

Zoning Board of Appeals Minutes
December 14, 2006
7:30pm
Sunderland Elementary School

Present: Steve Krol; Chair, Tom Herrick; Clerk, Jim Bernotas, Steve Schneider; Associate, Barre Tozloski, Jim Williams, Stuart Beckley; Associate.

Absent: Todd Nuerminger, Associate Member

Town Counsel: Jason Talerman

Applicant: Scott Nielsen, Consultant; Joel Kahn, Lou Levine; Counsel and Peter Wells; Civil Engineer.

Steve Krol, chair opened third hearing for Sugarbush Meadow, LLC at 7:39pm.

Mr. Krol stated he would like to start this hearing by touching on some of the open issues from the last hearing before going to the main event. Looking at the agenda the last hearing applicant delivered a package of documents related to real estate transactions and deeds and such to our town counsel. Our special counsel has had time to review those documents.

Mr. Krol asked Mr. Talerman if he had any questions or comments that came out of his review.

Mr. Talerman stated that certainly on the project site itself they were missing a deed in the original submission and they provided that. They haven't answered all my questions though and it doesn't relate to the so called control of the site although it may have an impact on it. It does appear they have control over the site. I had asked questions regarding needing some clarity on the transaction in July of 2002 from a non profit corporation called Merkos L'Inyonei Chinuch, Inc. to EHC Associates for ten dollars. I'm not sure if those parties are related or not but it doesn't seem like an arms length transaction, it seems like a very curious transaction to me. I just need some clarity on it; it appears that the non profit bought it for \$620,000.00.

Mr. Kahn stated to Jason Talerman that the first thing is, if there are questions like this why don't you list them out and we will respond to you with the documentation to support the fact.

Mr. Talerman stated that he asked for the answers to that on the first night. Regardless I don't care if Mr. Kahn provides the information tonight or the next time. It's a strange transaction.

Mr. Kahn stated partnerships and conglomerations of people change all the time and entities move around. Not sure why Mr. Talerman find there to be a shift in...

Mr. Talerman stated it makes a significant difference on what the basis in the property is. It is very odd for a non profit that just bought a short time before for \$620,000.00 literally days before to sell days later for ten dollars (\$10.00). I assume those entities are related, if they are then the basis from the original transaction is probably the basis on the property if they're not, I like to know if there are some restrictions on that transaction.

Mr. Kahn stated he would put together a memo to Mr. Talerman and present the information regarding the transfer to EHC, and we'll answer that question.

Mr. Talerman stated okay.

Mr. Levine stated to Mr. Talerman that Mr. Talerman would have that information before the end of the year, well before the next meeting.

Mr. Talerman stated okay.

Mr. Talerman stated aside from that they (applicant) also provided some information on the easements. My concern there wasn't whether or not there were easements there, felt everyone knew there were easements there as we wade through this process might those easements mean on any redesigns, modifications, rights of way that the people may want, so it really is more to have them in the file, in the record so we're not running afoul of them later.

Mr. Kahn stated was okay and would Mr. Talerman like a copy of them.

Mr. Talerman stated that he had them.

Mr. Kahn stated that on the plan there is an area denoted where those easements are.

Mr. Talerman stated yes, sometimes there can be restrictions in an easement that people miss in terms of scope of what those rights are, now we know to the extent that people are planning something in there that might run afoul of those easements, now at least we have the documents where we can access that, other than that the documents were okay.

Mr. Kahn stated we will get the one memo by the end of the year for that one last issue and I think that clears up that matter.

Mr. Krol stated that next in terms of some old, new business I guess. As you know at our last hearing we selected an engineering firm to do our traffic peer study. I am here to inform you that as of today the contract between the Town of

Sunderland and VHB has not yet been signed. There's been a lot of back and forth between the Town and the engineering firm regarding language on the actual contract. I have seen the contract; it was marked up, back and forth several times. I think we are probably very close to signing that contract; it has gone through several iterations between both parties, lawyers. I think we will have a contract with our traffic consultant executed very shortly but as of today it hasn't been executed so that's an update on the traffic consultant. The other thing I wanted to talk about before we got into deep of today's hearing is that we have received four proposals for our civil engineer peer study. What I plan to do, three of them just arrived today, rather than put four studies in front of everybody and we flip through papers and try to figure out who we want to choose I will send copies of that proposal to all the Board members and to the applicant so we can do a review ahead of time and I would suggest that at the next hearing we would make our selection as to who the ZBA would like to have as their civil engineering consultant. Last time we had two proposals to look at, now we have four and I would rather have members be able to go through them ahead of time.

Mr. Krol asked Board members if they had any outstanding issues that were overlooked. The Board had none.

Mr. Kahn stated, Mr. Chairman just want to put for the record that it was requested by the Board or through the Town Administrator that we provide an electronic version of the original application, I believe I have delivered that to you tonight.

Mr. Krol stated yes, let the record note that Mr. Kahn has provided us a CD containing electronic copies of the application material, we have that which makes it easier to make copies and distribute as needed. Thank you very much.

Mr. Kahn stated my pleasure.

Mr. Krol stated with that out of way I am going to leave the determination and discussion of the next hearing date and where we're going to meet until the end of this hearing, let's see where we are there. I think that will impact some of our discussion in that regards so tonight's main topic of discussion is going to be civil engineering.

Mr. Kahn stated that is correct.

Mr. Krol stated that much like the last hearing, I would expect that you have an expert here that's going to give us an overview of the civil engineering aspects of this project which is a fairly substantial discussion, I imagine. Like last time we're going to allow the civil engineer to make his entire presentation with out questions and discussion at the conclusion of your presentation the Zoning Board will ask questions or give any comments regarding the presentation after that I would ask for town officials to be next in line to make comments and

questions then we'll open it to audience questions and participation. We'll get to everybody. You know my style as Zoning Board chairman; I like a lot of public input. Anybody that has something to say will have the chance to say it. I just ask that you be patient and wait your turn and you'll have your chance. I think I laid out the ground rules, unless there are any questions, Joel I would like to turn it over to your civil engineering presentation.

Mr. Kahn stated thank you, before we start though I would like to just like to make one comment. That the request to the Board after the original start of our, it was requested that additional engineering information be provided and more details regarding drainage calculations and sort of a macro sort of position obviously until this project is hopefully agreed to and designed by the Board and the applicant obviously the final types of engineering will only be done at that time. As promised at the final hearing we gave you a specific date, we actually beat that date by 24 hours because we realized that it was Thanksgiving and your offices would probably be closed on Wednesday so we did deliver 25 copies to you all on the Tuesday before Thanksgiving so with that in mind I would like to turn this over to Peter Wells from the Berkshire Group who I have asked tonight to give a nice easy presentation, slow to give as much detail and provide information relative not only to the features of this particular site plan but even to discussing the overview standpoint, how the drainage calculations were about and why he believes the systems as designed conceptually will function if this site was ever developed as part of the plan shown. With that in mind I will turn it over to Peter.

Mr. Krol stated just a second; I do want to acknowledge that for the record the applicant submitted 25 sets of the Storm Water Management Study. Anybody that received an application also received this study.

Peter Wells stated thank you, once again my name is Peter Wells with the Berkshire Design Group, and we're civil engineers, landscape architects and planners from Northampton.

The Plan before is roughly two years worth of engineering, starting with a complete site inventory and analysis of all the existing conditions on the site with regards to constraints and potentials the site had to offer. We looked at soils, slopes, vegetation, wetlands habitats just to name a few. As you are aware the property encompasses 63 acres of land is characterized as gently rolling topography from the north down to the southwest area. There are wetlands obviously on site; there are intermittent streams, ponds and preservation of these elements was very important during the planning process.

