Zoning Board of Appeals Minutes
September 5, 2007
7:00pm
Sunderland Town Offices

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

Town Counsel: Jason Talerman

VHB: Richard Doughty and John Furman

Applicant: Scott Nielsen, Consultant; Joel Kahn, Lou Levine; Counsel and Mark Durand; Civil Engineer, Berkshire Design, Bruce Griffin from New England Environmental

Steve Krol, chair reopened continuation of the comprehensive permit hearing for Sugarbush Meadow, LLC at 7:05pm.

Mr. Krol: I would like to note that the Board requested an updated list of exemptions and waivers from the Sunderland by-laws that preliminary lists have been brought to the Board as part of the application and there have been some changes and additions and subtractions so I asked for an updated list and may the record show that in the past week or so we did receive an updated list of requested exceptions and waivers.

Mr. Kahn: Mr. Chairman, I'd just like to note also for the record in our efforts to put this together there are no additions there are several deletions of it but more so also to point out that still as I did in my initial presentation to the Board note that there are several requests for waivers in areas of your zoning that I sat and scratched my head and go, "I'm not sure if I understand the true words that are written in the zoning ordinances." To the point where we there asked for waivers, we determined such time in the future they're not it's an interpretation that does not prove problematic, i.e. signs. You can't have a sign lit for business and is therefore is a management office, considered a business and therefore ask for a waiver cuz' you would not want to have it not lit. So you know there were things like that in there so as you review it please keep that in mind. Also note that I apologize for inundating anybody's email with the velocity of stuff that came out. My wife has some surgery. Took a few days for me to be able to get around to do it so I started to rapidly move my fingers and you were the beneficiary of all of that and it's hopeful tonight in tonight's hearing as we go through the last civil issues as know I carried a whole lot of bags in and I've run out of things in my bags to carry. I hope that and believe we addressed everything we will be able to reach conclusion on that and move to the next phase of our discussion.

Mr. Krol: So noted Joel. Hope your wife is okay now.

Mr. Kahn: Nine weeks on non weight bearing crutches. No I'm not in good shape.

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Mr. Krol: Well I wish her well.

Mr. Kahn: Thank you.

Mr. Krol: The Board wishes her well.

Mr. Kahn: Thank you.

Mr. Krol: Okay any other old business or old issues that we need to touch on? Seeing none let's get into the civil engineering discussion and I think starting off I kind of put together an agenda of open issues that I remember and I gathered from notes from the last hearing. I'd like to talk about the…have a discussion about wetlands and on Conservation Commission issues. There was a letter that was written by the Conservation Commission to the Zoning Board dated the 17th of July and there were four issues that were raised in that letter. It has to do with buffer zone impacts, isolated wetland impacts, stream crossing and flood protection. On August 22nd New England Environmental Inc. issued a reply memo towards the points raised in that…in the Conservation Commission memo. Joel how would you want to have Berkshire Design talk to those points?

Mr. Kahn: Actually I think it would probably be just as efficient is that I think the memo itself is fairly…it explains the response…the appropriate response really making it a Q & A if there are particular questions regarding it.

Mr. Krol: Are members of the Conservation Commission here? Okay, have you seen the response that I cited from New England Environmental Inc.?

Ms. Unkles: Yes

Mr. Krol: Do you have any comments for…

Ms. Unkles: My name is Jennifer Unkles from the Conservation Commission. It might not be clear about the 100 foot zone as a resource area in the by-law. That's how we operate. Maybe it's not clear wording but the 100 foot area is a resource area under the by-law.

Mr. Krol: Your challenging the statement that 100 foot buffer zone is a resource area?

Ms. Unkles: Yes, it's not called a buffer zone in the by-law it's listed in the resource areas.

Mr. Talerman: I concur with that Steve. This is…the language in that part of the wetland by-laws is really no different than probably 50,60 different local wetland by-laws that I've seen. I can't think of a reasonable interpretation by anyone DEP included that wouldn't consider the local by-law to be protective of the buffer zone if it was a resource area. I think New England Environmental had a complete miss on that issue.

Mr. Krol: Any comment from Berkshire on that?

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Mr. Kahn: We have here tonight Bruce Griffin from New England Environmental and I'll let him speak to that.

Mr. Griffin: The version of the by-law that I saw online, I didn't believe that the buffer zone was in fact resource area it lists. That's neither here nor there; we are going to do everything we can to stay out of all State regulated wetlands completely. Minimize the impact to the buffer zone to the extent possible.

Mr. Talerman: My only comment on that Steve is and we've always said all along that's the goal that we want. What the Conservation Commission would want but when you're in a hearing seeking approvals or waivers under the local wetland protection by-law you have to do a little more than "I promise". You have to show some analysis as to how you're going to justify the request for either the waiver or pseudo order of conditions in this case issued under the comprehensive permit. That we haven't seen yet. Perhaps if they had an early conclusion whenever it was a couple weeks ago, that it didn't apply then maybe they should go back and think about specifically there's not a ton of work in the buffer zone but there is that one area in the cross going back to the southern most building, probably needs to be analyzed a little more. That's what the Board's asked for, I think a number of time a little bit more to justify what they're requesting here.

Mr. Krol: Is that understood?

Mr. Griffin: Yes

Mr. Krol: In regards to the point of isolated wet lands impacts, any comments from the Conservation Commission in terms of the stream crossing?

Mr. Talerman: The stream crossing seems to be part and parcel Steve with the first comment. There is certainly ways to demonstrate what ever you are going to do in that buffer zone is not going to affect the wetland interest over there. They also seem to be suggesting that they may actually need to do some work that actually gets over in to the stream area. They're somewhat ambiguous in this comment. If that's the case then again the proof is in the pudding. You can't condition on a future action you have to as an applicant say what you are going to do and then justify why you can do it without permitting interest. As a matter of fact we haven't seen it. We all hope they stay out of the stream area and stay just on the existing culvert. This is too ambiguous for you guys to be able to make a decision.

Mr. Krol: Would that be something that would be added to the drainage plan? Where is it appropriate to…?

Mr. Talerman: We've requested as a group to have a little bit more detail, a blow up so to speak of work to be done in that area. This…

Mr. Kahn: Mr. Talerman, the plans I'm going to have Berkshire…

Mr. Talerman: Could you just let me finish Joel. This fits in the category of some clear line of cases that the Housing Appeals Committee… preliminary plans standard is the rule of the day, under C.40B. I don't agree with that rule but that's how the Housing Appeals Committee views it.

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However where there is a form of local regulation of something that's normally just State regulation the Housing Appeals Committee has in even some recent cases say. "You have to demonstrate that you can get either the waiver or the permission that you're requesting under that local by-law. In fact there's a wetland case that even says that at the Housing Appeals Committee. No one has suggested that this thing has to be designed to the nines at this stage but there's very little detail as to what New England Environmental seems to be alluding to here. That is that at the very least there's going to be work almost on top of the wetlands. Certainly within the buffer zone which in my opinion and I think in any courts opinion would be that there is local jurisdiction over the buffer zone but they seem to be suggesting that there may actually be some work expanding beyond the existing culvert, the existing conditions. All the more reason to provide a little more detail at this stage, I don't know how you could grant a waiver which they're requesting. Maybe you can't maybe you can at the end of the day or deny a waiver with information they have, there just isn't enough analysis from a technical or scientific point of view at this point. I think its work that can be done and Mr. Nielsen suggested that it was work they were going to do a couple of meetings ago. I would just consider it an open issue at this point.

