudible 1:26:55] Shyer here. [1:26:56] Could you just clarify this Purpose  
35 subheading, Attorney Andres, for me?  
36  
37 Charles Andres: [1:27:03] Sure. This is the purpose. In other words, remember, Zoning, you have  
38 as-of-right uses and you have special permit uses. And like for in a residence – I  
39 think in a residential zone houses as-of-right [need to come 1:27:20] but you also  
40 allow, I think, nursing homes and libraries and some institutional uses. And hotels  
41 in some residential zones. And they may not be compatible. So that – this is sorta  
42 just a general prefatory. This is why we have special permits. This is why have  
43 the standards. Because we're recognizing that special permit uses are different  
44 from as-of-right uses because they may have these sort of impacts so we need to  
45 evaluate them. That's my take as to what this is. And you could look at this as sort  
46 of giving you context for the specific criteria if you're wondering why a particular  
47 one is established. And that's sort of like a legislative history and purpose. But my  
48 concern is that decisions should be made not so much on a purpose section but on  
49 the actual standards, which are in 803.

1  
2 Abby Conroy: [Inaudible 1:28:14].  
3  
4 Michael Klemens: [1:28:14] Well, would you like to just fast-forward to 803? Because it's all in 803  
5 and that was...  
6  
7 Charles Andres: [1:28:19] Right.  
8  
9 Michael Klemens: ...sort of where I wanted to start.  
10  
11 Charles Andres: [1:28:21] Sure.  
12  
13 Michael Klemens: [1:28:22] And everyone wanted to go to the beginning. Let's go with 803. [throat  
14 clearing] We've already discussed this...  
15  
16 Allen Cockerline: [1:28:38] Mm-hm.  
17  
18 Michael Klemens: ...first part of 803.2. However, the second part, I do believe personally that it's  
19 gonna create a nuisance to the neighboring properties. That's my take on it. It may  
20 not be a majority [look 1:28:58] but I do believe that it is gonna create a nuisance  
21 to the neighboring properties certainly by noise. Possibly by lighting. I don't know  
22 [inaudible 1:29:09] the rest of you. Cathy?  
23  
24 Cathy Shyer: [1:29:13] Yes. I think it is going to create a nuisance, the noise, for sure. [sighing]  
25  
26 Michael Klemens: [1:29:23] And the lighting? What do you think about the lighting?  
27  
28 Cathy Shyer: [1:29:26] Well, yeah. [Inaudible 1:29:27] yeah.  
29  
30 Michael Klemens: [1:29:30] Let's go to Marty on that one.  
31  
32 Martin Whalen: [1:29:35] The noise might be a problem for the neighbors. I was just thinkin'  
33 today I wonder how many complaints that the town of Salisbury gets from people  
34 that are near the White Hart Inn, the Black Rabbit Café, and the new restaurant in  
35 the old firehouse about the noise in those particular – and [they're 1:30:02] close  
36 neighbors also. [Inaudible 1:30:07]...  
37  
38 Michael Klemens: [1:30:09] Marty, those are commercial zones. Those are rural commercial zones.  
39  
40 Martin Whalen: [1:30:14] I know. I know they are...  
41  
42 Michael Klemens: [Inaudible 1:30:15].  
43  
44 Martin Whalen: ...but my point is nobody ever complains about the noise from [inaudible  
45 1:30:19]. And that's my point. You're talkin' about noise, right? That's the subject  
46 of this thing. Noise.  
47  
48 Michael Klemens: [1:30:25] But I do think that the expectation – my feeling is that the expectation  
49 of noise in a commercial district is very different from an RR-1 zone.

1  
2 Martin Whalen: [1:30:37] Yeah, that's true.  
3  
4 Abby Conroy: [1:30:38] So my – and just, Marty, sort of in response to that, [inaudible 1:30:40]  
5 only 2 things I've ever received noise complaints about were [Inaudible] [Park  
6 1:30:44] and the Interlaken.  
7  
8 Martin Whalen: [1:30:52] Well...  
9  
10 Male: [1:30:53] Yeah.  
11  
12 Martin Whalen: ...I'm the wrong person to be talkin' about noise.  
13  
14 Michael Klemens: [1:30:56] I know you are.  
15  
16 Abby Conroy: [1:30:58] Well, you – in some ways, you're the right person 'cause you have the  
17 most experience.  
18  
19 Allen Cockerline: [1:31:00] You know about noise.  
20  
21 Martin Whalen: [1:31:01] I know about noise.  
22  
23 Michael Klemens: [1:31:03] Yeah.  
24  
25 Martin Whalen: [1:31:03] Certainly do.  
26  
27 Abby Conroy: [1:31:04] Yeah.  
28  
29 Michael Klemens: [1:31:05] Few car doors slamming is nothing compared to unmuffled racing.  
30  
31 Martin Whalen: [1:31:10] You got it. You're absolutely right. Okay.  
32  
33 Cathy Shyer: [1:31:3] Can I make a comment really in response to Marty? Mike was right. This  
34 is an industrial area. There's not that many people living around those restaurants.  
35 But the topography is very different. It's in a little pocket going down. The  
36 topography of this site is exactly the opposite. And that will affect the nuisance  
37 noise.  
38  
39 Michael Klemens: [1:31:40] I don't know if I buy that, Cathy. I don't think the topography...  
40  
41 Male: [Inaudible 1:31:42].  
42  
43 Michael Klemens: ...makes a big difference. I just think there's gonna be a lot of noise that won't be  
44 able to be controlled coming off the site. And despite whether you have valet  
45 parking, whatever they wanna do, I still think there's gonna be a lotta noise.  
46 Particularly from the event barn. Particularly in the later part of the evening.  
47  
48 Abby Conroy: [1:32:05] I was just gonna [inaudible 1:32:06]. Yeah.  
49

1 Michael Klemens: [1:32:09] Yeah, and that's precisely why...  
2  
3 Abby Conroy: [1:32:10] Mm-hm.  
4  
5 Michael Klemens: ...I posited the question whether they could eliminate the event barn and the  
6 cottages. Because all along, I have felt the event barn is a real Achilles' heel for  
7 this project.  
8  
9 Abby Conroy: [1:32:26] I guess my question is with regard to noise, is it noise all the time?  
10 [1:32:34] Is it noise at certain hours? [1:32:36] What is – where – is there any  
11 point where you don't think noise is a concern?  
12  
13 Allen Cockerline: [1:32:44] Well, apparently during the day, if you look at Bennett Brooks' reports,  
14 the most egregious thing – well, not the most but one a the most egregious are  
15 lawn mowers. And they're only half a what leaf blowers are. And those run day  
16 and night. Well, not so much in the – they run during the day a lot. And so that's –  
17 I feel in many ways this application is incomplete in that there's no baseline.  
18 There's no baseline of the noise level and there's no even moderately accurate  
19 projection of what it will be with using the construction modeling that I think is  
20 available to them. I'm disappointed in that respect. I think that you can design an  
21 event facility that will contain an enormous amount of sound. But that's just  
22 conjecture.  
23  
24 Abby Conroy: [Inaudible 1:33:53].  
25  
26 Michael Klemens: [1:33:53] The thing that makes me uncomfortable about that is we were not given  
27 any design and it's being left up to the building official. And given – and here I'm  
28 gonna say something that's not politically correct – but given the track record of  
29 the building official following through on permit conditions from this  
30 Commission is very poor. And I'm sure I'm gonna get a phone call [from]  
31 [inaudible 1:34:18].  
32  
33 Allen Cockerline: [1:34:19] Can I just slap ya down now just for the hell of it? [laughter]  
34  
35 Michael Klemens: [1:34:24] I'm not happy...  
36  
37 Allen Cockerline: [Inaudible 1:34:26].  
38  
39 Cathy Shyer: [1:34:27] Okay. Shyer here. We're not gonna talk about that anymore.  
40  
41 Michael Klemens: [1:34:32] I had to say it.  
42  
43 Cathy Shyer: [1:34:32] I wanna make – yeah, okay, so [that's settled 1:34:35]. I wanna go back  
44 to Allen's comment because Allen, you raised this at the very first hearing which  
45 [inaudible 1:34:42]...  
46  
47 Male: [Inaudible] [did 1:34:42]?  
48

1 Cathy Shyer: ...correct was September the 3<sup>rd</sup>. And you made the point that in a neighboring  
2 town there has been enormous disruption in a much...  
3  
4 Male: [1:34:51] Yes.  
5  
6 Cathy Shyer: ...broader area where people are not so densely – it's not so densely populated.  
7 And I do believe, Chairman, that the topography has something to do with this  
8 because of the noise [shared 1:35:02] from that property. But that's what  
9 disappoints me. This was raised by you very clearly right at the beginning of the  
10 hearings and we've gone all this way with so many things being changed and  
11 responded to but not that one.  
12  
13 Allen Cockerline: [1:35:17] But those – you're comparing apples and oranges because those are  
14 tented events. And I think many of the things at the Interlaken are tented. I've  
15 been there and...  
16  
17 Robert Riva: [1:35:27] Mm-hm.  
18  
19 Allen Cockerline: ...a tent does nothing for sound. In fact, it's almost like an inverted speaker. It  
20 makes it worse. But...  
21  
22 Cathy Shyer: [1:35:36] Okay, but I'm talking about you [made] [inaudible 1:35:40]...  
23  
24 Allen Cockerline: [Inaudible 1:35:41].  
25  
26 Cathy Shyer: ...you did. You asked about the construction. You asked about placement.  
27  
28 Male: [1:35:45] Yeah.  
29  
30 Cathy Shyer: [1:35:45] You asked about use. And we have not been given that information. In  
31 addition...  
32  
33 Allen Cockerline: [1:35:50] Well, let's...  
34  
35 Cathy Shyer: [1:35:52] Sorry, Allen? I cut you off. Sorry.  
36  
37 Allen Cockerline: [1:35:54] That's all right. Go ahead.  
38  
39 Cathy Shyer: [1:35:57] And I've been thinking about people are gonna circulate around the  
40 great lawn, they'll use the great lawn in the afternoon. They don't necessarily need  
41 a tent. [laughter] You don't build a balcony on a party barn unless you're gonna  
42 use it. That's outdoors. These are events that don't have to happen at 9 or 10:00 at  
43 night. They can happen during the day and cause a lot of noise. [laughter]  
44  
45 Abby Conroy: [1:36:22] Okay, so that was part of my question. So Cathy feels like regardless of  
46 time of day that noise is an issue.  
47  
48 Cathy Shyer: [1:36:32] Yes.  
49