Number of units, we're looking at 150 units throughout the site located in 5 different buildings. Density is 2.3 units per acre. We have taken advantage of our proximity and access onto Plumtree Road and Route 116 creating two

access points that were designed to be 22 feet wide, safe access for vehicles and both for cars and emergency vehicles.

We've retained many of the larger trees that exist on site with hopes of keeping some of the existing character, there's a large grove of trees that have been retained and some trees sprinkled out, they are large in caliber that have been saved for character purposes.

As I mentioned the roadway system was adequately sized in regard to radius and width for emergency vehicles. We have tried twice to contact Chief Ahearn to set up a meeting just to go over with him any concerns he may have and we hope to do that within the next few weeks depending on schedules.

We've provided 270 parking spaces located in three parking areas within that there are 20 spaces for people for people with disabilities to be able to park in close proximity to the fronts of each one of these buildings. We've provided one tree for every four cars located throughout the parking area and that's as per town regulations. Parking spaces will be 9' x 18' in length with adequate aisle space for backing out and turning into.

The buildings account for 2.5% of the entire area, parking accounts for 3.2%, roadway accounts for 2.7% and side walks account for .2% thus the total building area is 8.7% leaving 91.3% open pandora green.

Site enities that we are including with this development would be a community building centrally located and tied into a safe access sidewalk from 116 and throughout the site. Adjacent to the community building we have a playground area and a basketball court also centrally located and visitor parking adjacent to the front of the community building.

The plan does comply with setback requirements for the Town of Sunderland, this building is approximately 320 feet from access point on Plumtree Road and the easterly building is close to 600 feet away from Route 116.

The plan does respect the two view shed easements that are located to the north of the property and along the entrance from the eastern edge so there will be no blocking of those view shed easements.

The water distribution system will be looped from Plumtree on through our site and connect to 116. Fire hydrants will be sprinkled throughout the site to provide fire access.

The on site waste water treatment facility will be installed and this will also include a 60,000 square foot leaching area. Waste water will be pumped to leaching area.

The Storm Water Management System will be designed to meet or exceed DEP Storm Water Management Policy. We have submitted a drainage study, 27 copies for your review also for your peer review. I would like to touch on a few of the comments made and findings made within that study. The drainage analysis actually revealed that the site is well suited to support this storm water management system, by using three separate detention basins, for those of you who don't know the site, all slopes down towards the southwest, we have proposed 3 separate detention basins that will collect storm water and will attenuate pre imposed storm water movements. The storm water will also be treated for water quality prior to discharging into the wetland areas. We'll be using infiltrating systems, grass swales, bio-retention swales, flow just to name a few in terms of water quality. By State standards you have to remove 80% of total suspended solids from the water. Our preliminary calculations show that we are going to remove close to 88% of total suspended solids thus the water is going to be quite clean. None of the catch basins will intersect with any high ground water since they are all designed to be shallow. There is a slight slope to them and size enough to store storm water and allow it to release at the rate it releases today. Erosion and sedimentation controls that will be incorporated during construction include bio-part erosion control barriers, check dams, temporary detention basins and temporary sedimentation basins. All these will provide adequate access control therefore protecting any resource area that we have on site. We will meet the requirements of the State Wetland Protection Act with regard to the mitigating measures and protecting any resource area that exists on site. However, we are doing work in 3 separate areas within the 100 foot buffer zone, by a detention basin, corner of one of the buildings and two of the other detention basins and its minimal amount of work within the 100 foot buffer. Those areas will be dealt with sensitively with erosion control barriers to protect the resource area during construction. Overall this 63 acre site will have approximately 54 acres of open and green space with buildings set back over 300 feet from roadways. We have tried to take advantage of view sheds throughout the site with regard to building locations and have done so and I believe that wraps up my presentation. I can go into more detail with regard to the study but I would rather wait until the ZBA's peer review consultant reviews it and has questions for me to respond to. With that in mind I will pass the baton.

Mr. Kahn stated it should be noted that the Waste Water Treatment Facility, while Peter had mentioned its location and proposed leach field location that is being designed by another group. Reports will be following all of DEP regulations and working closely with them and not part of what Berkshire Design Group will be doing in their scope of work. With that in mind we are all ready prepared to take questions from the Board.

Mr. Krol asked the Board members if they had questions, having none Mr. Krol stated I have a question in regards to parking obviously relative to run off and drainage would be the amount of impervious area that is going to end up being

on this site parking lots being one of them and I question whether there is enough parking at 270 spaces for 150 units. Is that an adequate amount?

Mr. Kahn stated that in my career over the years I have been fortunate to be involved in numerous projects throughout the country. It is my experience that 1.8 spaces per unit seems to be more than adequate for the intended use. You're always trying to find a balance of course any management facility of this size you want there to be adequate parking, you want it to be safe, you want it to be in such a location that is accessible and comfortable for the residents to move from their car to the facility and at the same time you don't want to balance that against the amount of impervious area, we are very confident that the number of spaces provided are more than adequate for a facility of this type.

Mr. Wells stated that he agreed.

Mr. Talerma asked, have you done any ground water mounding analysis? I'm not sure in which direction it flows, I'm guessing it flows in the wooded area but has that gone into your analysis? I see a lot of soil data and individual test pits but if you could speak to that a little bit.

Mr. Wells stated that we were given soil test pits throughout the site we analyzed the testing that was done for soil pits that occurred within our detention basins, there were that many done from previous developments and those indicated high ground water, anywhere from 37" to 48" to 53" so our detention basins are not going to be any deeper than that, they'll be wider as needed.

Mr. Talerma stated that's interception of the ground water. What about in terms of once you get water infiltrating, are you creating a mound in any direction going towards any of the structures? There has also been talk of flooding in this general area.

Mr. Wells stated that we have not done any analysis with regards to mounding.

Mr. Talerma stated okay, my next question was on the wetland thing. As you probably know there is a local wetland protection by-law which is more stringent than the State Act, because in particular they govern the buffer zone as if it were a resource area so I think what the Zoning Board is ultimately going to have to do is do a "mini notice of intent" type of analysis here to make sure that resource area is going to be or not going to be impacted or whether or not they should waive or not waive those particular local provisions. I'm wondering if you could provide a little bit more analysis to the amount of square footage of that buffer. It seems to be minor based on what you said and what's in the waiver request and what the actual activities in that buffer are so you may not be prepared to do a square footage calculation here tonight, it's probably fairly relevant. I know the

Conservation Commission would certainly ask for a square footage of disturbed buffer.

Mr. Wells stated yes, we would actually provide that number to you. We don't have an exact square footage at this point because the entire project is not fully graded out yet but areas where it does occur. A building is within the buffer by about 3 feet, a detention basin is shown within the 100 foot buffer by about 18 feet or so another basin by about 12 feet within the 100 foot buffer. What activities that will basically occur will be grading the detention basin will be carve out there might be some earth work done within that 100 foot buffer but not much more than what is shown (on the map) here at this present time. Once we get to the detail of actually grading each basin and seeing what size it is going to be we'll have an accurate square footage with regards how much activity is occurring within there and what mitigating measure will occur to protect the wetland.

Mr. Talerma stated so these things are not sized yet? The basins aren't sized yet?

Mr. Wells stated the amount and volume of water needed for retainage has been done and these basins are sized approximately to take care of that amount they are not graded out to a detail grading plan yet but we fell extremely confident that the amount of area we have here is more than enough to detain the amount of water needed to for attenuation.

Mr. Talerma asked if Berkshire Design Group do wetlands work or are you more on the basic civil stuff.

Mr. Wells stated we will submit the notice of intent and take it through permitting with regard to wetland flagging, no we don't.

Mr. Talerma asked where these flags derive from.

Mr. Wells stated these flags were done by New England Environmental, Mickey Marcus from Amherst.

Mr. Talerma asked if that is the **ORAD** under appeal right now.

Mr. Wells stated yes it is.