Mr. Krol: Joel

Mr. Kahn: Before you go so quickly and hastily to do so I'd like also to have Mark from Berkshire Design who did address some of the issues and questioned the plan that was submitted to your peer reviewer.

Mr. Durand: As far as the culvert crossing the culverts are wide enough to fully accommodate the road. I think Bruce made a conservative statement that it may be a good idea to reinforce those existing…there's stone on the culvert as now a tech slope that's going into. We don't have to go in there. We can leave those culverts exactly as they are. They're wide enough to accommodate the road. We leave the road there without going in and reinforcing those culverts ends is not required for the construction of a roadway. We thought it might be prudent to improve to improve the existing conditions and that's one reason we added that clause to allow us that opportunity to do that. If it's the Board's or Commissions desire to stay away from those culverts end we would be happy to do that as well. We thought it was prudent to bring that to light. So we don't have to go in and improve those culverts ends to accommodate the width of the road. Those culverts are plenty long enough both the major roadway and the secondary access as well.

Mr. Krol: Does VHB concur with that?

Mr. Furman: The exact location of the culverts we have not reviewed under our peer review. When we did storm water management system because they're existing culverts we focused on everything that was proposed. We agree in theory that if the culverts are long enough and the roadway is of sufficient width to pass over the culvert without having to touch the ends and there's currently no visible signs of erosion that…I would agree that the statement they could be left as is but again we would at least need some kind of documentation to prove that. There's an enlargement of that detail might show it.

Mr. Krol: So that such an addition to the plan. Will with that kind of detail satisfy you?

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Mr. Furman: It doesn't have to be very detailed, just showing the relationship between the ends of the culvert. A small enlargement would be enough.

Mr. Krol: Okay

Mr. Kahn: Mr. Chairman also I know that…I'm sorry

Mr. Durand: If you look at the plans closely there is a second area between the edge of the roadway and the end of the culvert. If you look at the more detailed plans not this blow up but the larger scale plans you can see there's a significant scalable distance between the edge of the pavement and the end of the culverts. There is detail provided now that shows us distance separation between the edge of the pavement, proposed edge of pavement and culvert ends. Again it has not been designed but there is a accurate survey the width of the roadway is accurately delineated on the plan and is centered on the proposed culvert on the, existing culvert I should…

Mr. Krol: VHB, we'll check that out?

Mr. Kahn: The comment I was also going to add to it is that the little bit of work that's proposed in this 100 foot too so is to question that. Which I know we'll expand upon later, which is the functionality of the drainage system which VHB got a chance to review, I think you'll find there's a perc test that has been provided in detail and supports it and VHB reviewed it. I'm sure you'll look to them for council as to the fact the systems that are proposed are viable and potentially operational as proposed and will function, which goes to the question of proper protection. Thank you.

Mr. Krol: In terms of point four, flood protection.

Mr. Levine: A few moments ago, if I'm confused I apologize. Jason asked for some detail. Have we come full circle Jason? Again I could be confused. You said and I acknowledge the detail was necessary and we should provide it. You know when you made some comments initially then we went off on a culvert issue. Is that the detail that you were addressing relative to the buffer resource buffer area?

Mr. Talerman: You mean the detail with respect to them having some plan details…some details on the plans?

Mr. Levine: When you made your first comments and I said yes we'll provide it. I just trying…

Mr. Talerman: What I'm requesting is what any wetlands oriented in or any scientist would present to a Conservation Commission when they're seeking an order of conditions under the local by-law. Enhanced plan detail is helpful but what has to be done is you have to do what you have to do to prove your case to Conservation Commission. That hasn't been done.

Mr. Levine: They are…I'm not questioning or challenging that. The area which Mark just addressed, is the culvert area?

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Mr. Talerman: I don't believe I've seen a detail in a plan submitted to the Board of that area.

Mr. Levine: Okay

Mr. Talerman: Whether or not they shared some of that with VHB I don't know but I have not seen that plan detail.

Mr. Levine: But the area, forget about if whether there's detail or isn't. You were talking initially about a culvert area, is that correct, the area of the culvert?

Mr. Talerman: I'm talking about…

Mr. Levine: The area.

Mr. Talerman: Yes

Mr. Levine: Forget about what…

Mr. Talerman: If it exists on a plan Lou, yes does it show the requisite detail, in my opinion no.

Mr. Levine: The point on the earth, it's the culvert area that you were asking for?

Mr. Talerman: That is one, probably the most primary area of buffer zone.

Mr. Levine: I guess that was my question. What the…so we can have a full list. What are the maybe others?

Mr. Talerman: Wherever there is a 100 foot buffer zone that being altered or disturbed in any way.

Mr. Levine: Okay

Mr. Krol: Other than the last point, we were talking about the flood protection. That's a topic we'll be talking about with drainage. Let's talk about storm water and drainage. There was a new plan submitted to the Board dated August 10th. Can I ask Berkshire Design to talk to that plan?

Mr. Durand: Do you want…

Mr. Krol: It's in regard to site grading and drainage.

Mr. Kahn: If that's helpful or do you just want to discuss VHB's review of it?

Mr. Krol: I'd like Berkshire Design to touch on what was added. What the highlights are and then I'll ask VHB to comment on…

Mr. Kahn: That's fine.

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Mr. Durand: I think some of the primary changes that we did; we did provide some grading analysis and preliminary grading for the detention basins. This is just one of the examples that we provided and we did that primarily to show that we could install or construct a detention basin at the correct locations. Separate it from ground water based upon the test pits that we provided. And then we also looked at based upon the elevation how we could get the drainage from site into these basins. We did not design all of the detention basins. We did show that if we came up to certain location based upon the outfall of the detention basin the bottom of the basin and where rims of these catch basins would be, what the approximate in elevation of the corner of this parking lot would as well as the relevant buildings. So we showed that it was feasible from the outfall location through to the basin based upon ground water separation and back up to the parking lot and buildings that there was a feasible scenario to provide a drainage system that would accommodate the project. We have a facility here. Detention basins haven't been designed to the last degree but they are able to be done either approximate size which seem relevant for this scope of a project. We did choose an outfall that was outside the resource area. We also showed how we could route it through a storm water treatment system to accommodate some of the storm water quality issues that we need to provide and that was primarily the biggest scenario that we had. We provided this original concept design to VHB they reviewed it had some comments regarding the actual layout. We made some minor modifications of the layout but basically this plan shows that changes…those changes. One of the other comments that came up was the potential, this main access road do to the southern building. There was concern possibly about an alternate access through that location. There are two existing large culverts, new culverts in that location so what we did we did add a secondary access to there which would be utilized as an emergency access should this crossing be encumbered by any way. And again this is the situation this is an accurate survey showing the ends of the existing culvert, the width of the sidewalk and the reinforced sidewalk showing the distance away from the actual end of the culvert or resource areas and this proposed roadway here also has…you can see where the end of the pavement is and where the edge of the culvert is. We could slide it ever so slightly one way or the other to avoid the ends of the culvert. Again we could reinforce those as an option. Some of the other minor changes that we had, this particular situation here we had submitted some plans to the Board earlier the only real change here same thing we looked at the overall drainage to show that it was feasible. There have been very minor changes here originally we had the outfall coming in this direction. Due to some recent revelations that the wetland line had changed the wetland line was down this location as far as we knew. I guess based upon recent conversations the delineation was brought further north and in order to try again to avoid any impact to wetlands we shifted this outfall from the resource area of this side still accomplishing the same goal with staying out of the resource areas. Again this is essentially the same plan you had before. Added more detail regarding the detention basins. All these were graded again to show that we could stay above the ground water elevation. We did provide a perc test in one of those locations to establish where the ground water was and again to show these ponds could be graded to accommodate storage. If during the final calculation scenario the pond needed to be bigger it obviously could be expanded or decreased. But we did show it that it was feasible location to install these structures. I think that's a quick overall of the plan changes that you requested. I don't know if there are additional comments now. This is a general overall shows the wells and the separations. The buffer zones are shown. The wetlands are shown so we have again provided complete access around all the buildings to accommodate safety issues as well. I think that primarily the changes we've had since last meeting.