1 Michael Klemens: [1:36:33] Well, I think it's night. And I think what happens at night, the later at  
2 night it gets, the more people will be disturbed by the noise. I think Bennett  
3 Brooks painted a very accessible portrait. Car doors slamming. Cars doors. Cars  
4 being – ignition being turned on. People walking to their cars, talking, being  
5 somewhat rowdy. And the pick up of the – the only other part where I think noise  
6 may be really a problem is when they pick up all the bottles and garbage early in  
7 the morning. So I don't think the daytime is as much. I think it's everything that  
8 happens associated with the events to the event's closed down and then all the  
9 cleanup and deliveries in the morning.  
10  
11 Abby Conroy: [1:37:27] And can I ask a general question? This is more of a tough question, I  
12 guess. I think you all saw where I was going with Bennett Brooks's chart there  
13 which is that essentially based on that chart, anything could be deemed a nuisance  
14 by the Commission because nothing complies with the state standards.  
15  
16 Robert Riva: [1:37:50] Exactly.  
17  
18 Abby Conroy: [1:37:50] How is the Commission to evaluate something where – like in this  
19 example, there's an existing use – right? – that there's outdoor events. [1:38:08]  
20 How the Commission ever determine what's appropriate?  
21  
22 Michael Klemens: [1:38:12] That's why we have a Commission.  
23  
24 Abby Conroy: [1:38:13] Right, so when you ask for – I guess in...  
25  
26 Michael Klemens: [Inaudible 1:38:14] it's discretionary.  
27  
28 Abby Conroy: ...one way you ask for a baseline, right?  
29  
30 Robert Riva: [1:38:18] Yes.  
31  
32 Michael Klemens: [1:38:19] Yeah.  
33  
34 Robert Riva: [1:38:20] To start with. Agreed.  
35  
36 Abby Conroy: [1:38:22] You start with a baseline but are they entitled to that baseline? Does the  
37 Commission – how much – when you have...  
38  
39 Michael Klemens: [Inaudible 1:38:38].  
40  
41 Abby Conroy: ...we have a nonconforming use coming for a permit to become a conforming use.  
42 Yeah. [1:38:47] How much of their use is protected versus [can the 1:38:51]  
43 Commission regulate, I guess?  
44  
45 Michael Klemens: [1:38:52] In my perspective, the only thing that's protected is basically the current  
46 size and configuration of that inn. Everything else is discretionary. And I don't  
47 think it takes rocket science to figure out – there's a big difference when you have  
48 the number of vehicles and activity there versus someone who's put an accessory

1 structure on their house or guest cottage. You could apply that standard to  
2 everyone.  
3  
4 Abby Conroy: [1:39:22] Right.  
5  
6 Michael Klemens: [1:39:22] But I think common sense indicates you apply that standard on large  
7 developments or large expansions in residential areas.  
8  
9 Abby Conroy: [99:32] So for example, Sarum Village. The argument could have been made on  
10 Sarum Village, right?  
11  
12 Michael Klemens: [99:38] [Inaudible 99:38]...  
13  
14 Cathy Shyer: [99:38] Shyer here.  
15  
16 Michael Klemens: [99:40] It abuts the cemetery...  
17  
18 Abby Conroy: [99:41] Well...  
19  
20 Michael Klemens: [99:41]...and they don't mind the noise.  
21  
22 [laughter]  
23  
24 Cathy Shyer: [99:44] No, they don't.  
25  
26 Abby Conroy: [99:45] I'm just saying Dresser Woods, right?  
27  
28 [laughter]  
29  
30 Michael Klemens: [99:50] Yes.  
31  
32 Abby Conroy: [99:51] That could come up. So I think it's important to have this conversation...  
33  
34 Male: [99:55] Oh, yeah.  
35  
36 Abby Conroy: [99:55]...to understand...  
37  
38 Male: [99:57] Yeah.  
39  
40 Abby Conroy: [99:58]...where that takes you.  
41  
42 Cathy Shyer: [100:00] Shyer here. Can I please make a comment? If you're having an event and  
43 it's starting at 2:00, most people try and get there by 2:00. Certainly, if it's a  
44 wedding. You don't have that in Dresser Woods. The scale is totally different.  
45 And you also have nobody comes home at the same time or leaves at the same  
46 time for work. So you have the fact that, touching on what the Chairman just said,  
47 this is designed for events, right? A lot of what's going on here is designed...  
48  
49 Abby Conroy: [100:30] Mm-hm.

1  
2 Cathy Shyer: [100:31]... for events and that's where the noise is going to be. Very different  
3 'cause it's happening all around the same time. Leaving at the same time, starting  
4 at the same time.  
5  
6 Abby Conroy: [100:41] Morning commute and evening commute.  
7  
8 Michael Klemens: [100:46] One of the things...  
9  
10 Abby Conroy: [100:47] I'm just saying I think it's important to...  
11  
12 Michael Klemens: [100:50] [Inaudible 100:50] One...  
13  
14 Abby Conroy: [100:52]...[inaudible 100:52]...  
15  
16 Michael Klemens: [100:52]...of the things also...  
17  
18 Abby Conroy: [100:53]...to consider that.  
19  
20 Michael Klemens: [100:53]...that struck me in this whole discussion is the regulations allow this use  
21 on 10 acres, at least on a state highway [inaudible 101:05] road. But there has to  
22 be some thought given to the actual size of the lot. [Interlaken 101:12] – it was  
23 put into the record that it was, I think, 30 acres. This is 10 acres.  
24  
25 Abby Conroy: [101:19] Yeah, it's not all merged but yeah.  
26  
27 Michael Klemens: [101:22] It's 10 acres and it's basically wedged between a residential area.  
28 Interlaken is somewhat – there is residential areas there but it's also – goes down  
29 to the lake there. So I think they – I think it's a very different standard we have to  
30 apply based really on the size of the property. This is the smallest size you can  
31 have a hotel on more or less.  
32  
33 Cathy Shyer: [101:52] Could I also ask you, please, about you mentioned the Interlaken, Abby.  
34 You talked about complaints tonight. I haven't heard about that. We did hear in  
35 the hearing from people over on Interlaken Road talking about the noise. We had  
36 letters and a couple of people speaking.  
37  
38 Abby Conroy: [102:06] Mm-hm.  
39  
40 Cathy Shyer: [102:06] Could you tell me about the complaints that have come in...  
41  
42 Abby Conroy: [102:09] The only person was [Joan Ingalls 102:10]. She wrote into the record to  
43 say that she had complained about that. But I mean...  
44  
45 Michael Klemens: [102:16] And as Abby said Interlaken was designed with zero sound mitigation.  
46  
47 Abby Conroy: [102:21] Right.  
48  
49 Male: [102:22] Yeah.

1  
2 Michael Klemens: Unfortunately, we don't have...  
3  
4 Abby Conroy: [102:25] Right.  
5  
6 Michael Klemens: [102:26]...the design of the event barn here.  
7  
8 Robert Riva: [102:29] No, we don't. And unfortunately, they offered. They're willing, I think.  
9 There was time constraints that they were up against. And it's a bad situation that  
10 they can't show us how they were going to design this. I think they're agreeable to  
11 make it soundproof and great quality products or top of the line but frustrating.  
12  
13 Michael Klemens: [102:54] And we can't ask for something like that to be designed and sent back to  
14 us for approval. Once we give a special permit, we really can't have them bring  
15 the whole thing back and invalidate it because the design doesn't work. But they  
16 haven't given us – I mean there comes a time when you only can condition so  
17 many things before it becomes unreasonable.  
18  
19 Abby Conroy: [103:18] Correct. And then there's the whole what's integral to the special permit  
20 itself versus what something that's more site plan related. So like if the fire  
21 marshal says, "Oh, you need to have a dry hydrant [inaudible 103:30]," of course,  
22 that's a change to the site plan but that's not – whether it's there or not doesn't  
23 change the impact of the site on others versus the barn.  
24  
25 Alan Cockerline: [103:44]The sound mitigation is...  
26  
27 Abby Conroy: [103:45] Right.  
28  
29 Alan Cockerline: [103:46]...amazing. It's amazing.  
30  
31 Abby Conroy: [103:47] Right.  
32  
33 Alan Cockerline: [103:48] It is for me the crux of the whole thing, and I just feel if they can't come  
34 forward with some solid data at the point, I don't think the application's complete  
35 and I think they should consider withdrawing without prejudice.  
36  
37 Abby Conroy: [104:12] And I suggest that we continue...  
38  
39 Male: [104:13] Work on it later.  
40  
41 Abby Conroy: [104:14] We still – so I think...  
42  
43 Michael Klemens: [104:15] You're jumping...  
44  
45 Abby Conroy: [104:16] I think noise is like a hangup for me.  
46  
47 Alan Cockerline: [104:17] I am jumping ahead.  
48  
49 Abby Conroy: [104:18] [Inaudible 104:18].

1  
2 Alan Cockerline: [104:18] I do that very well.  
3  
4 Abby Conroy: [104:19] Right. But what I was going to suggest is like noise is a hang-up point.  
5 Everybody has their concerns about it. I don't think anybody's opposed to let's  
6 continue this discussion another night. Maybe we should look at other things  
7 because there should...  
8  
9 Michael Klemens: [104:32] [That's fine 104:32].  
10  
11 Abby Conroy: [104:32] There's probably value to discussing more [inaudible 104:34].  
12  
13 Michael Klemens: [104:34] [Inaudible 104:34]. I'll give it. Would Abby like to run the meeting or...  
14  
15 Abby Conroy: [104:37] I'm just saying...  
16  
17 [laughter]  
18  
19 Abby Conroy: [104:38] I'm suggesting.  
20  
21 [laughter]  
22  
23 Male: [104:40] Good idea. Michael, be quiet.  
24  
25 Michael Klemens: [104:42] [Inaudible 104:42] You weren't going to say much [inaudible 104:43].  
26 You were going to be quiet and not talk.  
27  
28 Abby Conroy: [104:45] I know. Well I woke up again.  
29  
30 [laughter]  
31  
32 Male: [104:47] All right.  
33  
34 Michael Klemens: [104:48] Oh well.  
35  
36 Abby Conroy: [104:49] I just want to...  
37  
38 Alan Cockerline: [104:49] Look, I'm gonna mute.  
39  
40 Michael Klemens: [104:52] No.  
41  
42 [laughter]  
43  
44 Cathy Shyer: [104:54] I just wanted to enforce Bob's frustration. And you said there wasn't  
45 time. There was time. This was first raised in September at the beginning of the  
46 hearings. At the beginning of the month. And Allen was very articulate at the  
47 time, so I do think that the applicant had time to deal with this.  
48  
49 Abby Conroy: [105:13] Well, yeah. But...