Mr. Talerma asked, do you know, I assume Mickey probably would be better to speak to the Board about the extent of wildlife habitat that is located on the site, are you aware of any of that?

Mr. Wells stated I'm aware of some but I think Mickey would be better to respond to that. He did more work of the habitat assessment and knows more with regard to habitat on site.

Mr. Talerma stated, I do think it is pretty important to follow up with the Fire Chief (and I'm not blaming you for not being able to connect with him) and make sure that all it checks out on auto turn analysis so he can get this biggest truck to those back buildings and he's got the necessary equipment to get to the worst part of the site. We have to think of it as the worse case scenario in the middle of winter. I think that's an analysis that everyone wants to see.

Mr. Wells state sure, we will be doing that as soon as he's available.

Mr. Krol asked for town officials to ask questions, having none stated he would open up for public comments and questions. I would ask that people making comments and questions try to make them distinctly and factual as possible, we don't emotional or statements that provoke an emotional response in kind. It doesn't serve anybody's purposes to have either the applicant or Board members to be upset by something that is being said. I would ask that you keep the comments factual and non personal. I looked back at the minutes of the last hearing and there was a ton of useful comments that were made by the public in general and I would like to have an equally productive session now. With that being said I will open up to public opinion.

Mr. Bruce Bennett, South Plain Road, stated first like to as a couple of questions concerning the percentage of building, black top, sidewalk area that is going to be percentage excluding the wetlands where they can't build at all. I believe there is about 42 acres out there where that can't build out there that is wetlands so that leaves about 20 acres that's buildable so what percentage is covered by buildings if they know that. I personally would like to know how they can come before this Board with incomplete plans of the size of the septic system, the design of it, that's also civil engineering they should have all that stuff completed before they come before the Board and the exact locations of the buildings, detention ponds all those things. I would assume that should be part of the application. The other issue I have with engineering is in regards to the church that bought the property at the old tennis courts, if they have considered the right of way there. That's an existing building, it's an existing use, how that's going to impact what they plan. That building has a capacity of about 400 people and the way they want to use it there's a potential 1,500 vehicle trips a day. The other issue would be parking. I rent out property and each tenant has two vehicles that's just a two bedroom, when you get into three bedrooms there's a potential for 3,4 cars, you need at least two parking spaces per apartment and he put in his personal opinion and I think we have the right to put our expert opinion in it too. Thank you.

Mr. Kahn stated we do not have the calculations here tonight regarding in difference in percentage, two, the plans were submitted pursuant to the regulations and requirements of C. 40B. It is a plan that we will work together on as such we to have final locations of buildings today but it may behoove this Board to choose to ask that they be shifted or located in such that they are shown therefore in the state of design that they have been presented. Sir, regarding issues of the Waste Water Treatment Facility as on going study that will be dealt with and worked with through DEP. I think that was Mr. Talerman that said early on that waste water treatment and DEP was very stringent, we will be following those and working very closely with them and during that period when studies are finalized and formalized DEP will work to where and how they wish to some these vents to be located and defined. I think I answered the questions.

Mr. Krol stated that further to that point you mention that waste water system design was handled by another group and would expect further details from the other group is that correct?

Mr. Kahn stated absolutely, as we work further down the line and as we are working on our studies we would be glad to make a presentation and share the information you want, again a lot of technical information will be dealt with of course and scrutinized by the experts within the State.

Mr. Krol stated water supply for this project is going to be by a town supply coming down from Plumtree Road, have you investigated the water supply or the ability for our town system to be able to supply that volume of water.

Mr. Kahn stated we have had a meeting with the water precinct, they describe that their belief, I am trying to get it in writing to present it to you all, there is adequate pressure and sizing in pipes to provide it and that did not believe there was an issue. We have not done a flow tests on any of the locations. Of course these are things that would be dealt with latter on as the progress progressed and of course we would have to meet adequate flows if not provide additional pumping capacity in order to provide the proper fire protection and of course those studies will be done as the process continues.

Mr. Krol stated that I'll accept that answer for now. I do know that these issues were raised at earlier meetings about availability of water, the capacity of our water supply, etc. These are topics that we will want to touch on later and we'll want to have our Water District personnel here when we do.

Mr. Kahn stated he understood.

Chris Carl, reporter for Daily Hampshire Gazette stated Mr. Bennett had mentioned the church and I just wondered if you all had figured the impact of that facility abutting your property, the traffic and activities.

Mr. Kahn stated again questions of the traffic were addressed discussed somewhat even vehemently at the last meeting and will be discussed through peer review. I think that's a subject as traffic impact that will be dealt with as peer review continues its work and presents its findings to the Board.

Jennifer Unkles, Conservation Commission stated I would like to echo Mr. Talerma's questions in regards to the detention basins and also point out that in addition to the buffer zone being a resource area, the isolated wetland, regardless of size is also a resource area and that's one of the main areas under contention through the appeal process.

Mr. Wells asked can you point out where that isolated wetland is.

Ms. Unkles pointed on map.

Mr. Talerma stated I take it the local by law protects those as if they were wetlands, regardless of size?

Ms. Unkles stated yes

Mr. Talerma stated we'll need square footage and impacts to that.

Ms. Unkles stated that monitoring wells were part of deciding the depths or locations of those in addition to the soil analysis.

Mr. Wells stated no, monitoring wells were not part of the test pits. The high water was identified by mottling and basically digging the hole.

Ms. Unkles stated the soil analysis across property is the same soil pits across the property. I'm looking for the mottling and hydric indicators in terms of being able to figure how the water flows, if it does flow southwest or across the down.

Mr. Wells stated we can provide additional analysis of the tests that were done. We were basically focusing in on the three that were next to the detention basins.

Ms. Unkles stated okay, thank you.

Margaret Nartowicz, Town Administrator has two questions: has the developer had any conversations with purchaser of the Pioneer Auction House, now to be a church?

Mr. Kahn stated he was contacted once prior to the bank auction and that was the only conversation they had.

Ms. Nartowicz stated okay, did the engineering study rely at all on any previous soil testing or sampling done by Land Solutions?

Mr. Wells stated no, there was some other testing done, I believe after Land Solutions looked at the site. So there are two testings done -- one was done months after I believe.

Ms. Nartowicz stated thank you.

Mr. Talerman stated what was the date of that testing? Does that go back to 2002?

Mr. Wells stated I don't believe know the exact date, I believe it was 2002 and 2004. I will check on that.

Mr. Talerman stated is there a standard for when test results like that become stale. I know with traffic you have to do counts every two years. Is there a standard for civil engineering? When do you have to do new tests?

Mr. Wells stated typically there is not. I will check on that though.

Susan Triolo, Garage Road stated I have heard that in other communities developers have to give some sort of percentage to cover the increase cost to the town for particularly school. I understand there is going to be huge increase of numbers of children in the elementary school and I'm just wondering is there going to be any percentage that the developers would be required to pay? That's one question the other.... I forgot.

Mr. Krol stated understand the validity of the question. I don't know if that's a civil engineering question but certainly there will be time that we would look at economic impact of this project and that's something we would look at then.

Shiun-Fen Tsai, South Plain Road state questioned the size of leach field next wetlands.

Mr. Kahn stated again, the answer, I'm not trying to skirt it, we are going to follow DEP regulations relative to that, the field will sized to that particular, there are a series of studies that DEP require be done and submitting application for consideration that deal with mounding and other hydraulic studies that will be designed and worked through the DEP process.

Mr. Krol stated I would want as part of that discussion is that when we talk about leach field design, how close it is it is in proximity to the residents north of where the leach field is going to be. It looks like you probably put the leach field in one of the few dry areas that could support it. Your responsibility isn't really the leach

field. I will want to dive into that a lot deeper when you have your leach field expert here.

Mr. Kahn stated that's fine, our pleasure.