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Mr. Krol: Could you go back to the first drawing you were showing? Now are you planning on just one retention pond?

Mr. Durand: We have three detention basins on site. Again the overall plan, the light blue areas these are the three detention basins we have proposed.

Mr. Krol: Okay and are there details for one of them or were there details for all three of them?

Mr. Durand: I showed you all three.

Mr. Krol: Okay

Mr. Durand: Each one of those individual sheets were the three different detention basins.

Mr. Krol: VHB do you have any comments on those? We had a lot of issues about grade and capacity.

Mr. Furman: We did. A little step back, at the last meeting the Board had authorized us to meet directly with Berkshire Design. We met in our office on August 10th prior to that we had received drainage plans that had details that were shown here. We met on August 10th and we kind of went through the comments that we had from the drainage system that were provided and then we went through the last memo that we had kind of outlining any outstanding comments that we had. At the last meeting as well when we first got the information the test pit and stuff. Towards the end of the meeting I made a comment about the ground water being very close to the surface. It was just kind of a comment thrown out there. I'm sure they're aware of it but we have to have a 24 inch separation between the bottom of the detention basin and the ground water surface. Not having the grading plans or any of the grading information at that point it looked to be a concern as to how that would be achieved. The information that was provided via bottom elevations of the basins as well as the approximate sizes and the slopes so comparing the ground water elevations to the bottom of the basins the 24 inch separation required by the Massachusetts Storm Water Policy can be achieved in all these areas. Mostly because the areas are being filled instead of being dug out, typically depending on the site scenario or whatever you have going it may be advisable to dig out basins at some point but in this case they're filling. So they have maintained the requisite separation. At the August 10th meeting they also went through the drainage system and looking at…the Massachusetts Storm Water Policy requires in order to take credit for deep sub catch basins with those hooded outlets. In order to take credit for removal of suspended solids they have to be installed so that they're offline from the main drainage system otherwise water coming into the basins through a pipe connection keeps the solids suspended and they just get blown out. I think there are two or three catch basins on the design that weren't offline so that the water came in and out. I think the revised plans we got on August 10th that same day had revised that and reconfigured the pipe configuration so those basins are now considered offline and they had basically were able to take credit for the TSS removal. As far as the capacities of the basins and the sizes the actual storm water calculations and the details for the basins have yet to be defined for the project. In looking at where the basins are situated as the design progresses forward in the next stage. We believe there is flexibility enough there. Basins have to be made bigger. There's area they can do that and without impacting any actual wetland resource areas. It may involve more impact to buffer zone because that's where all these basins are located. In general we feel

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comfortable given the information that has been provided that the system they have will work. The last thing that we did is looked at it from the aspect of the drainage system from the low point moving up. There was limited information on the previous plans about the rim elevations and the inverts of the catch basins coming in. When we looked at those I was concerned at the time at the time was that as you have your minimum pipe slips coming up back to the parking area if the ground didn't match that same elevation you might be running into the situation where you physically didn't have enough room to make these pipes go into manholes or catch basins. The revised plans have invert elevations and they have selected rim elevations to the point where we feel comfortable that what is not shown can be detailed enough so the connections can all be made and the system can be installed in designed generally as it is shown. So as far as the drainage goes we feel comfortable that the information provided is a good starting point for a design to move forward. It is as Mark has said it is not designed. It does need to be flushed out at a later date.

Mr. Krol: You had said that the basins had the ability to grow as further capacity is deemed necessary. When would that determination be made? As the process went further, as final plans were made? Can these basins be expanded after they're built? That may be a crazy question.

Mr. Durand: We would hopefully design the correct size before we built them.

Mr. Krol: But you were saying you have the ability to grow in a direction.

Mr. Durand: As the design progress not as construction progresses.

Mr. Krol: That's what I wanted to know. I just wanted to be clear. Any idea what kind of rainfall event these basins can…what would their limit be?

Mr. Durand: They are definitely designed to fully accommodate a 100 year storm. It would also be able to always be designed with mercy spill rate so that storm rate be exceeded it would have a safe for over topping. The top basin so there would be no catastrophic movement. They would be able to fully continuant and accommodate a 100 year storm.

Mr. Krol: Off hand do you know what the definition of a 100 year storm?

Mr. Durand: It's about 6.5 inches.

Mr. Krol: Over?

Mr. Durand: A 24 hour period.

Mr. Krol: 6.5 inches.

Mr. Furman: If I can just elaborate just so the right depression is given during in storm. The basins itself are detention basins so their designed that as water is coming in, storm water is also being let out at a controlled rate. Under the Storm Water Management Policy the analyst will show that you have discharge locations across the site and you can calculate what a discharge rate is there existing. There's a policy that same existing rate has to be maintained so the basins will not be

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designed from what we can tell by the details to actually hold water and then let it out. So it's a continued let in and out but it's out at a controlled rate. I didn't want to let the Board have the impression you were going to have these big monster basins holding a 100 year storm event. You're allowed to have some outflow at the same time it's coming in.

Mr. Krol: How fussy are…is this system to maintenance? Are they maintenance intensive? I don't know if these things are prone to need periodic cleaning or…I want to get some sort of sense that…

Mr. Furman: What generally happens is part of the Notice of Intent filing or the Storm Water Management Report that will be filed for…there's an Operation and Maintenance plan that is prepared. What that does is it outlines the obligations or the commitments by the developers on how many times per year the basins will be inspected. How many times per year they will be maintained and repair procedures in the event of an emergency. Say the outlet clogged for whatever reason in a rain event and then water has to come over the spillway and some erosion occurs. An outline of procedures for how all that will be handled; the system itself is really not extraordinary. It uses standard best man practices as defined by the Massachusetts Storm Water Policy. Deep sub catch basins with hooded outlets has conventional storm water detention basins. They have to have some…will have four bays in it so that sediment control is maintained in the first part of the basin before the storm water spills over and goes into the main part of the basin. Has an O & N plan been prepared at this point?