1  
2 Michael Klemens: [105:14] So let's move on.  
3  
4 Abby Conroy: [105:15]...they did talk about that.  
5  
6 Michael Klemens: [105:16] Everyone you're out of order.  
7  
8 Abby Conroy: [105:17] Sorry.  
9  
10 Michael Klemens: [105:18] Let's move on to the next discussion point. I think we've made enough  
11 noise about noise.  
12  
13 [laughter]  
14  
15 Michael Klemens: [105:29] You don't have to hide your faces, Abby and [Miles 105:32].  
16  
17 [laughter]  
18  
19 Abby Conroy: [105:33] No, my...  
20  
21 Cathy Shyer: [105:35] Having [inaudible 105:35].  
22  
23 Abby Conroy: [105:36]...computer keeps like...  
24  
25 Michael Klemens: [105:37] Oh, okay.  
26  
27 Abby Conroy: [105:38]...telling me I have an unstable connection. So the less I'm on, the better.  
28  
29 Martin Whalen: [105:40] Mine too, Abby.  
30  
31 [laughter]  
32  
33 Michael Klemens: [105:41] Figure it out? So now we have to go back. Could you call up the criteria.  
34 Let's keep going, please.  
35  
36 Allen Cockerline: [105:48] Michael, we're still on 8033, though. And I've got a question for Chuck.  
37  
38 Charles Andres: [105:54] Sure.  
39  
40 Allen Cockerline: [105:55] What is unreasonable? We keep running into this unreasonable...  
41  
42 Male: [106:08] Measurement.  
43  
44 Allen Cockerline: [106:08]...803. Yeah. Unreasonable effect.  
45  
46 Male: [106:16] Yeah.  
47  
48 Charles Andres: [106:17]Yeah. The word unreasonable...  
49

1 Allen Cockerline: [106:19] Unreasonably adverse effect, 8033. Unreasonably adversely affecting the  
2 value, usefulness, and enjoyment of the property. So how do you judge what's  
3 unreasonable? How bad does it have to be?  
4

5 Charles Andres: [106:40] You – you're stuck with definitions. In other words, when you – when or  
6 what a term means. The way the courts go at it, first you can define a term and  
7 you're not gonna define unreasonable. This also is used in 22A19. The word  
8 unreasonable is used in that. And when we had the [inaudible 107:00] appeal, I  
9 did some research, I'd say. 'Cause what does reasonable mean? And there was a  
10 *Black's Law Dictionary* and basically it's very discretionary. Unreasonable as,  
11 quote, "Not guided by reason, irrational, capricious." So does those words help? I  
12 don't know.  
13

14 [laughter]  
15

16 Charles Andres: [107:22] In private [inaudible 107:23] law. In other words...

17

18 Michael Klemens: [107:24] I want to ask a question. Not how bad it should be and how good it can  
19 made to fit in? I take [inaudible 107:32] on that.  
20

21 Charles Andres: [107:33] The – I – the one other example is because the word nuisance is here and  
22 there is a whole separate area of law where you can bring a nuisance cause of  
23 action against your neighbors for noise and things like that and the word – you  
24 have to show that the conduct was the cause of "unreasonable interference with  
25 the use and enjoyment of another's property." And the determination whether the  
26 interference is unreasonable depends on – here you go, a balancing of interest  
27 involved under the circumstances of each case. So it's another set of fudge  
28 circumstantial discretionary term. So I...  
29

30 Michael Klemens: [108:15] [Inaudible 108:15]...  
31

32 Charles Andres: [108:15] So I think it's something in my mind that it gives you some flexibility  
33 looking at the particular circumstances of what is involved here with the specific  
34 neighborhood and so forth. I mean the Chairman made a distinction between  
35 noise in a commercial versus a residential district, so I mean you look at the  
36 different interest and you figure out what's reasonable or not reasonable. And  
37 compound it by the fact that there is noise there now. So it is an existing non-  
38 conformity use and is this addition – I mean one problem you raise is they haven't  
39 measured it. You don't have the baseline. You don't know what it is. What the  
40 addition would be. But would it be – what is unreasonable given the current  
41 circumstances of what's there now and so forth. It's an added – in my word, it's a  
42 subjective factor but it's – it gives you discretion to look at a bunch of stuff.  
43

44 Michael Klemens: [109:15] [Broad 109:15] discretion. And I think in the midst of a residential zone  
45 – let's start with the cottages along Wells Hill Road. You have a – and I asked  
46 some very pointed questions of the applicant about how much square footage and  
47 bedroom increases in that. If you're even trying to think of that and somehow  
48 mimicking the residential character, it's twice as big as the [inaudible 109:44]. So  
49 I tried and maybe that's why members of the public thought it was going to be a

1 slam dunk that this Commission – the fix was in. I was trying to get the applicant  
2 to scale back because it – I think as it is now, it is too big for this property. It is  
3 too noisy. And I think we heard night after night from the neighbors. Some of it  
4 was not – was reasonably unreasonable of the neighbors. Some of it was quite  
5 nasty and unfounded and not polite. And some of the stuff that has been said, I  
6 found highly offensive, but the bottom line is I think the neighbors have made a  
7 very good case that the size of this expansion is out of character. No one  
8 complained that the [inaudible 110:42] should be there. It could be improved.  
9 They maybe could have made it a little bit bigger. But you would look at the  
10 figures and, of course, there was a lot of hyperbole. How much bigger?  
11  
12 Male: [110:52] Yeah.  
13  
14 Michael Klemens: [110:53] And the applicant did provide a chart to that. But anyway you cut it, it's  
15 significantly larger than what's there. And I think that's something we have to  
16 think is that reasonable given the location of this in the midst of a residential R1  
17 Zone. And yes, he knew [about 111:16] the topography that Cathy talks about in a  
18 [inaudible 111:19]. Is this the right place for such intensification of use? Just  
19 because we could consider it for a special permit doesn't mean we have to grant it.  
20 I've said enough, I guess.  
21  
22 Abby Conroy: [111:36] Mr. Chairman...  
23  
24 Male: [111:37] You said a lot.  
25  
26 Abby Conroy: [111:37]...can I ask you – because I don't think anybody's said anything about the  
27 main building itself being excessive. Is that a concern for people?  
28  
29 Cathy Shyer: [111:48] No. Excuse me, Abby. Can I go back to what the Chairman was saying?  
30  
31 Abby Conroy: [111:53] Yeah.  
32  
33 Cathy Shyer: [111:53] Because that was very profound and it was very important. And he did  
34 say a lot. And that's exactly how I feel. This is too big for that space. It is too big  
35 for that loca-, for the size of the site. It is too big for the location because of the  
36 number of residential properties in [inaudible 112:13]. And [Marty 112:15] you  
37 mentioned something about the cottages back there. Some of those cottages are  
38 going to have at least 6 people, maybe even more 'cause I looked at that quite  
39 closely, thinking, "Well, that's interesting. Wow." On a [inaudible 112:26]  
40 construction, that's going to be noisy. Anyway, sorry to cut you off, Abby, but I  
41 think Michael said a lot that we should go back and address.  
42  
43 Michael Klemens: [112:36] Well I think basically, you asked the question, Abby, did anyone talk  
44 about the size of the main building. And I think only tangentially it showed up in  
45 charts of overall room expansion and people but it was part of a mix of the overall  
46 expansion. No one said – it was all – it was aggregated. So I don't think people  
47 spoke specifically to the size of the proposed new hotel. They just talked about  
48 numbers of guest rooms and numbers of cars. So it was all part of an overall  
49 formula that included the cottages and – so I don't think anything – and correct me

1 if I'm wrong, I don't think anyone specifically complained about the size of the  
2 hotel.  
3  
4 Abby Conroy: [113:35] Right. I was asking because I – your question specifically about the  
5 Granbery piece and could we – so if, essentially, if those – eliminating those  
6 cottages, is it specifically because of the use extending onto that piece that  
7 concerns you and how that piece is adjacent to residential properties? Or is it  
8 because there's too many units? So that's what I'm trying to...  
9  
10 Michael Klemens: [114:08] Well you're asking me about the cottages up there along Wells Hill.  
11  
12 Abby Conroy: [114:12] Mm-hm.  
13  
14 Michael Klemens: [114:13] There's just too many individual...  
15  
16 Abby Conroy: [114:15] In general.  
17  
18 Michael Klemens: [114:16]...units for a residential zone. Certainly, if we could have taken the  
19 Granbery parcel out, we would have significantly reduced a number of cottages. I  
20 know the applicant made an argument that that was once part of Wake Robin  
21 property, but [you 114:33] could make that argument about anything that's been  
22 subdivided. Once it's subdivided, it's subdivided. And I understand what they  
23 were trying to convey but I – it was not a great argument, in my opinion. I tried –  
24 that's why I was trying to get some reduction there. But I asked for the square  
25 footage. I asked for bedroom counts. I was trying to get the telegraph that this was  
26 just too much. And there was a concern. I know Allen, at one point, was  
27 concerned. Quite concerned about the Granbery property being [annexed 115:14].  
28 He's been quite vocal. Allen, if I'm characterizing you incorrectly, please tell me.  
29  
30 Allen Cockerline: [115:20] No, that's correct.  
31  
32 Michael Klemens: [115:21] Yeah. And so, yeah, that's been one of the issues that a lot of people  
33 have had. So...  
34  
35 Allen Cockerline: [115:32] Yes, I thought you were being unreasonably reasonable with them.  
36  
37 Michael Klemens: [115:40] As did I think the majority of the town of Salisbury, judging by letters  
38 and comments. Sometimes people don't realize in order to get to an end [inaudible  
39 115:52], you have to ask all the questions and develop a record over six nights to  
40 have an intelligent conversation as we're having now. Thank you.  
41  
42 Abby Conroy: [116:09] Can I continue to run the meeting now, Mr. Chairman?  
43  
44 [laughter]  
45  
46 Michael Klemens: [116:12] Go right ahead 'cause I'm losing my voice. Go ahead and run the  
47 meeting.  
48  
49 [laughter]

1  
2 Abby Conroy: [116:17] No, I was just kidding.  
3  
4 Allen Cockerline: [116:18] Are we done with 8033?  
5  
6 Abby Conroy: [116:19] So I think [inaudible 116:20] noise. So you've covered noise. Yeah,  
7 you've covered scale. What else? I mean do we need to talk about...  
8  
9 Charles Andres: [116:28] Property values.  
10  
11 Abby Conroy: [116:29]...traffic? Do we need to go back...  
12  
13 Charles Andres: [116:31] I want to hear what you think about property values. You had conflicting  
14 testimony on that.  
15  
16 Michael Klemens: [116:35] Oh. I will tell you exactly what I think about property values. I didn't  
17 buy it. But just because road trips increase – I mean – and everyone's property  
18 along a major road is decreasing on that scale system.  
19  
20 Robert Riva: [116:50] Yeah.  
21  
22 Michael Klemens: [116:51] And I don't think that this is going to create such traffic on 44 or 41. I  
23 think if in fact – and I do agree with [inaudible 117:03] that I think you plug it  
24 into the GPS, coming up Route 7, coming from anywhere in that direction, the  
25 fastest way will take you to Wells Hill Road. So I think the one place where there  
26 is going to be increased traffic – and that might result in diminishment of property  
27 values, if you believe the [formula 117:26] that Mr. Rawlings [inaudible 117:29]  
28 I think it would be Wells Hill.  
29  
30 Abby Conroy: [117:33] Interestingly, my – when I put this into my – I did different locations, it  
31 never took me to Wells Hill.  
32  
33 Robert Riva: [117:39] Me neither. And you know what? And I did it that night and I screenshot  
34 it.  
35  
36 Abby Conroy: [117:44] Yeah.  
37  
38 Robert Riva: [117:45] And Apple Maps did. It gave me two options...  
39  
40 Abby Conroy: [117:49] Mm-hm.  
41  
42 Robert Riva: [117:50]...but Google – from Torrington, Google took me through Norfolk or up  
43 to [Hotchkiss Corners 117:56] and turning.  
44  
45 Abby Conroy: [117:57] Right.  
46  
47 Robert Riva: [117:58] And then – and not to get sidetracked but I said, "I'm dealing with Apple  
48 Maps for the store, for our business account."  
49