Mr. Schneider stated just a question of clarification a moment ago you said Land Solutions; you hadn't used their test pits. On page two of the report we received the 21st, it talks about the test pits of December 1998 and August 2001 by Land Solutions. I don't know if that identifies the source of your testing or not.

Mr. Wells stated there is one other source of testing that was done and I believe that was in February 2004 additional testing that we use as reference to basically check those tests versus the Land Solutions tests. We can provide a copy of those also if needed. We based majority of our study on the two times that Land Solution tested with regard to their percolation rates.

Richard Morse, Old Amherst Road stated have concerns about paving in the discharge area. Would like to be assured there was consideration, space for dumpsters, recycling bins, containment, shielding and stuff like that. You mention 1.8 vehicles per unit, has rental property in town three bedroom units and there are always three vehicles not counting the people that come to visit them. Would like to know where the 1.8 figure came from and if it is applicable to the types of tenants you expect to have if it turns out that there is going to be almost twice as many people there, what's going to happen, is there a plan for making more parking and of so how does that impact the new amount of run off your going to have to deal with?

Mr. Kahn stated we have not done any additional studies we're satisfied with the ratios of parking that we provided and feel it adequate for the size of the project.

Mr. Krol stated that the last resident touched on something that I am still troubled with. I look at this remote location; I look at the scale of the properties you look like your building here. There is going to be probably for rent properties are probably going to be fairly expensive. I think there are going to be families in there and families typically have two cars. If students end up using it there's a least a car per bedroom. Comment is a pretty valid one, needs to be considered.

Mr. Talerma stated Mr. Chairman I think last time one of the things we asked for follow up on with respect to traffic, how were if this were rented to students how would this kind of fit with that kind of dormitory model. It's kind of in between models for rental development and if their analyst or our peer review analyst could put on their thinking cap and give us some answers on that question. Certainly around here I don't think it is unrealistic to expect that if it were student housing that there would be more cars than 1.8. I do agree with Joel on the point that statewide if this were a two bedroom family apartments the 1.8 figure has been thrown out many times and appears to be carrying the day. I'm not sure

with this product if it's fitting to use that exact model so wait for the experts for that.

Mr. Krol stated in reviewing the minutes there was a lot of talk about in the traffic study that when we do have our traffic study peer review, what a dormitory model might look like and so I think that reinforces that. Parking is going to be something we need to take a deeper look at and it's going to affect the traffic peer review when it comes up in the future.

Mr. Kahn stated one other point from Mr. Morse relative to dumpster, it is true we have not shown a location in the plan, the concept is to what they do in modern apartment complexes today is create a single point compacter as well as a place for recycling that would be dealt with and shielded accordingly and as again the plan is further, we refine it as we work with the Board again, we'll find an appropriate place for that to occur but this is not the type of a project that will have dumpsters scattered throughout the project that's not the way of the world or how projects are dealt with today.

Louise Moulton, Silver Lane stated was wondering who sent out the flyer to residents. In the flyer it says that this is going to add low income housing at \$1,140.00 a unit, that to me does not seem like low income housing. Comments that was just made that these were just for students, would like to find out what's that all about. The other question is about engineering, the water run off from vehicles that are sitting in parking spaces that maybe leaking oil and gasoline or whatever from their cars, is that going to be leaking into your waste facility and then into these basins and how can we be assured that the ratio of the gas and stuff is not going to seep into our wetlands and other neighboring houses?

Mr. Krol stated I'll answer part of that. I'm not aware of any flyer that was not a flyer sent out by the Zoning Board, unless you've been living in a vacuum this comprehensive permit has been stirring and talked about for awhile this is the third hearing we've had about it. What the applicant is proposing to do is put up 150 unit housing that will be rental housing to my understanding and a portion of it is dedicated as affordable housing, that's what got them here under the C.40B comprehensive permit process the discussion of who would in the end occupy this in the end is what we're dealing with now because we are a bedroom community to UMASS it's fair to say that some of this housing may indeed be occupied by students. This is not dedicated student housing it is just going to be open housing that is going to be used in any fashion as the public chooses to use it. Quite honestly this project has been in the works and talked about for quite awhile and has been in the press. That is the answer to that part of your question as far as your question about run off of cars I will defer to the civil engineer.

Mr. Wells state each parking area will have a sub surface drainage system that will be a series of catch basins and pipes that connect to the catch basins. Each

catch basin will have an oil and gas separator along with a deep sub to collect to total suspended solids so water will be treated prior to entering the detention basin from each one of the paved areas.

Mr. Krol asked if it would go through the waste water system.

Mr. Wells stated no, it will not go through the waste water treatment center it will be treated by catch basins, oil and gas separators, grass swales etc.

Ms. Moulton asked do you know the ratio of what is going to be low income and what is going to regular housing?

Mr. Krol stated 25% of the 150 units would be deeded, restricted as affordable housing.

Mr. Talerman stated at least 25%.

Amy Halloran, South Plain Road asked to point where the leach field is on the map.

Mr. Wells did this.

Mr. Wells stated that there's approximately 60,000 square feet with this area. When I mentioned earlier that we have 60,000 square foot leaching area, what I meant to say was the area for the leaching basin to go as 60,000 square feet, it is not designed yet so we're not sure exactly what size it is but there are 60,000 square feet, acre and a half area for that.

Ms. Halloran stated these catch basins, what is their purpose, please?

Mr. Wells stated a catch basin is located at a low point in a paved area or along a curb way and it basically is a concrete structure with a grate on top, water runs into, sediment settle and water runs in a subsurface pipe to another catch basin or manhole or a detention basin.

Ms. Halloran asked where the area ponds that's (referring to the map) where the water will run to?

Mr. Wells stated yes, water will flow in a southern direction, water will drain off the parking areas into the catch basins that are usually located at corners of each parking area, water will drain down the roadway and be picked up by catch basins that have underground pipes that connect to each other and eventually dumping into the detention basin which is a shallow large puddle, if you will.

Ms. Halloran asked where South Plain Road is in relationship to these maps.

Mr. Nielson stated South Plain Road does not show on the map (gave an idea where it is using the map). It is further to the west.

Ms. Halloran asked another 9 house lots or so is what you're saying?

Mr. Nielson stated I would be hesitant to give a number, that's probably a pretty good guess, 6-10.

Ms. Halloran stated thank you.

Davis Hawkowl, Plumtree Road stated in terms to the questions about the posters, I know that my wife and I and a couple other residents, different copies floating around and different people distributed them. We didn't have an agreement over a contact so that part was deleted in version that was distributed, I was not part of distributing but that's where the information came from.

Mr. Krol stated thank you.

Ann Dorr, Plumtree Road stated Davis and I and his wife worked on these together.

Mr. Krol stated okay.

Joanna Morrow, Plumtree Road stated my Title V report in 2004 indicated 5-6 feet, myself and neighbors most of us have 2 sub pumps. There are grates, storm drains I guess on the north side to point about where the map ends and then they stop, we're beyond that that, where the grates stop, the road continues with none I can see.

Mr. Krol asked are you talking about Plumtree Road.

Ms. Morrow stated yes.

Mr. Krol stated okay.

Ms. Morrow stated I have two sub pumps as does my neighbors. It is really a problem area. Thank you.

Mr. Krol stated I haven't read your storm water study page to page, do your findings about the ground, location about the ground water agree with what Ms. Morrow said?

Mr. Wells stated no actually the testing we reviewed had higher ground water elevations than 5-6 feet. We were using the more conservative and establishing our detention basin sizes accordingly.

Mr. Krol stated in terms of where the leach field is going to be I think that was the point of Ms. Morrow's question.

Mr. Wells stated once again I am not the engineer designing that system in that area.

Mr. Krol stated okay there's no report about ground water in that area in this report?

Mr. Wells stated no.

Mr. Krol stated well that's certainly something we'll look into.

Mr. Wells stated that area does not really affect the storm water management.