Mr. Durand: No

Mr. Furman: That would be something at a later filing. It's nothing extraordinary.

Mr. Krol: As far as maintenance goes?

Mr. Furman: Yes as far as maintenance goes.

Mr. Krol: I'm going to ask you to speculate here a little bit. I know that they were jockeying to keep you said two feet above the ground water level and you're concerned about the pitch of pipes and everything. I imagine in a more ideal situation you'd have deeper retention ponds…basins and you'd have a higher pitch on pipes and such. Is this system marginal at all in your opinion or…

Mr. Furman: I don't think there's enough detail in plans right now to determine whether it's marginal or whether it's you know completely designed. It's definitely not completely designed. It's definitely not completely designed but engineering…the process of engineering will accommodate things like you said so if you had a pipe that laid a minimum slope in order to process the volume of water just by design the pipe gets bigger so if you have a 12" pipe laid at a, I'm making up numbers here, a 4% slope and have to lay a pipe at a ½ % slope the pipe might have to enlarge to a 18" diameter to process that same volume of water. So the design effort thats going forward would basically size all the pipes that would be needed based on the conditions of the site. As far as the basins go there are basins...you have limits as to what you can do and again it depends on your site conditions. If you have a site that is very hilly right and you are trying to put your basin on the side of a big slope. I'm talking maybe a 5 to 8% slope. In order to construct that basin you have to construct a berm around the outside. So that it isn't a desirable situation because you then have

water kind if going against something that's…it's not there. There are engineers that bury to protect it. Some sites require that the basins be excavated instead of filled. It depends on the site conditions in looking at the site, the grading that was provided for the designs to date. We don't see anything that is a glaring problem. They have minimal slopes on some of the side slopeswhere these basins are going to be. With the proper engineering the berm areas that were constructed could actually construct these basins can be engineered so they'll satisfactorily contain the water that's within it and the O & M plan that is going to be provided will make sure that it is maintained.

Mr. Krol: Let me ask another question and I know this is maybe not a fair question but assuming…if a permit were granted who would be mindful of making sure that all these conditions are adhered to and met? You've gotten a lot of good information from these people and you know I think what you're telling me is that what they designed is feasible.

Mr. Furman: It is feasible. What we have typically seen in other communities is that the Operation and Maintenance Plan is administered by the Conservation Commission. The copies of the inspection reports from the actual physically going out and inspected then noting and any repairs those are typically all sent back to the Conservation Commission for record keeping because they're the ones that have the…I guess the most interest in that storm water management system seeing is that the water outlet to those resource areas. Typically those are all administered by the Conservation Commission.

Mr. Talerman: Let's take a step back though; go from the end of permit issuance to go forward. Probably what would happen is that they would present a more definitive set of plans that would get reviewed by our engineer at a more definitive level. They'd approve it they would also get a chance to approve the O & M plan as well. Then going forward the Operations and Maintenance is charged to the owner. This is not a condo project where it would be charged to the condo association. They have to do the maintenance and the review of that maintenance and the sufficiency of it can be through the ConComm, through the Board with some over sight that may be necessary from any local official. In subdivision context sometimes towns take all of that infrastructure and do it themselves, wouldn't be the case here in a rental project. That would stay with the owner. You could design the right scheme so the right type of oversight over the yearly, quarterly whatever the O & M plan says is taken care of either through the board, through the ConComm, with expert oversight, without expert oversight it's to early what those are.

Mr. Krol: Board members are there any questions?

Mr. Talerman: I have a couple questions. Can you go back to the basin behind the southernmost building? Is that one typical…If what I'm hearing correctly and correct me I'm wrong? Is that one typical you're bringing in material rather than digging out a basin?

Mr. Durand: That's pretty much the case, yes.

Mr. Talerman: The closest point to an actual wetland flag there could you map that out for me?

Mr. Durand: I would guess…

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Mr. Talerman: Just rough it, in terms of any grading work.

Mr. Durand: Any grading work the closest was probably I'm going to say 10 feet away.

Mr. Talerman: So there's going to be some filling coming up fairly close to those flags certainly within the 50 there's going to be some…

Mr. Durand: Yes, that's correct.

Mr. Talerman: Is that true for the other…at least one of the other basins has work within the 50 as well. I'm assuming…could you just check on the plan and rough that out for me?

Mr. Durand: That's probably 25 feet.

Mr. Talerman: Okay

Mr. Durand: Outlet structure would be closer but the actual basin itself.

Mr. Talerman: To get that grade on the backside of the berm there and what about the last one? That one I think is further away but I can't recall.

Mr. Durand: This is significantly different. We actually show preliminary grading coming back here. We could actually tie into this little hill here. I would guess we're closer to 50 or 60 feet there.

Mr. Talerman: Okay, that's the buffer work too? I guess a question for John. You guys were analyzing these basins for ability to catch or volume and of flow of that storm water. You weren't analyzing for wetland functionality interest under that or the local bylaw.

Mr. Furman: That is correct and we actually looked at it generally for volume. We were looking mostly at it for the ability to construct the basin given the separation of ground water to the bottom of the basin, grading around the area and what impacts that might have going back upstream.

Mr. Talerman: Okay, thanks.

Mr. Krol: That summarizes the changes that you made. VHB was satisfied.

Mr. Furman: Yes, the other part our August 10th meeting is that we went through…we've kind of jumped around on some issues. We might have already addressed them but our memo dated August 20th kind of touched on some of the issues that were outstanding and our intent was to kind of leave our office with an understanding of what was really outstanding. Berkshire Design left the office revised the plans sent it back and then we issued this memo here. So if you want we can go through these items here. A lot of them haven't had any update to them. There items that the Board has requested and we reflect that the reflect that the items remain open at your request for additional information.

Mr. Krol: We could do that or we could go through by topic. Any other storm water or drainage issues questions from the Board?

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Mr. Schneider: I have a question. Conservation Commission is here. It's a little bit off topic but it's something maybe the Conservation Commission could address. This would be the opportunity to ask Jennifer, maybe she could say something. We were meeting last week on the Planning Board. We were looking at a map down in the Clerk's office. We were just confused about a zone which seemed to overlap this and I thought maybe we could clear this up quickly. We just weren't sure. The map is dated 2006. I just wanted clarification on that if that was relevant to this project or not. It may not be totally irrelevant I apologize if it is.

Ms. Unkles: It is the correct map used for priority habitat and it would fall under the Wetland Protection Act and the National Heritage Review and Scott can probably speak to the process he's gone through to change the status of that land.

Mr. Kahn: We were aware and you know counseling my client through the process. Of course we looked at the polygon map and had conversations with National Heritage and provided them some additional information and at this point no further action is required. There are no issues concerning the polygons overlay.

Mr. Schneider: We were just looking at this last week and some of the areas…

Mr. Kahn: That's correct. One of them is something that in the north part of this town. There's been one in the State; it's not in our area.

Mr. Schneider: These cross hatch areas shown on this are not correctly delineated?