1 Abby Conroy: [118:05] Mm-hm.  
2  
3 Robert Riva: [118:05] And so I emailed them. I said, "Guys, I've got a problem that I don't  
4 want people coming to my – secondary roads to our store." And I [inaudible  
5 118:14]. I didn't get a response back from them but I think you can tell them to  
6 program to keep away from those secondary roads, to be honest with you.  
7  
8 Abby Conroy: [118:22] Yeah, I think so too. I mean Google Maps; I've requested changes like  
9 the...  
10  
11 Robert Riva: [118:25] Yeah.  
12  
13 Abby Conroy: [118:26]...town clerks. That pin was in the wrong place. I requested changes and  
14 they fixed it. So I...  
15  
16 Robert Riva: [118:31] Yeah.  
17  
18 Abby Conroy: [118:32] Yeah.  
19  
20 Michael Klemens: [118:33] Well whether or not we can discuss that or not discuss it, whether there  
21 will be a bit more traffic, I just don't buy the diminishment of property values.  
22 And I was quite pointed in my questions. I mean we're looking at our POCD. The  
23 values are skyrocketing. The [move 118:54] rate is down. People are going to buy  
24 just about anything in Salisbury and maybe it won't continue forever. But I just  
25 don't see that as a big issue.  
26  
27 Cathy Shyer: [119:09] Shyer here. I think it's going to be an issue on Sharon Road actually. I  
28 mean I see the traffic will go up on Wells Hill Road. It's a cut-through road and  
29 more people will use that. I do believe that Allen was right on it. But I think  
30 Sharon Road is – would get a lot busier with the scale of development and the  
31 construction, the demolition, stage. I mean when Hotchkiss were building their  
32 heating plant, those trucks were chundering down through the intersection at St.  
33 Mary's Road and St. Mary's Church, slowly rolling through the stop sign and  
34 people in town were talking about this. I – it was a real nuisance.  
35  
36 Michael Klemens: [119:49] But this...  
37  
38 Cathy Shyer: [119:50] And I...  
39  
40 Michael Klemens: [119:50] Well...  
41  
42 Cathy Shyer: [119:51] That the increase in truck traffic on that road for food deliveries and  
43 hauling water bottles and all the things that go into places like that and get  
44 changed out frequently, as well as the garbage, I think it is going to have a  
45 significant impact on the Sharon Road people and value possibly. I don't know.  
46  
47 Michael Klemens: [120:13] I have trouble with that because there's so much truck traffic, deliveries.  
48  
49 Male: [120:18] Yeah.

1  
2 Michael Klemens: [120:19] You have Hotchkiss School. You have the wetlands. You have Fern.  
3 You have all this stuff. I just don't see a – that is a terrible road and it will  
4 continue to be a terrible road.  
5  
6 Male: [120:28] Yeah.  
7  
8 Michael Klemens: [120:29] Whether it will be measurable to the point of affecting property values, I  
9 don't know.  
10  
11 Robert Riva: [120:35] Yeah. I don't think it's – I can't – for myself, I'm comfortable in the  
12 feeling that it's not going to affect the values because that road traffic, as Michael  
13 says, is horrible already. We did a study years ago in Canaan. They're at – and this  
14 was 10 years ago. There was 100 or 125 trucks that come through Canaan every  
15 day and that's through the middle of the town. Now some of those come to  
16 Lakeville, Salisbury – go to Millerton. That's done nothing but increase and it's  
17 going to be increasing unluckily. I think that if there's a value there, it's  
18 uncontrollable because it's happening anyway – or a devalue there.  
19  
20 Michael Klemens: [121:22] I think we have to focus on the things we can control basically.  
21  
22 Robert Riva: [121:25] Yeah.  
23  
24 Michael Klemens: [121:27] And I think that part of it goes back again to the noise and size; those are  
25 controllable.  
26  
27 Robert Riva: [121:33] Right.  
28  
29 Allen Cockerline: [121:34] I was disappointed that it was – you couldn't – it's something that you  
30 can't quantify. And I asked what is the adjustment per lot and if you can't quantify  
31 it, it's just too subjective.  
32  
33 Michael Klemens: [121:48] When Mr. Rawlings said that even on his place, which is on East Main  
34 Street, that it could affect it – I mean how can the traffic from here, with the  
35 amount in volume of traffic going on 44. I mean it's an incremental increase. It's  
36 not a major increase.  
37  
38 Cathy Shyer: [122:10] Actually, Chairman, didn't he – I thought he said it wasn't going to affect  
39 the valuation of where he's recently purchased.  
40  
41 Michael Klemens: [122:18} I think he did [inaudible 122:19].  
42  
43 Male: [122:19] No, he said it would.  
44  
45 Abby Conroy: [122:20] Yeah.  
46  
47 Cathy Shyer: [122:21] That it would. Okay. [Inaudible 122:22].  
48  
49 Allen Cockerline: [122:23] And he didn't say it could; he said it would. So...

1  
2 Cathy Shyer: [122:26] Oh, okay. I stand corrected.  
3  
4 Michael Klemens: [122:28] Which means if you want your property values to be stable, the only  
5 place that you should buy property in Salisbury is on dead-end roads.  
6  
7 Male: [122:37] Yeah.  
8  
9 Michael Klemens: [122:40] And again, you go to Lime Rock, look at those property [inaudible  
10 122:43]. There's a test case, a real test case of what happens.  
11  
12 Abby Conroy: [122:50] Okay. So that was property values, right?  
13  
14 Charles Andres: [122:54] So we're clear that that's not going to be a [inaudible 122:56]. We're  
15 looking at a resolution denial and we're citing reasons. We've got the noise and  
16 nuisance and the property values, and I know Dr. Klemens and Ms. Shyer have  
17 said no, that [inaudible 123:12] not be as a reason but I wasn't clear. And now –  
18 oh, no, not – and Mr. Riva said definitely no. That I would not cite that as a  
19 reason. But I'm just not sure about the other three. [Inaudible 123:25].  
20  
21 Michael Klemens: [123:25] Do you want to get the other three to weigh in?  
22  
23 Charles Andres: [123:28] Yes.  
24  
25 Michael Klemens: [123:28] Riva and I say it won't decline the property value. I think Ms. Shyer said  
26 yes. So I guess we have to go to Mr. Whalen and Mr. Cockerline.  
27  
28 Martin Whalen: [123:40] Do you want me first?  
29  
30 Michael Klemens: [123:42] Yes.  
31  
32 Martin Whalen: [123:43] Well when Roger Rawlings gave us that – his findings, we – when he  
33 said that his property value on East Main Street would be affected by this, he lost  
34 me right there and [inaudible 124:00]. I just done buy it, sorry.  
35  
36 Charles Andres: [124:03] Okay. Looks like – go ahead.  
37  
38 Allen Cockerline: [124:07] And I would have to say that it – I – as I said, if you can't really quantify  
39 it, it's kinda hard for me to make a judgement, so I would say it – I don't think it  
40 has any kind of dramatic effect at all.  
41  
42 Charles Andres: [124:23] Okay. So the majority at least would not say [inaudible 124:25]...  
43  
44 Michael Klemens: [124:25] The majority.  
45  
46 Charles Andres: [124:28] Okay. [Inaudible 124:29] diminish property values. Great.  
47  
48 Michael Klemens: [124:33] Let's call the next one up, Abby.  
49

1 Allen Cockerline: [124:37] I think that's on the basis – we're talking strictly on the basis of traffic.  
2  
3 Michael Klemens: [124:41] That's correct, Allen. We're not talking about excessive noise.  
4  
5 Allen Cockerline: [124:45] Sound or...  
6  
7 Male: [124:46] Right.  
8  
9 Allen Cockerline: [124:46]...things like that.  
10  
11 Michael Klemens: [124:47] Because I think in the case of excessive noise, you have a very good  
12 example of what excessive noise could do to property values. And, Marty, correct  
13 me if I'm wrong, that real estate values in Lime Rock are depressed compared to  
14 the rest of Salisbury because of the noise of the traffic.  
15  
16 Martin Whalen: [125:07] That's true.  
17  
18 Male: [125:08] That's a good statement. Yeah.  
19  
20 Charles Andres: [125:11] Okay. Does the majority agree with that?  
21  
22 Male: [125:14] Yes.  
23  
24 Male: [125:15] Yes.  
25  
26 Charles Andres: [125:16] Okay.  
27  
28 Cathy Shyer: [125:16] Yes.  
29  
30 Abby Conroy: [125:18] So then are the property values around Lime Rock also depressed  
31 because of noise?  
32  
33 Michael Klemens: [125:23] Oh, they have to be...  
34  
35 Male: [125:23] Yes.  
36  
37 Michael Klemens: [125:24]...[inaudible 125:24].  
38  
39 Abby Conroy: [125:24] Okay. I wasn't sure.  
40  
41 Michael Klemens: [125:26] No, you can...  
42  
43 Abby Conroy: [125:27] Okay.  
44  
45 Michael Klemens: [125:27] Lime Rock is historically...  
46  
47 Abby Conroy: [125:28] Lion Rock.  
48  
49 Martin Whalen: [125:31] Oh, Lion Rock.

1  
2 Michael Klemens: [125:32] What noise is there in Lion Rock?  
3  
4 Allen Cockerline: [125:35] There are a lot.  
5  
6 Abby Conroy: [125:37] Really?  
7  
8 Male: [125:39] Lion Rock?  
9  
10 Abby Conroy: [125:40] Yeah.  
11  
12 Michael Klemens: [125:41] [Inaudible 125:41].  
13  
14 Allen Cockerline: [125:44] No, Lion Rock is in Sharon [inaudible 125:46].  
15  
16 Male: [125:47] That's in Sharon.  
17  
18 Michael Klemens: [125:48] Lion Rock Farm.  
19  
20 Abby Conroy: [125:49] Yeah.  
21  
22 Allen Cockerline: [125:49] You're talking...  
23  
24 Michael Klemens: [125:50] Oh.  
25  
26 Allen Cockerline: [125:52] You're talking about Lion's Head.  
27  
28 Abby Conroy: [ 125:55] No.  
29  
30 Allen Cockerline: [125:55] Yes? No?  
31  
32 Abby Conroy: [125:56] No.  
33  
34 Michael Klemens: [125:57] [I thought 125:57] you're talking...  
35  
36 Allen Cockerline: [125:58] In Lion...  
37  
38 Abby Conroy: [125:58] In Sharon.  
39  
40 Allen Cockerline: [125:59] Lion Rock wedding events are tented and there's a lotta noise. Anyone in  
41 that valley is unhappy with it. Well, that's a broad statement.  
42  
43 Michael Klemens: [126:13] That was basically the genesis for a lot of the concern on the [inaudible  
44 126:18] and again going back no one bothers to read the memos that Director  
45 Conway and my-, Conroy and myself put into the record. This thing about hotels  
46 and event venues is not something that just spontaneously arose at Wake Robin.  
47 This had been a problem, a multifaceted problem. And its reared its head  
48 repeatedly about what's an event venue, what's not an event venue, and so – yeah.  
49