Mr. Krol stated that wastewater versus storm water.

Bob Duby, South Plain Road stated one of things that concerns me about the waste water treatment plant is one thing we can be certain of, it will fail, engineers not withstanding. What is going to happen when it fails, you've indicated you have roughly 60,000 square feet which given the capacity of those buildings, when I look at the number of bedrooms that's available that's going to be what I would call a surcharge system. My question is what happens when it fails and what is the responsibility of the town at that point and time? Thank you.

Mr. Levine stated it is my understanding and correct me if I'm wrong Jason, this application does not ask for waivers relative to whatever local Board of Health regulations exist so the approval of the treatment plant would be as required by the State whatever that is, obviously that is a fairly rigorous process and as to Mr. Duby's comments the State does require a sinking fund as to take care of replacement and maintenance as part of going forward so if I'm incorrect let me know or Joel's memory is incorrect let me know we're not asking for any local waivers relative to Board of Health stuff and we're going to build it pursuant to the State permit. We're more than happy to share the information relative to the treatment plant but it's not something we're asking to have waived, put some definition on this.

Mr. Talerma stated I think by your question you're asking me to confirm an opinion you have on the subject, Lou.

Mr. Levine state no, no, no.

Mr. Talerma stated fair question, I think you know the answer to the question your asking me, to confirm it, which is fine. The Zoning Board does not sit in the shoes of the DEP. By and large this Zoning Board won't go through the type of heavy duty analysis that would be required for review and approval of a waste

water treatment plant here. There are a few sewer related local by laws and regulations but I don't think they relate to the permitting of this particular structure. What I usually say in this circumstance is that the Zoning Board should be satisfied that on a base line feasibility level that the plant is possible. I don't think the Zoning Board can ask the applicant to replicate the type of hydro geologic analysis that the DEP is going to do, but I think it's a fair question for the Zoning Board to ask their engineer and to have it peer reviewed. Is it possible to put treatment plant there, knowing what we know? Basic feasibility analysis - that is an acceptable area of inquiry. Everyone is going to get another day in court so to speak over the actual permitting. There is a whole separate State regulated process full of appellate rights over the actual permitting of that system. I'll say this though, if based on just the preliminary analysis that the Zoning Board of Appeals does, the system is left in its current location and then the DEP says you have to move it or resize it and it affects this development, it's going to come right back here to the Zoning Board because they're going to have to make changes, so it's important for the applicant to at least know enough at this stage they can put it where they want to. The last thing I'll mention on this is that I think the Zoning Board will want to know the answer to questions on who's going to be responsible for it and in our permit we're going to ask for copies of the operation and maintenance plan and the management plan things like that. DEP is going to require that no building permits are going to be issued or occupancy permits, however the case may be, until final DEP approval and full escrow for catastrophic failures, placed in an account somewhere as DEP is going to require for this. I hope this answer your question. I think that's the answer you were looking for.

Mr. Duby stated given the restrictions on that site their saying or tonight's comment was that was about the only site to take and locate a leach field and when that leach field fails and it will then what happens to the system, then you have a waste water treatment plant with no outlet. I don't know what you're going to do with it if your going to move it to the south all your going to do is put it people's backyard.

Mr. Bennett stated this is an example of what Mr. Duby is talking about, up in North Sunderland, Mt. Toby Apartments, that's probably been up there for 25 years I think they have put in six septic systems, leach field because they all fail, and they keep running out of space. Another question I have is there going to be a escrow fund for cleaning out the catch basins, detention ponds and all that stuff because they need to be maintained if they are not they are ineffective and after each storm they'll have to send someone to clean them out.

Mr. Talerman stated there's going to be an operations and maintenance plan as part of the approval that is going to go through peer review by the Board's engineer either before or after the is issued, no building permit is going to issue until that stuff's approved, sometimes those operations and maintenance plans require a rainy day fund so to speak and sometimes they don't depending on

what the engineers recommend for those circumstances, it also could be a management contract that's going to be reviewed locally to make sure someone is out there minding the store to coordinate various activities that relate to project infrastructures so all that stuff gets reviewed a lot of it after the permit but no building permits get issued until all that type of paperwork and all those fun infrastructure items are more taken care of and signed off on and a more final state of plan review then we're going through right now.

Donna Rowe, has a student at the elementary school stated question about the playground space and also a question about whether any of the darker green section which I think we're calling wetland area. What part of this entire development would be considered recreational space? So my first question about the playground is how many children do you expect to be in the development and how do you figure square footage for playground space for that amount of children and is there any amount of area that would be use for tenant's recreational space in the development?

Mr. Kahn stated one, we have got no further info other than to note areas on the plan at this point as they relate to where we receive the appropriate place for this type of activities, playground, basketball court, tennis court kind of activity. We have not analyzed yet at this point as we are still working with the Board on the scope and size of the project and now it would be configured as to what is the appropriate sizing of a "playground" we envision, at this point, additional walking paths on site yet to even discuss or talk about the location of those might be.

Ms. Rowe asked so the walking paths may be paved?

Mr. Kahn stated he did not say that.

Ms. Rowe stated well I am asking, you don't know yet and out of all of these units was there an estimated number of children that you expected to be living in the units to be using any kind of playground space because you have to have designated playground space?

Mr. Kahn stated we have not proclaimed as to that number.

Ms. Rowe asked you are acknowledging that you will create a playground space?

Mr. Kahn stated correct.

Ms. Rowe asked how do you figure out the square footage playground space if don't know how many children or people that would be using that are recreationally?

Mr. Kahn stated the scope and size of the project, if it was to be approved by this Board and it said it was X amount of bedrooms or X amount of 2 bedroom X amount of 3 bedrooms at that point I would obviously turn to design folks and we would chat about what is an appropriate size, type of equipment that is safe for children, as you know the views are changing views as to what is appropriate these days from certainly when I was a kid, discussions to take place at a much latter date.

Ms. Rowe asked in terms of the recreational building you have the same answer?

Mr. Kahn stated the rec building we don't have sizing but we expect to put a fitness center there we expect some sort of business center inside of it, management offices will be there as well too. That is what is envisioned at this point as for the breakdown as to how many treadmills so to speak, no we don't have that information at this time.

Ms. Rowe asked in terms of a business center could you be more...

Mr. Kahn stated the idea is access to fax machine, it used to be when you did this at first it was big time to make sure there was computer stations because not everybody had a computer but its now copy machines, fax machines and areas and kinds of equipment that people need readily but wouldn't necessarily have readily in their own unit, providing a common place for them to utilize.

Ms. Rowe asked your thought would be that would be staffed by the management of the property?

Mr. Kahn stated well it's accessible by during hours and the management there's different programs and again we have not hired management yet to deal with this but there's different ways even fitness centers are accessed at certain hours it doesn't necessarily mean the management office has to be open and how the fitness centers access points are segregated from the rest of the common area within that particular structure and to be quite honest with you all of those things have yet to be discussed and worked out.

Ms. Rowe stated okay, thank you.

Richard Lopatka, Howard Hepburn Drive stated would like a little more clarification on the modeling that was done here versus the use of test monitoring holes. My experience here is getting real data is always better than getting some simulation or modeling of what's going on. I think it is very important in this case that we fully understand what's going on in the ground. I think I heard you answer a question about test monitoring holes saying that they were modeled instead of getting real data could you expand what was modeled and if we are going to do test monitoring is there a plan to get more factual information.

Mr. Wells stated I didn't mean that they were modeled, I meant when we looked at the test pit information and it shows when modeling occurs that's when a rust layer within the sub surface and the profile of soil and that shows high ground water so mottling not modeling.

Mr. Lopatka stated I misunderstood, sorry.