Mr. Kahn: The Natural Heritage has reviewed it will be during the MEPA process. I'm not sure be asked for an opinion as to whether or not and I'm confident the answer well be that there's no issue concerning us.

Mr. Nielsen: We have a letter stating such I promise you.

Mr. Schneider: Okay, thank you.

Ms. Unkles: Let me clarify that this is priority habitat and wildlife habitat as...

Mr. Krol: Thank you Steve. No further discussion. Yes Bruce.

Mr. Bennett: Are building the retention pond above the grade of the ground that's there now?

Mr. Durand: That's correct.

Mr. Bennett: What's wrong with that? I just can't picture it.

Mr. Durand: Very quickly the way we have it is. The parking lot will be elevated above existing grade.

Mr. Bennett: It's actually down hill. Do you know how much?

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Mr. Durand: about 3 feet here.

Mr. Bennett: Okay

Mr. Durand: The ground slopes down this way so the parking lot will be about 3 foot up so essentially as long as we get the water from the parking lot into the bottom of the basin and the top of the basin is below the parking lot. So the basin is only about 3 feet deep. It is not a huge giant basin. The parking lot is elevated about 2 ½ -3 feet. The dike from the south side here is elevated about 3 feet, give you a little bit, six inches of clearance so the water from the parking lot would go in drop into the catch basin flow into the retention basin, which essentially has a dike on the southern side. The basin would fill up there's a pipe coming out at the bottom of the basin at grade which comes out essentially at grade again and drains into the retention basin. So by raising the parking lot about 3 feet at this end which sort of works out well because we have a slope coming down, raise this end a little bit, cut this end a little bit for a balance of cut and fill. Make somewhat of a flatter parking lot but still sloping this way. And we're only about 3 feet high here and the basin, dike from the southern end is 3 ½ feet high or so. That retains the water.

Mr. Bennett: So if you are cutting in at the top of that parking lot you are getting closer to the top of the table. What is the natural ground water now? What is the level of the water table from the top of the ground down?

Mr. Durand: It varies from site to site but we took test pits through here and I believe they were between 26 and 36 inches. I am sure there is a cross section of ground water through here. Again we're only cutting a couple feet here. This is higher evaluation. This is a very granular type of material. The ground water tends to be somewhat level here.

Mr. Krol: Thank you, next topic on the agenda is to talk about fire flow protection.

Mr. Kahn: Yes, Mr. Chairman I like to make this report if I could. We've been working closely with the Sunderland Water District, Fred Laurenitis and several other members of the Board. On August 23rd we conducted a fire flow test which a hydrant flow test has been provided for your review.

Mr. Krol: Yep.

Mr. Kahn: The test provided shows in fact that strong flows at that location. It was sent to the both the Water Commission and Tighe and Bond, who is their engineer. I have also provided you a copy of the Tighe and Bond memorandum which was issued today. I'd like to read the last paragraph of this report for the record.

Please see Tighe and Bond memorandum dated September 5, 2007.

We continue to work with Sunderland Water District who took a lot of August off. We were not able to meet with them. That pit test was…they were wanting for that before they can have further discussions. We will have…meeting with them during the month of September. I want to note that while we are still looking to them to provide solely available water for that rare and hopefully never event of a fire that occurs on the property. The test so far indicated adequate pressure. Of course

like everything in this project further design is required. Anything that they might consider will need to be designed as well but you know regardless of what may happen one of the next items further down is to discuss the water supply it actually it was discussed at our last meeting and that water supply test that was also done by _____ Lorgean indicated more than an adequate supply of water and even proved to be a problem with the Sunderland Water District. We are satisfied that through a cistern system in some other form that we can provide the same level regardless of what may transpire over the month. We believe that we are moving in the right direction and regardless of what may happen with Water District or not that we can provide to the satisfaction of the Fire Marshall and the Chief, a fire protection system in terms of the sprinkler that will more than satisfy the requirements.

Mr. Krol: And discussions I've had with Fred…I think it likely we can probably come up with some sort of solution to this regards.

Mr. Kahn: That's correct; we're just trying rassle over how best to ultimately put designs to separate the two systems out, which we certainly will easily be able to resolve over time.

Mr. Krol: And Fred has scheduled a meeting of the Water Commissioners the 20th of this month to review this document and this test report and move on to the next step. The question I have about the fire protection water flow. Would that be strictly fire hydrants or would it also be connected…how are going to feed your sprinklers?

Mr. Kahn: It's treated in the same system.

Mr. Krol: Okay

Mr. Kahn: Envision the simplicity of it all. Its two separate systems, it's a system for domestic water which will be done through on site well and then there will be our fire protection system which is a combination of both sprinklers in each unit. Throughout the units as well as fire hydrants and what have you and whatever connections Siamese connections the Fire Chief may want and that will be then tied to Water District System.

Mr. Krol: I just wanted clarification that fire protection and water included both hydrants and sprinklers.

Mr. Kahn: Absolutely.

Mr. Krol: Okay Board any questions on that? Okay that melds quite nicely into our next topic which is to discuss the on site water supply.

Mr. Kahn: I'm sorry…

Mr. Krol: There was a report you forwarded to us actually dated back in May about a report on some test wells done.

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Mr. Kahn: Mr. Chairman, before we even at the last meeting VHB has a chance to review this report and actually reported to this Board so many things and I know we had so many things that they hadn't reviewed this. I'll let them comment as to what they believe the results indicated.

Mr. Furman: If you turn to our memo on page five we have a summary as one of the ones under the additional comments but we had reviewed the report with respect to I guess determining whether the wells seemed sufficient for supplying water and whether there was any impact or potential impact to the wetland areas based on the draw down rate of it. In that comment and I refer to it because we just kind of picked some highlights out of the report but during the field observations there was a approximately in that well area of one foot of ground water draw down after four hours pumping at a distance of 50 feet. Looking at where the wells are located it's our opinion that the water supply in that area…the ground water is so high that we feel it will have minimal impact on the wetlands at all. Normally if you're going to have impact on ground water the amount of draw down that you would have after a pump tests would be greater one foot is generally…comparatively to the depth of the well it may seem like a lot but one foot of ground water change after 4 hours is not significant so our opinion on that is that there is a sufficient supply of water for domestic use and that pumping that you won't get a continual pumping for domestic use for a 4 hour period. So think I the actual draw down you're going to experience is going to be less than that.

Mr. Doughty: The pumping rate was also greater that what the wells would be rated for. It was worse case scenario.
Mr. Krol: Do you have…how much more?

Mr. Doughty: It was twice as much.

Mr. Krol: Twice as much.

Mr. Doughty: The wells in the report stated 75 gallons per minute but the test was done at a 140 for four hours.

Mr. Krol: One well?

Mr. Doughty: There was two wells.

Mr. Furman: Two wells.

Mr. Doughty: And the draw down there were 50 feet away and they showed a foot and the other one was .98 feet of draw down.

Mr. Krol: I believe the plan is to have three wells on the site?

Mr. Kahn: That is correct.

Mr. Krol: Have those been shown on the maps as far as locations of them.