1 Abby Conroy: [126:51] Yeah. So – but...  
2  
3 Michael Klemens: [126:52] It has been...  
4  
5 Abby Conroy: [126:53]...you – your conclusion was like yes, Lime Rock is a property  
6 value/noise connection.  
7  
8 Michael Klemens: [127:02] [Inaudible 127:02].  
9  
10 Abby Conroy: [127:03] And the question I had was does Lion Rock Farm and the real estate  
11 there have a similar relationship.  
12  
13 Michael Klemens: [127:13] To what?  
14  
15 Allen Cockerline: [127:15] I would say not.  
16  
17 Cathy Shyer: [127:17] Shyer here. This is total speculation. We don't know.  
18  
19 Male: [127:21] It is.  
20  
21 Abby Conroy: [127:21] Okay.  
22  
23 Cathy Shyer: [127:22] Really. Come on. Let's get back...  
24  
25 Abby Conroy: [127:23] Okay.  
26  
27 Cathy Shyer: [127:23]...to our – here. We know people complain about this. It's a big problem  
28 for the people in the valley.  
29  
30 Michael Klemens: [127:29] Yeah, it is a big problem. But whether or not...  
31  
32 Cathy Shyer: [127:31] [Inaudible 127:31].  
33  
34 Michael Klemens: [127:31]...it's resulted in diminished property values, there's no data. The only  
35 data that is firm is Lime Rock.  
36  
37 Abby Conroy: [127:41] Right.  
38  
39 Michael Klemens: [127:42] And the [track 127:42].  
40  
41 Cathy Shyer: [127:43] Okay.  
42  
43 Male: [127:43] True.  
44  
45 Cathy Shyer: [127:44] Moving right along.  
46  
47 Abby Conroy: [127:48] Nuisance. Yeah.  
48

1 Michael Klemens: [127:49] Again I will say I know people want to move this along. I understand it  
2 but this is six nights of public hearings, two of them almost 5 hours, hundreds of  
3 letters from neighbors. We owe it to our constituency and to our applicant – to the  
4 applicant and to the intervenor to be deliberative.  
5  
6 Abby Conroy: [128:12] Right. I think the point is if we can get a sort of majority to head in the  
7 direction, let's do that and then...  
8  
9 Michael Klemens: [128:19] Yeah.  
10  
11 Abby Conroy: [128:20]...we can beat it to death at the next meeting.  
12  
13 Robert Riva: [128:23] Eh.  
14  
15 [laughter]  
16  
17 Michael Klemens: [128:28] But what is it?  
18  
19 Abby Conroy: [128:31] The next section...  
20  
21 Michael Klemens: [128:31] I think...  
22  
23 Abby Conroy: [128:32]...is 803.4.  
24  
25 Michael Klemens: [128:34] I think we've answered the first two, correct?  
26  
27 Male: [128:39] Yeah.  
28  
29 Charles Andres: 128:40] Yes. The issue that I saw on this one was E and it's really the – we've  
30 heard the issue about the WPCA and the information...  
31  
32 Male: [128:49] Yeah.  
33  
34 Charles Andres: [128:49]...in the record. Would that be – and that's potentially a reason to deny  
35 this application if you wanted to because...  
36  
37 Male: [128:58] Yeah.  
38  
39 Charles Andres: [128:58]...there's no assurance that it can be done or the alternative would be you  
40 could do it as a condition of approval.  
41  
42 Michael Klemens: [129:05] Chuck, you and I talked about this and I have no problem conditioning  
43 things that can be obtained like – but if that's a fatal flaw, I would feel  
44 uncomfortable. And I've said this to Abby in our discussions. I would feel  
45 uncomfortable conditioning an application on something as fundamental that may  
46 not even work. What have we done for the public, for the applicant to approve  
47 something only to find it can't work 'cause of sewer and water. I know that's...  
48

1 Abby Conroy: [129:42] Well I think the fire marshal expressed that water is very unlikely to be  
2 an issue.  
3  
4 Charles Andres: [129:50] Yeah, I think it's just sewer.  
5  
6 Abby Conroy: [129:52] Yeah, sewer, which...  
7  
8 Charles Andres: [129:55] [Inaudible 129:55].  
9  
10 Abby Conroy: [129:55]...they did do – as far as – one of the objections to sewer was about the  
11 size of the mains, right? And that seems to be – have been re-, it's my reading,  
12 that part seems to be resolved. The sewer issue – my concern is that – you can go  
13 back to the minutes and they've been trying to get an answer out of the Sewer  
14 Commission since March. And they submitted calculations that – they didn't get  
15 asked for calculations until – what? September. And they submitted them within a  
16 reasonable amount of time and more than a month later, all they got from the  
17 Town was, "Oh, we've received your calculations."  
18  
19 Michael Klemens: [130:44] Wow. I think I agree with you that this is to no fault of the applicant.  
20  
21 Abby Conroy: [130:50] Yeah.  
22  
23 Michael Klemens: [130:50] But a grave deficiency in the way this whole questions were handled by  
24 the WPCA. And I think finally – I think this process may be something that's  
25 triggering now Tighe and Bond to – been hired by the Town to deal with this. It's  
26 a little bit too late for this applicant. I would...  
27  
28 Male: [131:17] Is there anything?  
29  
30 Michael Klemens: [131:18]...be reluctant though if you're thinking about – and correct me if I'm  
31 wrong here, Chuck. If you're thinking about appealable things, I wouldn't want to  
32 put the sewer in there because the sewers on the town.  
33  
34 Abby Conroy: [131:32] Right.  
35  
36 Michael Klemens: [131:33] The Town's lack of ability to process this application in a timely and  
37 comprehensive manner. I don't think we should make that a condition for denial.  
38  
39 Charles Andres: [131:45] Well I – the site plan standards – it's in here, it's also in the site plan.  
40 That was – that – they're supposed to have it right when they file their site plan in  
41 there.  
42  
43 Abby Conroy: [132:01] So here's my question though. Who was the health officer? Because...  
44  
45 Charles Andres: [132:05] I'm [equating 132:06] that with WPCA.  
46  
47 Abby Conroy: [132:08] Okay.  
48

1 Charles Andres: [132:09] I'm equating that generically to mean whoever it is. It could be  
2 Torrington or whatever but if we are dealing with sewers, it's gotta be the WPCA.  
3 And I think in Holley Place, there was a WPCA letter. And that was another one  
4 connecting with the sewer and it was pretty certain, yeah, they can do it.  
5  
6 Abby Conroy: [132:27] But then how...  
7  
8 Charles Andres: [132:27] So that's...  
9  
10 Abby Conroy: [132:28]...did that come to be?  
11  
12 Charles Andres: [132:30] How did it come to be?  
13  
14 Abby Conroy: [132:31] Did – was there ever an answer to that?  
15  
16 Charles Andres: [132:34] In the...  
17  
18 Abby Conroy: [132:34] Did they file an application? Did they provide calculations? Did the  
19 Commission...  
20  
21 Charles Andres: [132:37] I don't know.  
22  
23 Abby Conroy: [132:39]...authorize the letter?  
24  
25 Charles Andres: [132:39] I know what's in the record.  
26  
27 Michael Klemens: [132:40] Oh, they did...  
28  
29 Charles Andres: [132:40] I defended the appeal and that's...  
30  
31 [laughter]  
32  
33 Abby Conroy: [132:41] Okay.  
34  
35 Charles Andres: [132:42]...something. I remember there was a letter and it was a [inaudible  
36 132:45] letter.  
37  
38 Abby Conroy: [132:46] Yeah.  
39  
40 Charles Andres: [132:46] But I don't remem-, I don't know what their process was.  
41  
42 Abby Conroy: [132:49] Yeah.  
43  
44 Charles Andres: [132:49] I understand, Abby. I'm looking at this.  
45  
46 Abby Conroy: [132:52] Yeah.  
47  
48 Charles Andres: [132:52] And...  
49

1 Michael Klemens: [132:53] [Inaudible 132:53].  
2  
3 Abby Conroy: [132:53] Right. So...  
4  
5 Michael Klemens: [132:54] People don't get [inaudible 132:55].  
6  
7 Charles Andres: [132:55] Dr. Klemens said it correctly.  
8  
9 Charles Andres: [132:56] Don't get [exercised 132:57] by 11 apartments or even 20 houses at  
10 Dresser Woods. When you start to get 64 houses, [inaudible 133:05] maybe or  
11 150 guests here and plus the rooms, people start to think, "Well you just [can  
12 133:14] skate by," as they have been doing on the other ones. And they have been  
13 skating by. There's no [inaudible 133:21] basis for how these decisions are  
14 reached.  
15  
16 Abby Conroy: [133:26] So – but I guess my other question is does – I – when I read J, honestly,  
17 I read that as if its served by septic system because of the way it talks about a  
18 health officer in consistency with the state health code.  
19  
20 Charles Andres: [133:43] Well it mentions sewage disposal.  
21  
22 Male: [133:45] Disposal, yeah.  
23  
24 Charles Andres: [133:46] And that's why I – and the precedent. The only one I'm aware of 'cause  
25 there was an appeal. Well there was a letter from the WPCA.  
26  
27 Abby Conroy: [133:56] Yeah.  
28  
29 Charles Andres: [133:56 ] It's a solvable problem. I...  
30  
31 Abby Conroy: [133:57] Yeah.  
32  
33 Charles Andres: [133:57]...get it. It just – it's – I don't think this would be an impediment if – once  
34 it gets done. And maybe...  
35  
36 Abby Conroy: [134:04] Yeah.  
37  
38 Charles Andres: [134:04]...they could come back but I'm looking for is it a concern for you guys  
39 to be listed in a decision for – that may or may not be appealed. And I just want to  
40 make sure I have all the reasons.  
41  
42 Michael Klemens: [134:18] Well...  
43  
44 Robert Riva: [134:18] Michael, could...  
45  
46 Michael Klemens: [134:19] Sorry. Go ahead [inaudible 134:20].  
47  
48 Robert Riva: [134:20] Michael, could you repeat your statement? Did you say you were – you  
49 felt this was not a reason for denial?