Albert Drake, Plumtree Road stated I had a chance to go to the town hall and look at plans and with a ruler I came up with approximately 6 acres of roof tops, black top, driveways and all other parts that are going to be impervious to water, I come up with about 6 acres and I think that holds true with what they said tonight about the percentages of the property. One inch of rain on an acre of property or on one acre of land generates about 27,500 gallons of water run off there was a lot of concern driveways. One of my questions is going to be what is the roof area of the buildings? Where is that water going to go? If we have any kind of event like we had last October, we could be talking 5 ½ inches of rain at one time that could generate 5x of that is on one acre of land any my question to these people is, is the catch basins and everything large enough to be able to accommodate that kind of water and what's really going to happen with all that water doesn't get purified through their system?

Mr. Wells stated our storm water management study that was done took into account all impervious areas, roofs, pavements, walkways and the detention basins will be sized accordingly as per State Storm Water Management Guidelines, so we will adhere to those and we will take into account every piece of impervious area and design accordingly.

Mr. Krol asked in the event that the capacity of the storm water system is exceeded is it safe to say that any excess, where will that flow?

Mr. Wells stated excess will flow to the southwestern area of the property in the event of any large storm events, 100 year storm, 500 year storm. We will be designing the basins as per State regulations in terms of size of storm, during large events water will head southwesterly. We have three detention basins; there will be falls to those basins, the water will flow in the same direction as it flows today thus mimicking existing conditions. I don't have the exact numbers on all the calculations because they aren't designed yet. The sizes of them are adequate in terms of area but they're not designed down to grading plan or outlet structure as of yet.

Mr. Krol stated based on the information you have how I understand it's preliminary in some forms. What size of event would it take to exceed the capacity of the storm drainage system? You have data here for a two year storm, 10 year storm, 100 year storm, what's your limit?

Mr. Wells stated I don't have the information with me now.

Mr. Krol asked could you give some guess.

Mr. Wells stated I'd rather go back to the office and actually calculate that and get back to you on it.

Shiun-Fen Tsai, South Plain Road stated I have ten acres next to that southwest area. We met all the regulations and had engineers to design but the reality is even with that my background is full of water, like a swimming pool talking about a sunny day.

Ms. Halloran I live in front of Ms. Tsai and when they built their house I had more water. From one house being built the wetlands behind my house moved 30 feet closer to my house.

Mr. Duby stated just on the drainage issue, I'm wondering what elevation of the building; the furthest building south is in relationship to the pond on the right hand side?

Mr. Wells stated once again the grading plan isn't complete it's going to probably going to fall in the range of 92 grade and pond itself appears to be 88 elevation so there's about a 4 foot difference approximately.

Mr. Duby stated a point of information is at what level did you measure the pond because if were talking 4 and 5 and 6 inches of rain like we've had recently those ponds get pretty damn full and if you're only talking four feet of difference between the elevation of the pond we'll say mean high water and the elevation of that building there are going to be problems there.

Craig Stuart, South Plain Road stated would like to echo the comments that have been expressed in regard about water coming down from all this impervious surfaces they're going to be building. You keep talking about it going southwest, well that's where we live and every spring our lower field turns into a huge pond where ducks land they think it's a lake.

Mr. Wells stated in the storm water study with our matching pre and post calculations rate of water leaving the sight will mimic the existing rate of water leaving the site and yes we will be using, there is drainage channels and we will be creating swales around many of the buildings so the water does go toward the building channeled around it in order to keep our buildings dry. Once again without having the detention basins fully designed we don't have all the detailed answers as far as where all the drainage swales are and where every drop of water is going the study has given us a great comfort level in that we have the area to design these basins for and to control the storm water.

Jack Radetsky, North Plain Road stated two questions, it's reference how the drainage is going to flow towards the southwest and if that was a empty vacuum we would all be assured that it could absorb whatever was going in that direction but if that is wetlands, correct me if I'm wrong, isn't the equivalent of a saturated sponge and how does that now absorb what is now going in that direction? Does the plan also provide for laundry facilities on the property?

Mr. Wells stated yes, I guess you can call a wetland a saturated sponge but wouldn't use the term saturate, I would use the term sponge and sponges do dry out and do have different ways to absorb the water, the water table and the sponge if you will, changes through the seasons with regard to how much rain fall there is etc. but what I have to reiterate is that we have to comply to the State Wetland Ordinance and design a system that will exceed their standards and we are planning on doing that and if we don't the State's not going to approve it so we have to do our engineering work in more detail once the project moves along further and comply to all those regulations.

Mr. Kahn stated two things Mr. Chairman, number one we have considered putting washer and dryers in each unit if we were to do that it would of course impacts our waste water treatment facility and of course that would be taken into account in the study. I think they have all been excellent questions I truly understand the concerns that the citizens of this town have relative to this project at this point in listening to these concerns and trying to respond, obviously I think is for what this town Board needs and the citizens need is for obviously this peer review to continue and some presentation by the peer reviewer which will answer I think in great part a lot of the questions and concerns that have been expressed while I'm not trying to cut off discussion I might suggest we move along in the process and consider these kinds of questions once the peer review has completed his or her work and presented their findings to the Board.

Mr. Krol stated that I duly note your concern, but as I mentioned before, I found the comments at this stage of the traffic study to be very valuable ... we got 28 pages of minutes and a lot of the public comments, I think, will shape the peer review discussion that we'll have on the traffic study. I envision us going down the same path and there's probably more material as far as the civil engineering aspects of this project versus the traffic study ... equally important but I think we're tracking pretty good on time. My mode of operation is to get a lot of public input.

Mr. Kahn stated that's fine Mr. Chairman and I to am taking notes and listening to the comments as well too.

Mr. Krol stated if I find that the same comments keep coming up over and over again, I will ask for new questions and not keep harping on the old things. I do respect your time.

Mr. Talerman stated Mr. Chairman, I would say that this is pretty preliminary. As the analyst said, they have concerns that there's enough area on site given their volume calculations and it appears to me to be a situation not inappropriate where probably the first round of peer review will probably raise more questions than answers. And we'll probably have a second round of more design work and more answering of questions and subsequent peer review of that so it's probably point, counterpoint, point, counterpoint process.

Mr. Duby stated just a point of information the difference between 100 and 200 feet in a wetland. There's a building that is within the 100 foot boundary and I guess I'm wondering what the wetland regulations are as far it pertains to building within either the 100 foot or 200 foot of the wetlands.

Mr. Talerman stated 200 feet would only apply for a river situation. In terms of the reach of Wetland Protection Act, we generally think about 100 feet and we break that 100 feet down into one or more areas of buffer zone. If there's vernal pools ... there's even different wetland issues out there but we generally don't look beyond 100 feet for basic bordering vegetated wetland areas or isolated areas or land subject to flooding and this and that so it's really that 100 foot buffer zone that we'll look at here when the Zoning Board puts on their conservation hat.

Mr. Radetsky stated would like to ask for clarification on the question about laundry facilities. It is my understanding that usually properties of that size either provide laundry facilities or at least laundry hook ups that a tenant would decide upon themselves if they're going to out their own equipment in there. Correct me if I'm wrong but your response suggested that you had not yet determined if there were laundry facilities going in there and if that's the case how do you quantify the output that will be coming out of these properties?

Mr. Kahn stated first off we have considered and intend at this point and time and this only market driven, there's lots of factors of having washers and dryer in individual units and not centralized facilities within the project. The expert we will retain to work on the waste water treatment facility will take those additional flows and what have you into their count as they design the system and that will all be part of the design as we continue forward.

Scott Reed, River Road asked could you explain how the system does mimic the normal run off from a storm, how it's suppose to work?