Mr. Kahn: Of course they were shown and provided at the last meeting.

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Mr. Krol: Okay.

Mr. Kahn: They were.

Mr. Krol: I assume you looked at the water report. I mean the quality of the water appears to be very good.

Mr. Furman: It…is the well…the well because it would be a public water supply is still subject to DEP approval but all indications that we have that on the information provided looks like it is suitable source.

Mr. Krol: The question that the Board had was a on site water system viable or feasible here? I guess the answer is yes.

Mr. Furman: The answer is yes.

Mr. Krol: Any questions from members of the Board? Let's talk about the waste water system.

Mr. Kahn: If I may Mr. Chairman, I provided you two items that are both have been also provided to VHB. One was a actually excuse me three items. The first one of significance was…I did not bring any experts here because VHB has had a chance to review it so I'm going to allow their comments to be entered here but first one is dated July 2007, from Gifford Engineering it's a hydro geologic report regarding the tests that were done in the leach field area and again I'm just going to summarize first then I'll let VHB if they would please comment then I'll let VHB if they would please comment on the reports contained but what it indicated was that the area proposed for the leach field that there was more than adequate cover. It showed all sorts of good information but basically the bottom line is it shows viability. Our leach field could be constructed in the location that it has been proposed. With that we also provided you on August 7th and provided this as well to VHB a memo from Mount Hope Engineering. Mount Hope Engineering will be the expert that we will be working with DEP during the approval process for this waste water treatment facility and puts one of the questions that was asked a long time ago was is well okay so you're building a field here and if you had a certain amount of cover and the grade changes what would happen here and would we end up with a 10 foot high wall on one side. Again so I conserve paper so you'll find that answers to that question have been put on the back but it shows how the field will be done in sections and placed on the various elevations in such a way in fact there will not be any large mounds that exist and again I will let VHB comment further if they would. Finally this…there's a report dated June 12th and marked draft from Mount Hope Engineering titled "An Engineering Design Report on the Proposed Waste Water Treatment Facility." Again I want to just comment here that we're in very early stages of discussions with DEP. It's a long process and that will take place. What I asked however of Mount Hope in respecting a question raised by the Board a long time ago was, "What are you guys proposing?" I mean generally speaking I only marked it draft in fact that it is only preliminary proposal as to a type and make and of system that would be installed and work in conjunction with the leach field that's been proposed. It is just subject to obviously reviews, comments and further discussion with DEP during the process. And being that I'm not really the techno expert here that you know again I would look to VHB who has had a chance to

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review this and I know they provided comment in a report concerning their review of these documents.

Mr. Furman: We have acknowledged receipt of all the documents that were just identified. In the initial review letter that VHB had I don't remember the date of it but it was a long time ago. There was really just an outline identified for a leaching system and comment was, "Is that a conventional leaching field?" Is basically wade level or a slope slightly away from it's point of entry of the ethylene and looking at the grades in that area we commented at the time it appears that you would have a 8 or 10 foot cut and our comment was not so much that maybe a wall would be constructed but just the fact that if you're going down 8 foot and you have to maintain ground water separation we need a test over there to see where it is to information has been provided more details on the system have been identified. It is and it still needs to be final design and work out with DEP and the Board of Health but it is described accurately where that it is a system where it still has a pumping system going to it but the fields are constructed in sections and each section is fed and there at staggering levels. That system is allowed by DEP under the Title V regulations and there are specific design criteria that have to be met in order to allow for that type of system. Again there isn't enough detail to really identify all the components of the system but looking at the separation of ground water and the staggering of the fields and the test pits were provided it does appear that the design of the system will be feasible but it will still require DEP approval and Board of Health approval. There is the report that identifies additional components that would be needed as part of the system. There's a system to remove part of the solids from the waste stream. There's a nitrogen removal system those are things again that are not designed that will part of the system there will be a maintenance procedure that will have to go along with those. We would assume at that point it would be something the owners would be maintaining. I'm not sure if there are any reporting requirements back to the Board of Health but if there would be they would be the department that would be responsible for that.

Mr Kahn: If I could just add a comment. Just that no we're not going to maintain so to speak. We will hire a qualified somebody that would know how these things work. The answer is two fold is that the Operational Manual approved by DEP…to be quite honest will look at the table list of vendors. One thing about these systems you know everybody over history we learn a lot more and will benefit from their knowledge regarding type of system and way best to maintain it also under the terms under the Operational Manual. We need to provide a reserve. A count that to make sure that future repairs have been made this are inspected regularly. There is a very specific plan that we would be following and you know we are comfortable that we will be able to satisfy the requirements that DEP through this process.

Mr. Krol: Okay so it's a system that will require a pump?

Mr. Furman: Yes

Mr. Krol: That was on if the questions we had upfront. I believe the system is designed for what 33,000 gallons?

Mr. Furman: 33,000 gallons per day.

Mr. Krol: Now when you design a system like this do you over design it at all.

Mr. Furman: There is always a tendency to over design only the numbers just don't also work out to be in exact science. You get a certain amount of where the leaching field and the absorption system is a always a little bit larger than what is required just by the fact of doing the computations.

Mr. Krol: Was this designed with a higher number in mind or was it really just designed to meet the…

Mr. Furman: We don't have the actual details of the entire septic system to make a determination of that but looking at the size of the system the soil conditions that they encountered. The size depicted on the plan seems appropriate for the use. The use of the pumping systems the systems, the actual sections in the field they're dosed so that some get water at some point and some don't and then the alternate so they are always maintained.

Mr. Kahn: And addition should be noted too that field has reserved capacity, they're specifically designed for that purpose, Mr. Chairman.

Mr. Krol: To be…to grow at a later date or?

Mr. Kahn: No it's not for growth because you got to remember the restricting part of it is the waste water treatment plant itself. The plant is designed for a specific gallonage and the insertion of whatever I'm going to use chemicals but it's not, biological agents, is that the correct word, Is done in a specific way my little knowledge of it to meet the flows that anticipated for the pro---------. However in the field where it's pumped to you know DEP's requirements as I understand in the field require in fact sort of like reserved areas you know for pumping capacity and that's just a protection to make sure the system functions correctly forever and then.

Mr. Furman: Mr. Chairman, if you refer to the report has specific numbers by the Engineering Design Quarter on page 8 they actually have the numbers that were just talked about. If you look at the area that's needed for loading and the loading for the organic part of the system you need a square foot area of about 79,355 square feet and the system that's designed is providing 88,000 there is some reserved built in.

Mr. Levine: Baseline standard has an overstated amount of flowage based on you know a unit which is a bedroom. So the 110 per bedroom is generally assumed to be somewhere in the area of 50-60% above what the average flow would be.

Mr. Furman: There is some reserve built in to the Title V numbers.

Mr. Krol: That's where the 33,000 gallons came from.

Mr. Furman: Yes it's basically it's a 110 gallons per day per bedroom times the number of bedrooms.

Mr. Krol: Joel, I've got a question about this sketch.

Mr. Kahn: I'm listening Mr. Chairman.

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Mr. Krol: This sketch that was at the end of the…

Mr. Kahn: Mount Hope report.