1  
2 Michael Klemens: [134:29] I am concerned that as this was basically incompetence on the part of the  
3 town in responding to this applicant in a timely manner, if it is a condition for  
4 denial, is that a weak link in defending an appeal?  
5  
6 Robert Riva: [134:50] It's a big problem but it's...  
7  
8 Charles Andres: [134:52] I...  
9  
10 Robert Riva: [134:52]...a weak link, you think. Yeah.  
11  
12 Charles Andres: [134:54 I think that if there's a problem with the WPCA, there's remedies, there's  
13 [inaudible 134:59] actions you can bring against the WPCA to get answers.  
14 There's actions that can be brought against that agency. I mean I could go – I just  
15 want to get it down and my understanding – I'm hearing two things from you,  
16 Michael. Michael, I'm hearing you say number one, this is serious. That this is not  
17 just 12 units. This is a whole – this is a lot. This is a major part of this to work. On  
18 the other hand, I understand your point also saying that it's not the applicant's  
19 fault; it's these guys have twiddled their thumbs or – and I – and there's probably a  
20 whole background behind that too in terms of...  
21  
22 Michael Klemens: [135:39] Oh, there's a whole [inaudible 135:40] on that.  
23  
24 Charles Andres: [135:40] I don't know what sort of [inaudible 135:41] they have and so forth. And  
25 it looks like they are addressing. I mean – and we've got an engineer doing the  
26 capacity...  
27  
28 Male: [135:51] Analysis.  
29  
30 Charles Andres: [135:51]...studies that needs to be done and whatever else. So they're doing that.  
31 And that – it's a good thing. So – but yeah.  
32  
33 Michael Klemens: [136:01] [Inaudible 136:01].  
34  
35 Charles Andres: [136:01] So my I just...  
36  
37 Michael Klemens: [136:04] But can we say something about the fact that we – it is a concern but  
38 also say something – resolution that it was...  
39  
40 Charles Andres: [136:13] Well at...  
41  
42 Michael Klemens: [136:14] the town.  
43  
44 Charles Andres: [136:14] If we're going to deny it, I would want to note it and include this as a  
45 reason. I – and...  
46  
47 Michael Klemens: [136:20] What...  
48  
49 Charles Andres: [136:21] The fact that they have...

1  
2 Male: [136:22] I agree.  
3  
4 Michael Klemens: [136:24] What did you – I didn't hear what you said.  
5  
6 Charles Andres: [136:26] The reason that the failure to comply with the providing the certification  
7 by the WPCA, which – and the health officer – and that's in Section 800.3J and  
8 then there's this section in 803.4E, which is that the application has shown the  
9 adequacy of proposed methods for sewer facilities. Have they shown? I mean  
10 that's in 803.4. So if they haven't shown it yet, we would include that. And that  
11 would be a reason.  
12  
13 Michael Klemens: [137:01] Well I guess a lot of people are hearing of your transcript of this and that  
14 have heard our concern about how the applicant was not treated properly by the  
15 WPCA.  
16  
17 Charles Andres: [137:14] Right. Okay.  
18  
19 Cathy Shyer: [137:18] Shyer here. Didn't the applicant also change the calculations quite  
20 recently? Didn't they go up significantly based on the...  
21  
22 Allen Cockerline: [137:28] Yes.  
23  
24 Cathy Shyer: [137:29]...[inaudible 137:29]?  
25  
26 Allen Cockerline: [137:30] It did. They did.  
27  
28 Michael Klemens: [137:31] Up or down?  
29  
30 Cathy Shyer: [137:32] They went up 50 percent.  
31  
32 Allen Cockerline: [137:34] It was like – yeah, it went up 50 percent.  
33  
34 Michael Klemens: [137:35] Oh, yeah.  
35  
36 Allen Cockerline: [137:36] It went from 100...  
37  
38 Michael Klemens: [137:38] To 150.  
39  
40 Male: [137:39] To 150. Something like that. So...  
41  
42 Michael Klemens: [137:40] Yeah, gallons. Yes. Because – all right.  
43  
44 Allen Cockerline: [137:44] But this was something that was also brought up by – one of the key  
45 points brought up by Attorney Grimes too was the WPCA not having approved  
46 this and his allegation was it renders the application incomplete.  
47

1 Abby Conroy: [138:05] Right. But that's what Michael is saying, I think, is that it's not – is it the  
2 prob-, is it the applicant's fault, and therefore, if it's not the applicant's fault, then  
3 should we hang our hat on denying that – on that basis. That's all.  
4  
5 Male: [138:25] [Inaudible 138:25].  
6  
7 Abby Conroy: [138:25] So that's where I think Chuck was saying well you could [inaudible  
8 138:27] with a sort of acknowledgement that it was out of their hands.  
9  
10 Charles Andres: [138:34] Yeah, but I – what I'm hearing is we should include that as a reason for  
11 denial.  
12  
13 Abby Conroy: [138:38] Right.  
14  
15 Michael Klemens: [138:39] Yes, it is a reason for denial.  
16  
17 Charles Andres: [138:42] In those two sections of the [rights 138:44]. Okay.  
18  
19 Male: [138:45] Or to with...  
20  
21 Michael Klemens: [138:45] [Inaudible 138:45].  
22  
23 Male: [138:46] Or to withdraw and reapply.  
24  
25 Charles Andres: [138:49] They can withdraw at any time before we render a decision.  
26  
27 Michael Klemens: [138:51] Right.  
28  
29 Charles Andres: [138:51] Yes, they can always do that.  
30  
31 Michael Klemens: [138:52] Right. Which frankly I personally think would be in their best interest  
32 but that's my opinion.  
33  
34 Robert Riva: [139:03] I'm on the fire district in Caanan and 10 years ago – I'm just discouraged.  
35 We've – we started to do some relining of these pipes in town here and then we  
36 stopped and I don't know why. We did it in Caanan. We went to USDA 10 years  
37 ago. We have – we had \$2.5M dollars. Every one of our lines, we gained capacity  
38 and it was probably worth a \$20M addition on the [plan 139:32] for \$2.5M for  
39 relining our pipes. I know – I'm very relaxed about it. I know it can be done. I  
40 know we gain capacity; it's just a tough spot to be in.  
41  
42 Abby Conroy: [139:49] As always, your practical expertise is very helpful.  
43  
44 Michael Klemens: [139:53] And they have been relining the pipes. It's in the POCD that [inaudible  
45 139:57] dealing with the I&I.  
46  
47 Allen Cockerline: [140:00] Yeah.  
48  
49 Michael Klemens: [140:01] But it's not [inaudible 140:02]. It's a work in progress.

1  
2 Allen Cockerline: [140:04] Yeah.  
3  
4 Michael Klemens: [140:07] So where are we now, Abby? Pull up the...  
5  
6 Charles Andres: [140:16] I think you're done.  
7  
8 Michael Klemens: [140:26] Number C. [Inaudible 140:28].  
9  
10 Abby Conroy: [140:35] I think it's pretty much all been discussed, correct? Was there anything  
11 that was brought up that – right. In our – your list, Dr. Klemens? All right. We  
12 had your traffic values.  
13  
14 Michael Klemens: [140:48] Where are we...  
15  
16 Abby Conroy: [140:49] Etc., etc. In your outline.  
17  
18 Michael Klemens: [140:53] Well we had property values. Not – what are you asking me, Abby? I'm  
19 sorry.  
20  
21 Abby Conroy: [140:57] I'm asking you – 'cause we've gone through the regulations. I'm asking if  
22 there was anything else in your outline that we haven't discussed in detail yet.  
23  
24 Michael Klemens: [141:01] Noise, traffic, parking, engineer and design, stormwater, tree cover. We  
25 haven't talked about tree cover.  
26  
27 Abby Conroy: [141:09] Right.  
28  
29 Michael Klemens: [141:10] [Inaudible 141:10] protection, we've dealt with. Lighting didn't seem to  
30 be a big issue for people. Property values, we were not convinced. Compatibility  
31 with the surrounding neighborhood is a big no there.  
32  
33 Abby Conroy: [141:25] So tree cover. We didn't specifically talk about parking, right?  
34  
35 Michael Klemens: [141:35] Oh. I believe – yeah, parking. I – is the parking adequate on the – we  
36 could talk about it. I thought the parking was adequate.  
37  
38 Male: [141:43] I did as well.  
39  
40 Robert Riva: [141:45] Yeah, I agree.  
41  
42 Michael Klemens: [141:49] Marty?  
43  
44 Martin Whalen: [141:50] Yeah, they seem to have ample parking spaces on their plan.  
45  
46 Michael Klemens: [141:56] Cathy?  
47  
48 Cathy Shyer: [141:57] Actually, I'm not sure. It changed so many times at the end, right at the  
49 end. I'm not sure. I have to say I don't know.

1  
2 Michael Klemens: [142:06] Okay. We have four Commissioners that are happy with it, so Chuck, in  
3 terms of writing a resolution, I think you've got a clear majority here.  
4  
5 Charles Andres: [142:18] Okay.  
6  
7 Michael Klemens: [142:20] My list. Property compatibility. Tree cover. I don't know where that  
8 came in.  
9  
10 Abby Conroy: [142:29] I don't know either.  
11  
12 Allen Cockerline: [142:32] It seems to me like they've done an awful lot to retain as much as they  
13 possibly can.  
14  
15 Michael Klemens: [142:36] Yeah.  
16  
17 Allen Cockerline: [142:37] So...  
18  
19 Michael Klemens: [142:38] I don't know why it's on my list. Where was it?  
20  
21 Abby Conroy: [142:41] Maybe just because you asked for the tree study, perhaps.  
22  
23 Michael Klemens: [142:45] No. Somewhere we saw – property [inaudible 142:48] reference to  
24 [inaudible 142:50] traffic safety compatibility, provisions for open space and  
25 landscaping. Well I guess maybe tangentially was – we even had a discussion. I  
26 think [Bob 143:05] mentioned this. That you – it's very heavily treed now and are  
27 they preserving enough of the trees, particularly to buffer it from the neighbors? I  
28 think that's...  
29  
30 Abby Conroy: [143:17] Yeah.  
31  
32 Michael Klemens: [143:18]...a [inaudible 143:19]. Landscaping. That's, I think, the tangential one  
33 there.  
34  
35 Abby Conroy: [143:23] And I hope I don't overstep my bounds here, talking about something  
36 that wasn't talked about in this hearing, but didn't they mention in these hearings  
37 about like complaining wetlands of this. That they were retaining the [arborist  
38 143:38].  
39  
40 Michael Klemens: [143:42] They retained an arborist for this and that's gonna be...  
41  
42 Abby Conroy: [143:45] On the project.  
43  
44 Michael Klemens: [143:46]...continued through...  
45  
46 Abby Conroy: [143:47] Right.  
47  
48 Michael Klemens: [143:47] Yeah, that's the...  
49

1 Abby Conroy: [143:48] Okay.  
2  
3 Michael Klemens: [143:49] It was gonna be they committed to continuing to work with the arborist  
4 as part of their plan.  
5  
6 Abby Conroy: [143:56] So that may have been also because you were thinking that would  
7 possibly be a condition of approval?  
8  
9 Michael Klemens: [144:01] Yes, that was probably right.  
10  
11 Abby Conroy: [144:03] Okay. I'm trying to...  
12  
13 Michael Klemens: [144:05] I was trying to be balanced. They did...  
14  
15 Abby Conroy: [144:07] Yeah.  
16  
17 Michael Klemens: [144:07]...a very good – I think the tree – I'm satisfied that they did a very good  
18 job on the trees. They were responsive. They designated preservation areas. They  
19 even went as far as to sort of identify those that were invasive trees like Norway  
20 Maple. Yeah. I don't know. Is there anything else on my list? Is there anything  
21 that should be on the list? I do want to talk about 804, though. If we go  
22 somewhere where we had about pre-application reviews. I think that needs to be  
23 discussed. 804.2.  
24  
25 Abby Conroy: [144:54] All right. You're really digging in tonight, huh?  
26  
27 Allen Cockerline: [145:00] Well what was...  
28  
29 Michael Klemens: [145:01] I have...  
30  
31 Allen Cockerline: [145:01]...your letter...  
32  
33 Michael Klemens: [145:02] I want us to [inaudible 145:03]...  
34  
35 Allen Cockerline: [145:03]...Abby? Your letter of – what was that? 9-15 or 16. When was that?  
36 You addressed the...  
37  
38 Robert Riva: [145:14] 10-15.  
39  
40 Allen Cockerline: [145:15]...allegations. Was it 10-15?  
41  
42 Robert Riva: [145:18] I think it was 10-15.  
43  
44 Allen Cockerline: [145:19] It was from you, Abby, and you put a lot of work into explaining the  
45 process.  
46  
47 Michael Klemens: [145:24] You talking about the 12-10 letter that was uploaded?  
48  
49 Allen Cockerline: [145:28] We all have different – it was...