Mr. Wells stated first off we calculate how much water is now leaving the site in this direction (SW) in terms of flow for different storm situations then we go ahead and put the design down we see where the flow is altered and how it is going to be treated and stored. What we have basically is an underground sub surface drainage system a series of catch basins, grass swales but eventually the water ends up in three different basins, large puddles if you will, those basins

themselves are sized to hold a certain storm event, what I mean by hold is that the water can not get out when it reaches a certain elevation and then it leaves each basin through a, it can either infiltrate through it can get out, if you will, at a certain rate and the calculations have to prove that the rate of water that can leave those mimics the existing rates that is leaving the site now. It is a series of large swimming pools that fill up and water can only leave it in a certain fashion out of those pools at a certain rate.

Mr. Drake stated the gentlemen used the sponge as an analogy of what's going on over there, the area that they're going to put the buildings on is the dry part of the sponge, they're going to put out six acres of impervious material the normal water flow would hit that dryer area and kind of be absorbed by the ground. What I'm curious about is now that we don't have this six acres or whatever it's not going to absorb this water where will that water go? Will it go into them retention ponds, he says it is kind of flow to the south and west the flow is going to be greater now because of that area is covered is not going to be able to absorb the water.

Mr. Krol stated would you like to try to address that question?

Mr. Wells stated once again the imperious areas that will have rain falling upon them, rain will fall off of them and be channeled into a catch basin into pipes that will all enter into three detention basins so we're using our detention basins to hold back the water and to infiltrate the water before it exits and goes into any resource area, I'm not sure how much.....

Mr. Krol stated is it also safe to say under current conditions that when we have a rain fall, is all that water that falls on that site absorbed or does some of that water indeed run off even though it's higher and dryer?

Mr. Wells stated yes, it does run off there's no doubt about it both in the southwestern the southeastern area so there is run off.

Mr. Krol stated so a portion gets absorbed and a portion of it runs off?

Mr. Wells stated exactly and there are ways to calculate that depending on the cover.

Ms. Moulton asked same question as she previously asked about oil and gas from cars in parking lot going to wetlands.

Mr. Wells gave the same answer, that there will be a separator for oil and gas on each catch basin and would have will have to have to be maintained will be in maintenance and operation plan that is standard practice.

Mr. Krol asked is that something that would need periodic maintenance?

Mr. Wells stated yes.

Mr. Radetsky stated when you speak of catch basins you say it will drain in some fashion. I assume it's draining down into the ground water as it's capable of being absorbed. So my question is when the water table rises as it does there to a point where it will not allow isn't that a real possibility that it won't at times allow drainage and when that happens and we get continuous rains won't it at that point just flood?

Mr. Wells stated that's a good question. These catch basins are contained. They are not leaching basins. What you are referring to is a leaching basin that is a concrete structure in the ground that has holes in it so water enters the catch basin and leaches out. These are closed systems where water enters the catch basin it's filtered out, total suspended solids drop to the bottom but there's an exit pipe and entry pipe that carries the water to another manhole and eventually into the detention basin. There is no leaching in these basins.

Mr. Krol stated its gravity feed and there's no pumping involved here?

Mr. Wells stated its all gravity feed.

Mr. Radetsky stated at some point it has to exit to an area that is capable of absorbing it. Isn't there at some point the possibility that the water table will be high enough where it will not allow for drainage?

Mr. Wells stated it will exit into the three detention basins. Those basins will be maintained they will be cleaned out periodically of silt. They won't intercept ground water because they will be designed above the ground water table we have the test pits to show that.

Mr. Radetsky stated the question is where will it go?

Mr. Wells stated it will infiltrate through the ground, it will be cleaned out periodically out of silt.

Mr. Radetsky stated meaning it will drain down into the ground.

Mr. Wells stated yes.

Mr. Radetsky asked so if the water table is high and cannot (interrupted).

Mr. Wells stated we're designing the drainage basins so they're above high ground water, high water table (interrupted)

Mr. Radetsky stated that's an area that is sometimes entirely underwater.

Mr. Wells stated no, not the way we are designing them.

Mr. Duby stated just another point of information on the wetland issues that there is a ditch that goes across the middle there, the southern portion. What decides whether or not that is a seasonal or is actually part of the head waters of that brook that goes down through there?

Mr. Talerman stated there is a set of criteria that determines whether or not something is a wetland, perennial stream or an intermittent stream. The first line of defense so to speak is to determine if, something is a perennial stream is if it shows up as a perennial stream on the USGS maps but that's not the only way of determining whether or not something is a perennial stream. In short if it flows for a certain number of months a year, it's a little more complicated than this, than it could be a perennial stream which would be entitled of the protection of the Riverfront Act. If it dries out or flows less or is only seasonal, it is more likely an intermittent stream which doesn't get the same level of protection as a perennial stream. It would be about the same level of protection - maybe a little more than - as a bordering vegetative wetland. That's a very abbreviated version, it is a lot more complicated than that. We'll rely on their expert review and then our expert peer review to determine the function of these wetland systems.

Mr. Krol stated I thank you the audience for their input, found it quite useful.

Mr. Krol stated determining the date for the next meeting with the holidays around we have preliminary talked about January 9th being a date. I know it was somewhat dicey for some people -- has that changed at all?

Mr. Kahn stated it's acceptable to the applicant.

Mr. Krol stated you're able to do that, Board members; January 9th that's a Tuesday?

Mr. Bernotas stated he may be out of town actually.

Mr. Krol stated we have a full time member that may be out of town. Do you know for sure that you'll be out of town?

Mr. Bernotas stated I should know tomorrow.

Mr. Krol stated we have to pick a date today. I suggest that we choose that date because it was pretty much the only date available, we were very restricted by in availability. I would suggest we go forward with that date and if one our full time members is out of town on company business, I believe we will have to

reschedule. We don't have any provisions in town for this, for reviewing a tape or what ever.

Mr. Talerman stated it is a local option statue that I don't think you've passed yet.

Mr. Krol stated what Jason is referring to that some towns have the option that a voting member could miss a hearing knowing it's going to be videotaped and then they could catch up on it after the fact. As it is now, each voting member must attend all sessions.

Mr. Levine asked a question for Jason, the fact that you have alternates; the intention of the alternates is to be able to vote if the designated members don't come to all the meetings, correct?

Mr. Talerman stated that's true, I think there is a desire by this Board to keep (interrupted)

Mr. Levine stated I'm not disagreeing with that, I'm just differentiating, confused between voting and non-voting members because obviously if a full member can't come any longer, then an alternate will take their place to vote.

Mr. Talerman stated we do have a ways to go yet.

Mr. Levine stated I agree with that.

Mr. Krol stated certainly if a full member were permanently unable to come we would have to deal with that. I stated up front I think this is a serious matter. I want to have my most experience members dealing with and making judgment on this application. You should know that my job sometimes requires that I travel out of the country. I could get called out. I don't see that happening soon.

Mr. Kahn stated Mr. Chairman, may I ask at this point what we should talk about is what we would like to accomplish at such meeting in January 9th. I know of one item, which is we want to hire a peer reviewer for engineering.

Mr. Krol stated yes.

Mr. Kahn stated what else would you envision that you'd like to accomplish at such a meeting?

Mr. Krol stated yes, you touched on one of the things as I mentioned earlier. We received just one proposal from the four candidates for our civil engineering peer review consultant. At this hearing on January 9th, I would suggest that the Board, having already reviewed those proposals ahead of time, have a brief discussion on which candidate to choose and we vote to select the firm to engage in the civil

engineering peer review. I am also suggesting that on January 9th that we may want to go back and revisit traffic.

Mr. Kahn asked will your traffic peer review consultant have completed their work?

Mr. Krol stated I'm planning on talking to the Town Administrator about it, we're very close, and we might even have our contract signed by this coming Monday.

Mr. Kahn stated and will he have completed his review and be able to provide whatever summary report he cares to and therefore we can have a productive session? Don't get me wrong, you know me long enough already to know that I am all in favor of keeping hearings going and know that you are struggling to make sure you have all the proper attendance. I want to make sure we have a realistic plan that we can adhere to.