Mr. Krol: Right the August 7th memo has this been incorporated in the plans at all yet? It looks like it might have been or is this just an overlay.

Mr. Kahn: No we've indicated in an approximate location where the fields are. Where we've done tests and that's been plotted in holes but we haven't done any incorporation into the design yet because in all honesty these fields are not designed out. That will happen at a later stage.

Mr. Krol: I guess my question is I see a couple properties that are real close here. How close does this come to the property line of the closest affected parcels.

Mr. Kahn: We'll see if we can answer it. I'm not sure this particular memo it says where I could…determines scale.

Mr. Krol: Rough and tough.

Mr. Durand: Title V requires that you can't put a septic system with 5 feet of a property line. This also not a Title V system, it is a ground water discharge permit from DEP. They will dictate what happens here as far as set backs and size of leach fields and leach fields design. Title V is for smaller systems less than 10,000 gallons a day. Once you reach 10,000 you go to a ground water discharge permit which is strictly administered by DEP and they have different design guidelines but they utilize Title V design criteria for basic number and basic design criteria. We just go handed this 40 feet away from the schematic leach field to the nearest property line and it is also down graded from the nearest property line as well.

Mr. Krol: That was another thing. There is not going to be I mean any topographical changes. This thing is not going to be raised at all. It's going to be dropped.

Mr. Durand: According to the schematic sketch the northerly end will be slightly cut, the southerly will be in a slight amount of fill. When I say slight I mean 2 or 3 feet so the southern end is about 2-3 feet fill the northern end it looks like its 2-3 feet cut at the worst case scenario.

Mr. Krol: Board members any questions?

Mr. Schneider: Is that correct that the road or driveway runs over the system?

Mr. Kahn: No it does not run over the system I believe by the time we're done. That's just a look _____ look of in a schematic drawing.

Mr. Krol: So it will be probably be moved?

Mr. Kahn: yea, exactly.

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Mr. Krol: John I have a question for you because this is really the $64,000 question. Given what you know about the waste water system as proposed here. Given what you know about the water supply that's being proposed and where the wells are. Is there any concern in your mind that these things could interact in a bad way?

Mr. Furman: I think in my opinion the DEP will set up requirements for separation that will ensure that the two systems operate independently because the wells are going to be public water supplies they're going to have a designation with them and there's going to be a clear zone around that. That basically would prohibit anything that would basically contaminate the well and the septic system in itself would have certain set back requirements that would prevent influence of that system and anything around it. So those two things in addition being regulated by the same organization would work together. I don't believe again final design being what it is I don't believe there will be any interaction between the two.

Mr. Doughty: Could you point out where the well is in relation to the septic just so everyone knows.

Mr. Durand pointed out wells and leach field on plan.

Mr. Kahn: Mr. Chairman, you might want to look at the Gifford Engineering Report on page 9 on its conclusions and I think it will give you a better understanding if you look at the four points of the relationship between the two.

Please see Gifford Engineering Report

The Gifford report addresses specifically that question you just asked.
Mr. Talerman: What's the closes point of that building to the leach field?

Mr. Durand: About 20 feet.

Mr. Talerman: That building and the…that emergency access drive, how is that going to be reconciled?

Mr. Durand: Mr. Durand's response could not fully be interpreted.

Mr. Talerman: I'm looking at that though and I'm not trying to be a nay sayer about it. I'm just trying to figure it out. The roadway we just talked about is 5 foot setbacks or this and that. If you go…to get that roadway out you got to go 20 feet over to the east which is going to get you close to that abutting property it looks like.

Mr. Durand pointed to the map but Mr. Durand's response could not fully be interpreted.

Mr. Talerman: right, that was going to be my next question.

Mr. Durand: You could jog this thing out and also if I'm not mistaken that could drive over these leach fields if were properly designed. Please note that Mr. Durand is very hard to understand.

Mr. Talerman: That's not the intention right now.

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Mr. Durand: That's not the intent that is correct. Again it's a place holder showing one schematically that it can fit there and can be moved. Mr. Durand's response could not fully be interpreted.

Mr. Talerman: But as it exists and nothing changed obviously the plans that are sitting right up there there's a conflict.

Mr. Durand: Not necessarily a conflict it does show an emergency exit, Mr. Durand's response could not fully be interpreted.

Mr. Talerman: You have a design for that?

Mr. Durand: There's nothing designed.

Mr. Talerman: What kind of things…I've put systems underneath parking lots too. There's some difference in terms of depths and things and type of cover.

Mr. Durand: It makes a difference… Mr. Durand's response could not fully be interpreted.

Mr. Talerman: Did it change the depth of it at all?

Mr. Durand: No, if needed it could drop it down another 2 feet. We're 10 feet above ground water here.

Mr. Talerman: What about the proximity of the edge of that building, if nothing changed.

Mr. Durand: Again based upon Title V criteria.

Mr. Talerman: We're not in Title V.

Mr. Durand: Based upon Title V criteria, Mr. Durand's response could not fully be interpreted.

Mr. Talerman: I've got all that. In your experience working with DEP though do they like to see separation more setback from large buildings like that?

Mr. Durand: Not…I can't say specifically yes or no but they're going to be interested in is ground water mounding. Mr. Durand's response could not fully be interpreted.

Mr. Talerman: I'm not talking about contamination. I'm concerned more about the impact of maybe flooding or mounding itself. I'm not saying dirty water. There will be mounding analysis at that point. There must have to be some kind of the excavation to pour that slab. It's all on slabs correct?

Mr. Durand: Mr. Durand's response could not fully be interpreted.

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Mr. Talerman: I've got that, I'm just trying to get a check list in my mind for things that will have to happen to reconcile these things.

Mr. Durand: And again the leach field could jog out this way.

Mr. Talerman: Where is as is today there is still work to be done in reconciling these locations.

Mr. Durand: final design.

Mr. Talerman: That's right.

Mr. Krol: Before we leave there could…the locations of the wells now is that sort of in the southeast corner of the plot? North is…

Mr. Durand: North is up.

Mr. Krol: North is still up, okay.

Mr. Bennett: Where's the property line? There's drainage there that's not the property line right?

Mr. Durand showed Mr. Bennett the property lines on the map.

Mr. Bennett: So the emergency access is within that protection area?

Mr. Durand: This is where the access is, yes the buildings is out: Mr. Durand's response could not fully be interpreted.

Mr. Bennett: Yes, but the emergency access is within the buffer zone?

Mr. Durand: That's correct.

Mr. Krol: I have a question just because I've been involved with another source water protection committee that's looking at just protecting source water for the Town has nothing to do with this. I think there's a gas station up not that far across the road the 7-11 and I think they had a spill there a long time ago but there's a known area of contamination. Is there any concern…I know when I went to the meetings the woman said the bloom has not moved…there's nothing happening in that area. By putting the wells in that area and drawing a substantial amount of water have you…are you aware of that potential area of contamination and if it may tend to migrate once you start drawing a lot of water out of that area?

Mr. Kahn: The only thing I can comment on and again the Gifford Report indicates that the water is flowing from the northeast to the southwest.