1  
2 Abby Conroy: [145:29] Well there were two letters.  
3  
4 Michael Klemens: [145:30] There were two.  
5  
6 Allen Cockerline: [145:31] It was a memo put together by Abby...  
7  
8 Abby Conroy: [145:34] Mm-hm.  
9  
10 Allen Cockerline: [145:36]...pretty much describing the process of the amendments for the hotel  
11 regs in the RR1 Zone.  
12  
13 Abby Conroy: [145:44] Mm-hm.  
14  
15 Allen Cockerline: [145:45] And the one thing that you didn't include there was really the fact that  
16 the depth of this conversation has gone back years and years. It's gone back to  
17 Perry Street and the Airbnb.  
18  
19 Abby Conroy: [145:59] Mm-hm.  
20  
21 Allen Cockerline: [146:00] It started there.  
22  
23 Abby Conroy: [146:01] Right.  
24  
25 Allen Cockerline: [146:01] It went back to 9 Academy Street and the establishment of a hotel there.  
26 So this is nothing new and it's been very transparent and it really boils me that  
27 you two in particular are being grilled on actually doing a great job. So that's all. I  
28 guess that's all I have to say about it.  
29  
30 Abby Conroy: [146:27] Thank you, Allen.  
31  
32 Male: [146:28] Agreed.  
33  
34 Male: [146:29] That's nice.  
35  
36 Allen Cockerline: [146:30] I could say a lot about ignorance and arrogance but I'll just leave it.  
37  
38 Male: [146:34] Yeah.  
39  
40 Robert Riva: [146:35] Bite your tongue.  
41  
42 Michael Klemens: [146:36] Yeah. Believe me I've been biting my tongue for some time on this. I  
43 think, Allen, for the record, there were two memoranda. It came actually for the  
44 record. Abby and I coauthored them. They came from us. One was early on and  
45 then we – as the drum roll of impropriety continued to hammer us, we then did a –  
46 basically a second memo that was uploaded on the 10<sup>th</sup> of December, which  
47 actually encapsulated the history that you just repeated. So yeah. And I thank you  
48 for your vote of confidence in Abby and myself.  
49

1 Allen Cockerline: [147:22] Yes.  
2  
3 Abby Conroy: [147:24] So I...  
4  
5 Cathy Shyer: [147:25] And I – may I just comment on that to be particularly at – to both of you  
6 and also to Miles with all your tables [and putting 147:32] stuff up so fast,  
7 handling the meetings so well, [inaudible 147:37]. I think you guys have done a  
8 terrific job.  
9  
10 Abby Conroy: [147:40] Thank you.  
11  
12 Cathy Shyer: [147:40] And Michael, we really appreciated your [inaudible 147:43] last year  
13 [inaudible 147:45]. Terrific. Thank you.  
14  
15 Michael Klemens: [147:52] We try. Sometimes I'm a bit overbearing. I know.  
16  
17 Abby Conroy: [147:56] I don't know your temperature tonight, Dr. Klemens, but...  
18  
19 Michael Klemens: [148:00] My temperature, it's quite cold here.  
20  
21 Abby Conroy: [148:03] The running...  
22  
23 Michael Klemens: [148:03] My hands are cold.  
24  
25 Abby Conroy: [148:04]...joke this week has been how many illegal – or inappropriate pre-  
26 application meetings I have in my office every day.  
27  
28 Allen Cockerline: [148:15] Well that's good. That's good.  
29  
30 Michael Klemens: [148:18] No. As a matter of fact, I'll say it. We have a colleague of Mr. Grimes  
31 who is coming in for pre-application meetings for a regulation amendment  
32 dealing with event venues. But now that the public has been made aware of how  
33 they can actually track this and participate, maybe when that regulation  
34 amendment comes – if it ever comes, the public won't be able to cry fowl as they  
35 have here.  
36  
37 Martin Whalen: [148:49] I didn't know.  
38  
39 Michael Klemens: [148:51] Yes, it goes on all the time.  
40  
41 Abby Conroy: [148:54] It goes on all the time. I'm so glad that 7 Holley Street is no longer on  
42 the market.  
43  
44 Michael Klemens: [149:01] Yeah.  
45  
46 [laughter]  
47  
48 Cathy Shyer: [149:03] Oh my. Okay.  
49

1 Michael Klemens: [149:05] We had, I think, three different owners come in for that. Different plans  
2 that never came to fruition.  
3  
4 Abby Conroy: [149:12] Mm-hm.  
5  
6 Michael Klemens: [149:12] At least three. And then you have the knife factory [inaudible 149:17]  
7 with potential buyers. This is proforma.  
8  
9 Male: [149:23] Yeah.  
10  
11 Michael Klemens: [149:24] And – anyway. The temperature is I think now is the time I'd like to do a  
12 straw poll because I think we need to direct staff and that is Abby, myself, and  
13 Chuck, which way you want a resolution to point. So I'm going to start. Is it  
14 approval or denial? Cathy?  
15  
16 Cathy Shyer: [149:49] Denial.  
17  
18 Michael Klemens: [149:51] Allen?  
19  
20 Allen Cockerline: [149:56] I'd like to see them withdraw it first but...  
21  
22 Michael Klemens: [149:59] That's – that could happen.  
23  
24 Allen Cockerline: [150:06] I'm very much on the fence but I'm – I would lean in the direction of  
25 denial given everything that we've been discussing, particularly tonight. I'm  
26 leaning that direction. That's not really a vote, is it?  
27  
28 Michael Klemens: [150:27] No, we're just tryin' to get a...  
29  
30 [laughter]  
31  
32 Michael Klemens: [150:28] I'm hoping we're not gonna have to prepare two different sets of  
33 resolutions. So we're gonna – so far, you're one definite and one leaning. Bob?  
34  
35 Robert Riva: [150:43] At this point, Michael, I have to say denial.  
36  
37 Michael Klemens: [150:53] Another one. Mr. Whalen?  
38  
39 Martin Whalen: [150:56] Well I'm another one who's a fence sitter but I going – I'm sorta leaning  
40 towards approval but I have to – I'm gonna have to give it some more thought.  
41 But right now, I'm leaning that way. It's not a vote [like you say 151:09]. It's not a  
42 vote.  
43  
44 Michael Klemens: [151:11] No.  
45  
46 Male: [151:11] Right.  
47

1 Michael Klemens: [151:12] But I think – and I'm leaning toward – very heavily toward a denial  
2 despite the fact that the applicant put so much effort into it. I think there's serious  
3 deficiencies.  
4  
5 Robert Riva: [151:23] I – yeah, I agree. I feel bad. They put a great effort and they were very  
6 understanding and cordial, I think, to us in recommendations and even from the  
7 neighbors. But...  
8  
9 Michael Klemens: [151:37] Yeah. They tried [inaudible 151:38].  
10  
11 Robert Riva: [151:39] Yeah.  
12  
13 Abby Conroy: [151:40] And I guess...  
14  
15 Cathy Shyer: [151:42] I think you brought up, Bob, actually their communication with the  
16 neighbors was obviously terrific. I mean there was a letter in there that admits it.  
17 Thirty neighbors. And I think they were aiming for – are aiming – were aiming  
18 for a quality product, particularly with their landscaping and tree stuff and they  
19 were very responsive. So yeah. On some things.  
20  
21 Michael Klemens: [152:03] Yeah. Well I think some things was the reduction. I think the real  
22 stumbling block was a reduction in the size of the overall program, which I think  
23 we've hit at in different ways, from different angles. And I think the unresolved  
24 issues of noise and sewer.  
25  
26 Abby Conroy: [152:21] So I think...  
27  
28 Male: [152:21] Yeah.  
29  
30 Abby Conroy: [152:22]...I'm – since tomorrow, I'm gonna be writing this, I'm definitely still – I  
31 think I'm going to still include findings of compliance...  
32  
33 Michael Klemens: [152:35] Oh, yeah.  
34  
35 Abby Conroy: [152:35]...with all the things that you've said and then I will craft – try and craft  
36 some other – to try and hit your concerns.  
37  
38 Michael Klemens: [152:45] Are you doing...  
39  
40 Abby Conroy: [152:46] The only other thing I was thinking was should we...  
41  
42 Michael Klemens: [152:48] Are you doing two resolutions?  
43  
44 Abby Conroy: [152:49] No. One resolution.  
45  
46 Michael Klemens: [152:51] Oh.  
47

1 Abby Conroy: [152:52] But the other thing I was thinking is should we – and maybe it's not for  
2 tonight. Should we also discuss – because the applicant did provide potential  
3 conditions. I don't know if that's worth discussing.  
4

5 Michael Klemens: [153:06] Conditions for...  
6

7 Male: [153:06] Why?  
8

9 Abby Conroy: [153:08] No, because the Commission could basically put value or no value on  
10 any of them.  
11

12 Michael Klemens: [153:19] Well let's take a look at them.  
13

14 Abby Conroy: [153:22] I mean we don't have to do it.  
15

16 Allen Cockerline: [153:24] Is this something that's allowed outside the hearing?  
17

18 Charles Andres: [153:28] Yeah. I...  
19

20 Abby Conroy: [153:28] It's on – it's a public – yeah, it was submitted as part of the record.  
21

22 Michael Klemens: [153:30] It's in the public record.  
23

24 Charles Andres: [153:33] The reason you would do it is if they were to withdraw or even not  
25 withdraw, if they wanted to reapply, then there may be some guidance we can  
26 provide in there. Like they say the time – do you think the time they gave for  
27 completion of events is good or something like that.  
28

29 Abby Conroy: [153:54] Right.  
30

31 Charles Andres: [153:55] I mean that's the whole reason you would do it. That this is an occasion.  
32 If you expect a reapplication and Dr. Klemens said yeah, but it's gotta be scaled  
33 down. But I don't – there may be other stuff. But you don't have to do it.  
34

35 Abby Conroy: [154:11] Mm-hm.  
36

37 Charles Andres: [154:12] You provided – I think they've listened to this conversation and they can  
38 get a sense of your concerns but you – if you wanted to, you could.  
39