Mr. Krol stated that would be the plan, would be to have our traffic peer review discussion. I would suggest you take a good look at the minutes. I gave you a copy. I think there was a lot of meaningful information that was suggested by the Board, audience and town officials. Go back and maybe address some areas of your own traffic study that may need some more attention, may need more detail that would form the basis of our own peer review. I think our traffic consultant could link up with your consultant ahead of time to at least exchange information. Also, the Town Administrator and Town Clerk have been gathering information on accident reports and studies for Mass Highway. I would also ask that we have the Police Chief or a representative of the Police Chief attend that hearing. I would like to make it a real comprehensive traffic peer review and study.

Mr. Kahn stated okay that's fine, we're all for that and we would hope that the Board would encourage your traffic peer reviewer, not just have a dialogue but questions and answers, a meeting and discussion as much as possible with our engineers so that when they come in here together they will have already done the initial clarification kinds of discussions that always take place and can get into some very meaningful discussion to address the concerns expressed by the Board as well as the public, so we're back to January 9th and as I said it's acceptable to us.

Mr. Krol stated a couple other things, Councilor, I would ask you what is appropriate for our engineer to talk to their engineer before hand.

Mr. Talerman stated I think that depends on what the Board wants to see. I tend to like to see preliminarily, what are the major questions or points our peer viewer has. I'm certainly not against the two experts talking and they should be exchanging information, but I don't want them to go through to analyze and resolve too much back and forth. Exchange of information is appropriate at this stage and then let's keep getting things in public and as they narrow it down into

technical issues, those are the type of things they could handle outside the hearing and just report on the progress of their review.

Mr. Kahn stated that's why I use the word, Jason, clarification if there's something that the guys read in a report and he says I don't necessarily understand what you meant here, he might ask the question so he has clarity on what was provided in the report. I understand and agree with you we should do this in the public venue. We've discussed that, just want to try to see if we could help the process along with that I, Mr. Chairman, I would like the Board like to consider whether we can move this to a 7:00pm start time both reflective of the public's time away from their families and this Board as well too. To see whether or not there's adequate time without making people stay up into the wee hours.

Mr. Krol stated I do understand that we have people that do travel a fair amount of distance to get here; Jason would probably appreciate it as well.

Mr. Talerman either way is fine with me. One last point on the traffic - actually two last points on traffic. The first one is we shouldn't forget is our guy is peer review. We don't want to cost you guys the money to do a ground up study so the first round again, he's going to have more questions than answers. More likely he'll pose those questions or indicate where he might have some disagreements so it's likely to be more of a narrowing of the gap session than it is resolving all those traffic issues and the same will be for civil engineering. The other thing on traffic that I would like to address and some of this depends on the Fire Chief as well. I think it's important that these can be very vital issues in terms of baseline configuration. Is the Fire Chief comfortable? I think it does relate to traffic. Is he comfortable getting his biggest truck in there in the middle of the night on a cold icy night into the southern most building? That's a question I think it's time we answer. I would like to see that be part of the agenda for the next session. That and I would say water capacity, it could truly be a "go, no go" issue and I don't think it's been resolved and it's been hanging out there for a long time. Let's get those things resolved put them on the agenda and get them resolved.

Mr. Kahn stated right, I'm not sure all of those can be done on the 9th.

Mr. Talerman stated let's get done whatever we can.

Mr. Kahn stated Mr. Chairman, there's some town officials that might be able to help, I know I've placed a call into the Chief and our engineer tells he's made a couple, if we could help a little nudge in him he's a busy man we would appreciate that because we would like to have dialogue as well. Jason the only other comment I will respond to is the comment about the traffic peer review yes he's going to have questions what I'm hoping for though is questions, some of them can be formulated and presented to our traffic expert in some form prior to the meeting so he has a chance to not be here cold and will have a chance to

give some thought to that prior so again as they discuss this in the public venue he can be prepared as well as to what is going to be discussed.

Mr. Talerman stated like I said last time, we can hope to get that stuff to you a week ahead of time. With the intervening Christmas and New Year's holidays, we'll be obviously pushing that time frame pretty hard, but we'll see what we can get done. We have to get him signed up under contract and get him to work.

Mr. Kahn stated I appreciate that and I agree and again if the Board can instruct him to act accordingly that would be helpful.

Mr. Krol stated like I said before, the Town Clerk and Town Administrator have gathered some more material which I will share with you in regards to some traffic information you might want to share with your traffic expert.

Mr. Kahn stated thank you, appreciate that.

Mr. Krol stated we'll try to make the next hearing as productive as possible.

Mr. Kahn stated we appreciate that.

Mr. Krol stated I personally don't have a problem making it at 7:00pm. Last thing is venue. I did a rough count here, I counted less than 45, and did anybody really count heads out there?

Audience member answered 58 counting the Board.

Mr. Krol stated we can get 50 seats. We've had this venue twice. We've had some foul weather at the last hearing that may have kept some people away. I don't know other Board members, but I find this a tougher venue to conduct a hearing. I know we have a sizeable audience on TV. We do have a much better A.V. facility in the Selectmen's office. I tend to think and I want to throw it out for Board discussion. I tend to think that setting up to 50 chairs in the Selectmen's office and having the overflow area right outside that hallway that can easily accommodate 30 some odd people is preferable than working here -- Board members, please speak up what are your thoughts on this?

Mr. Herrick stated let's go to the Town Hall.

Mr. Krol stated I'll run the risk that we get standing room only and we have to go to Plan B.

Robert Ahearn, Fire Chief stated that he recommended staying at the school.

Mr. Tozloski stated I like the other place better but it's probably better that we stay here.

Mr. Krol stated another thing I'll tell you is about gym availability. We have much more availability of future dates in the other facility. Basketball here will create a bunch of no go dates and at this facility. Please help me Board.

Mr. Tozloski stated maybe do what we can to stay here and if we can't we'll go to the other place.

Mr. Talerman stated I defer to the Chief always, on things like this.

Mr. Tozloski stated as tough as it is to get a date out of everybody, if they do shut us down over there then we don't gain anything.

Mr. Krol stated the 9th is available here.

Mr. Tozloski stated let's do it here.

Mr. Krol stated sorry Tom Z, but we'll have our next hearing here. I think it's going to be tough to schedule following meetings because we've got basketball season is coming up and this facility is used a lot.

Mr. Krol stated noting further (interrupted).

Mr. Kahn stated would like to ask about scheduling make up meetings seeing that the Board would not meet in February.

Mr. Krol stated I think to date, considering all the holidays, that we have been holding a fairly accelerated hearing schedule.

Mr. Kahn stated you've done very well Mr. Chairman.

Mr. Krol stated had a hearing before Thanksgiving, we squeezed one in before Christmas and we're going to do one just after New Year's. I am not one to try to rush complicated topics, so as far as trying to make up for lost time it is not wise. I think this process is going to take whatever time it needs.

Mr. Kahn stated I agree and maybe what we could do is just start off by discussion what might be a, we might be able to look to in March so could get people structured accordingly.

Mr. Krol stated we can certainly on January 9th; we'll have to set up a date.

Mr. Kahn stated may I just ask this gentleman that's going to be out of town is he going to be back to have a meeting in March?

Mr. Herrick stated yes.

Mr. Krol asked when are you planning to be back.

Mr. Herrick stated March 7th.

Mr. Krol stated March 7th is his return date.

Mr. Kahn asked where are we going sir.

Mr. Herrick stated Tobago.

Mr. Krol stated I think it's safe to say we can schedule a hearing probably 2nd, 3rd week of March.

Mr. Kahn stated thank you, the only last comment I'll make is that I do appreciate the fact that this Board was able to meet at a very busy time of year and we certainly wish you happy holiday.

Mr. Krol stated same to you, okay this hearing is closed.

9:45pm