40 Michael Klemens: [154:20] What are you getting at? Do you want to put where they complied in the  
41 resolution and where they didn't comply? Is that what you're [inaudible 154:28],  
42 Abby?  
43

44 Abby Conroy: [154:29] Well don't you have to make those findings?  
45

46 Charles Andres: [154:32] No. You – for a denial, we just say we're gonna cite the regulations and  
47 we've already...  
48

49 Abby Conroy: [154:37] Okay.

1  
2 Charles Andres: [154:38]...mentioned there's 803.2, 803.3. There's 803.4E and 802.1. I mean  
3 that's basically gonna be it. I mean we – if it's for denial, we're citing the non-  
4 compliant – the things they fail to comply with.  
5  
6 Abby Conroy: [154:55] Okay.  
7  
8 Michael Klemens: [154:56] I think...  
9  
10 Male: [154:56] There's a second page.  
11  
12 Michael Klemens: [154:57]...[inaudible 154:57] by very virtue of not – of citing only a few issues of  
13 denial, it's sort of [inaudible 155:06] that the rest of it was okay.  
14  
15 Abby Conroy: [155:08] [Inaudible 155:08]. Okay. [Inaudible 155:09].  
16  
17 Michael Klemens: [155:10] Would you agree with that, Abby?  
18  
19 Abby Conroy: [155:11] Yeah, I'm trying to remember. None of those things were actual like –  
20 well for example, the [inaudible 155:20] plants, right? The Commission makes a  
21 finding that that's – in that location is satisfactory, right? Or are you saying that  
22 that's...  
23  
24 Charles Andres: [155:29] We don't have to do that.  
25  
26 Abby Conroy: [155:31] You don't have to do that.  
27  
28 Charles Andres: [155:31] If we're doing the denial...  
29  
30 Abby Conroy: [155:32] Okay.  
31  
32 Charles Andres: [155:33]...we don't have to say how they comply with things.  
33  
34 Abby Conroy: [155:35] Okay.  
35  
36 Charles Andres: [155:36] We just have to articulate the things they don't comply with.  
37  
38 Michael Klemens: [155:38] And the resolution...  
39  
40 Abby Conroy: [155:38] Okay.  
41  
42 Michael Klemens: [155:39]...will also have in it that the intervenors did not meet their burden.  
43  
44 Charles Andres: [155:44] Yeah, we'll – we can state that.  
45  
46 Michael Klemens: [155:45] That should be also – that should be right in the resolution.  
47  
48 Charles Andres: [155:49] Yeah.  
49

1 Michael Klemens: [155:53] I don't think there's much else to say. I – but I'm gonna go around the  
2 room one time. Vice Chair Shyer, do you have anything more to add?  
3  
4 Cathy Shyer: [156:04] No, not at this time.  
5  
6 Michael Klemens: [156:06] All right. Allen?  
7  
8 Allen Cockerline: [156:09] Can I comment on their conditions right now? 'Cause it is – it's relevant.  
9 I'm just saying on that condition number 7, that goes to – back to what I'm saying  
10 about I don't feel that the application is complete. And I think that we need a  
11 higher – given the high stakes for an event facility, we've got to really – it's gotta  
12 really be nailed down and they just – number 7 doesn't cover it.  
13  
14 Michael Klemens: [156:43] Right. Okay. Get – got it. Secretary Whalen?  
15  
16 Martin Whalen: [156:50] I'm just looking at that 7 too, Allen. I'm thinking there's a lot there but if  
17 you – insulation measures but what insulation are you talking about? There's great  
18 insulation you can put in. It does two things. It's down actually – it [deadens  
19 sound 157:05] and it also insulates. So if I knew more about it, I'd feel better  
20 but...  
21  
22 Michael Klemens: [157:14] Okay.  
23  
24 Male: [157:15] They need to hire [Bennett Brooks 157:16].  
25  
26 [laughter]  
27  
28 Martin Whalen: [157:18] They probably – they need...  
29  
30 Michael Klemens: [157:21] They need baseline information. I think that should be applied here that  
31 they provided no baseline data to evaluate anything.  
32  
33 Male: [157:31] Right.  
34  
35 Michael Klemens: [157:33] That was the deficiency. They provided no design of a building so we  
36 could independently evaluate whether they would achieve the acoustical goals  
37 they wanted. If they had...  
38  
39 Male: [157:47] Right.  
40  
41 Michael Klemens: [157:47]...submitted a proper design, we might have sent it out to an acoustical  
42 third-party review.  
43  
44 Male: [157:53] [Inaudible 157:53].  
45  
46 Michael Klemens: [157:56] Yeah.  
47  
48 Male: [157:57] Exactly.  
49

1 Michael Klemens: [157:59] I think they were very cooperative about trying to limit the hours of  
2 operation...  
3  
4 Male: [158:05] Yeah.  
5  
6 Michael Klemens: [158:05]...reducing the number of attendees. I think they did many important  
7 steps to address it. But they didn't go far enough. So what remains to be decided is  
8 a resolution to be voted on and I think given our schedule next week, I would like  
9 to suggest the 18<sup>th</sup>.  
10  
11 Abby Conroy: [158:34] Wednesday? Yes, that's Wednesday.  
12  
13 Michael Klemens: [158:36] Because we have that. We have – I wanna keep the 17<sup>th</sup> for – in case  
14 we...  
15  
16 Abby Conroy: [158:41] [Inaudible 158:41].  
17  
18 Michael Klemens: [158:42]...have to continue stuff on the POCD. I think we should be presenting  
19 this on the 18<sup>th</sup> for the vote.  
20  
21 Allen Cockerline: [158:52] At what time?  
22  
23 Michael Klemens: [158:54] I think we've already noticed that.  
24  
25 Abby Conroy: [158:55] Yes, we've noticed all the meetings already.  
26  
27 Male: [158:56] Seven.  
28  
29 Michael Klemens: [158:57] No.  
30  
31 Abby Conroy: [158:58] Five.  
32  
33 Male: [158:58] Yeah, okay.  
34  
35 Abby Conroy: [158:59] Right.  
36  
37 Michael Klemens: [159:00] We just noticed [inaudible 159:01].  
38  
39 Male: [159:02] Yeah.  
40  
41 Michael Klemens: [159:02] Three meetings with the flexibility of either being POCD or Wake  
42 Robin.  
43  
44 Abby Conroy: [159:11] Right. The Tuesday, Wednesday, Thursday, we scheduled meetings at 5.  
45  
46 Michael Klemens: [159:14] And frankly, I don't think...  
47  
48 Cathy Shyer: [159:15] [Inaudible 159:15]. It's 5:00, Tuesday, Wednesday...  
49

1 Abby Conroy: [159:21] Thursday.  
2  
3 Michael Klemens: [159:23] But Thursday, we're not doing anything.  
4  
5 Cathy Shyer: [159:27] Yeah, 'cause I can't make 5:00.  
6  
7 Michael Klemens: [159:28] I know. I know that, Cathy.  
8  
9 Cathy Shyer: [159:30] Yeah. Okay.  
10  
11 Michael Klemens: [159:30] Thursday is...  
12  
13 Cathy Shyer: [159:31] Correct. And Monday, we've got POCD. Is that 5:00 too?  
14  
15 Michael Klemens: [159:36] No.  
16  
17 Abby Conroy: [159:36] Five-thirty.  
18  
19 Cathy Shyer: [159:39] Oh.  
20  
21 Michael Klemens: [159:39] It's a regular scheduled...  
22  
23 Cathy Shyer: [159:40] [Inaudible 159:40].  
24  
25 Abby Conroy: [159:41] Right.  
26  
27 Michael Klemens: [159:41] Regular meeting.  
28  
29 Male: [159:42] Yeah, it's in your email. We all got it.  
30  
31 Micheal Klemens: [159:45] Yeah. It's a regular meeting and then we have three...  
32  
33 Cathy Shyer: [159:48] Oh, yeah. Okay.  
34  
35 Michael Klemens: [159:49]...nights reserved afterward to deal with both of these matters. We [wrote  
36 139:54] the public special meeting notice correctly and that we put them both in  
37 but we don't have to do both on any one night. And I anticipate we are going to  
38 cancel the 19<sup>th</sup>.  
39  
40 Cathy Shyer: [160:09] Thank you.  
41  
42 Michael Klemens: [160:11] And the 19<sup>th</sup>, if we're going to do it, would only be POCD. It would not  
43 be [inaudible 160:15].  
44  
45 Cathy Shyer: [160:18] Okay.  
46  
47 Michael Klemens: [160:19] So...  
48

1 Martin Whalen: [160:20] Do we – oh. Any – question. Do we have – we don't have a meeting  
2 tomorrow night also, do we? Or do we?  
3  
4 Cathy Shyer: [160:27] No.  
5  
6 Male: [160:28] No.  
7  
8 Martin Whalen: [160:29] No. I wrote it on the wrong date. Sorry.  
9  
10 Robert Riva: [160:31] Do not ever talk that – don't ever talk that way, Marty.  
11  
12 [laughter]  
13  
14 Martin Whalen: [160:35] Mark that one off, Bob.  
15  
16 Michael Klemens: [160:35] I can arrange something.  
17  
18 [laughter]  
19  
20 Martin Whalen: [160:37] I'll X that one out.  
21  
22 Michael Klemens: [160:38] Okay. All right. I guess we need a motion to continue deliberations to –  
23 do we even need a motion to continue? I guess...  
24  
25 Cathy Shyer: [160:52] No.  
26  
27 Michael Klemens: [160:53]...we should.  
28  
29 Abby Conroy: [160:54] No, it's on the agenda.  
30  
31 Male: [160:55] It's on the agenda.  
32  
33 Michael Klemens: [160:55] [Inaudible 160:55]. I need a motion to adjourn.  
34  
35 Robert Riva: [160:59] So moved.  
36  
37 Allen Cockerline: [160:59] So moved.  
38  
39 Michael Klemens: [161:01] Mr. Riva.  
40  
41 Allen Cockerline: [161:02] Second.  
42  
43 Michael Klemens: [161:04] Mr. Cockerline. Vice Chair Shyer?  
44  
45 Cathy Shyer: [161:07] Yes.  
46  
47 Michael Klemens: [161:09] Secretary Whalen?  
48  
49 Martin Whalen: [161:10] Yes.

1  
2 Michael Klemens: [161:12] Mr. Riva?  
3  
4 Robert Riva: [161:13] Yes.  
5  
6 Michael Klemens: [161:14] Mr. Cockerline?  
7  
8 Allen Cockerline: [161:15] Yes.  
9  
10 Michael Klemens: [161:17] And I say yes. So we stand adjourned. Thank you for all your...  
11  
12 Male: [161:20] Thank you all.  
13  
14 Michael Klemens: [161:21]...hard work.  
15  
16 Male: [161:21] Thanks, Chuck.  
17  
18 Abby Conroy: [161:22] Thank you.  
19  
20 Michael Klemens: [161:23] Thank you, Chuck. Yes.  
21  
22 Abby Conroy: [161:25] Good night everyone.  
23  
24 Cathy Shyer: [161:26] Good night everyone.  
25  
26  
27 /lla

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