Mr. Krol: Right

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Mr. Kahn: So if that in fact is what's happening underneath and you look at the position of 7-11 again we had a water test that indicated and they found nothing in the water. That it's going in the opposite direction.

Mr. Krol: Does that Gifford Report even express any knowledge of that?

Mr. Nielsen: We are aware of that issue, _____ is aware of that issue and it will be addressed in the DEP process. The issue has been raised about the gas station.

Mr. Krol: Yea

Nielsen: Been aware of it for years.

Mr. Kahn: The answer is they don't believe it's there's issues and their comfortable that it will be…

Mr. Krol: Was that addressed and stated so in one of these reports?

Mr. Nielsen: No this is part of a later design process this is the first of the design process. Seeking the requirements for a preliminary plan and DEP will lead thorough review as they go through this process. There's knowledge of those issues.

Mr. Krol: Board members any questions? VHB and comments?

Mr. Furman: On the water?

Mr. Krol: On the water, the waste water as the topic.

Mr. Furman: No

Mr. Krol: Okay I think we're ready to move on to the next topic on the agenda which is ladder truck. Since our last hearing we've had a couple letters one of the was…they're short letters that I would like to read into the record regarding the ladder truck and fire safety.

Please see attached letter from Chief Robert Ahearn dated August 1, 2007

Please see attached letter from the Sunderland Board of Selectmen dated August 31, 2007.

Mr. Krol: That's the correspondence that the Board received recently in regards to safety, fire safety and fire truck. Unless there's any further discussion…I have a question though on July 24th we received a new turning radius and analysis plan and general notes…

Mr. Kahn: That was the plan after the Fire Chief…

Mr. Krol: That's the plan he was referring to?

Mr. Kahn: That is correct.

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Mr. Kahn: Right?

Mr. Krol: Just looking at it that …I mean a turning radius seem to talk to a 48 foot Cooper truck. Is that the truck he was talking about, a proposed ladder truck?

Mr. Durand: The template that we used to generate the turning movement was a same dimension fire truck the Chief had described. He actually gave us the dimensions of a truck and we contacted the manufacture of the truck to get the specific turning dimensions of that truck and utilize that for our analysis.

Mr. Krol: Okay, that answered my question. I wasn't sure if it was the largest truck the Town currently had or a hypothetical ladder truck…

Mr. Talerman: Can you between this and next session confirm whether this was for a pumper truck because a ladder truck would be bigger then this.

Mr. Durand: We gave you the catalog cut from the manufacturer and it has been submitted to you.

Mr. Talerman: Okay, we just want to see if that's the case then they don't match and we just want to make sure they match up.

Mr. Durand: The template that they provided and utilized has been provided to the Board.

Mr. Talerman: Did you see the Chief's letter?

Mr. Krol: The Chiefs? That's what I'm trying to rectify.

Mr. Kahn: And again while you're looking at that please remember that this will be fully sprinklered property that…

Mr. Talerman: If you get a chance just make sure that the template that you used…I think the ladder truck is a little bit longer generally that a pumper truck so just confirm…

Mr. Kahn: It isn't a pumper truck.

Mr. Talerman: Okay, so the plan has an incorrect notation on it?

Mr. Krol: Because it does say set 48 foot pumper truck.

Mr. Talerman: Right

Mr. Durand: It says aerial platform truck.

Mr. Krol: So the plans is designated wrong.

Mr. Durand: The notation on the plan says pumper truck is that correct?

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Mr. Kahn: We'll double check and send you a pdf. To make sure but the plan radius was done using the large…

Mr. Durand: The template aerial truck was utilized in the final analysis.

Mr. Kahn: We apologize for any confusion.

Mr. Krol: Okay I guess I've come down to my last agenda point on my civil engineering discussion. VHB is there anything we missed on your report?

Mr. Furman: We pretty much have hit all items that we have engineering related. There are a couple items that still remain and it might be worthy just to mention on just to get any clarification them on the Board's opinion so that we can walk away on whether any further documentation is needed on that.

Mr. Krol: Okay

Mr. Furman: Let's see the first on is item 4 about the 100 foot wetland buffer it sounds like we kind of resolved or have direction moving forward. I guess starting on item 5 we just talked about this is the ability for a parking area emergency access vehicles to be able to reverse in parking lot. If you look at subsequent comments on that we addressed the Fire Chief's comment about access to the building and Berkshire Design had mentioned it during their presentation but I don't know if anyone took note of it but the comment he had was that he was concerned about access to that southern building in the event it became blocked in any way. And as part of our August 10th meeting we discussed what that…what he was referring to. The plans have been revised so that what was formally just really a sidewalk has been for lack of a better word upgraded so that it becomes a vehicular passage in case of an emergency so now on that area there are two means of access to that second building in case on them should be blocked. It was mentioned during the initial presentation I didn't know if anyone heard that so I just wanted to bring that up. The next comment I have outstanding I guess would be on page 4. It kind of relates to the parking study in the amount of parking and the Board request for information from other similar units. I think the plans have been revised so that the number of parking spaces complies with the zoning code but the request is still open to the Board that you're requesting the study. Again I'm just mentioning that it's out there. Item E on that same page, page 4, basically deals with lighting design and again the response to the comment was that "When we get to final design more details in the lighting and lumineer patterns would be provided." Nothing really to discuss. We're going to jump over to page 6. Item 6 which basically talks about that same issue with the parking. Again, it has begun to be listed in two different areas. And the last one which is item 9 which is what we just talked about which was the fire truck. There really is only a few engineering issues remaining outstanding the rest of them are items the Board has mentioned.

Mr. Levine: What are the outstanding engineering… Mr. Levine's response could not fully be interpreted.

Mr. Doughty: They're engineering issues requested by the Board.

Mr. Levine: Can't understand? The Board wants a parking study?

Mr. Doughty: That is a engineering the Board has requested. We didn't request it.

Mr. Levine: Okay

Mr. Furman: There is just on item tonight in the reviewing the culvert conditions at the end of the…culverts that are out there. We ask that we review that in a little more detail.

Mr. Krol: Okay. Does the Board have any other issues and regards to civil engineering aspect?

Ms. Unkles: I have a question.

Mr. Krol: yes

Ms. Unkles: I don't want to drag us back into details about the storm water. I got distracted before. Since there's engineers in the room maybe someone can help me with this, the detention and retention basins which ever they are, detention. How does the water that goes through those basins impact or not impact the wetlands that the water flows into because now instead of the water flowing through the ground where all that upper land is it's sort of getting funneled to these basins and then out flowing to the wetlands which are 10 to 50 feet away. Does that wetland line change through time because of that? Because the water's going through right to the wetland line instead of going down through ground and slowly going down to the ground water moving that way. Are these the right engineers to answer that question? Does that make sense?

Mr. Durand: Again the intent obviously is to protect storm water instead of flooding.

Ms. Unkles: Right

Mr. Durand: Mr. Durand's response could not fully be interpreted.

Ms. Unkles: Right that makes sense and so then concern might be if that line does creep closer to then storm water system the storm water system might not work as efficiently?

Mr. Durand: The only thing that would change is the scenario and the hydrologic Mr. Durand's response could not fully be interpreted.

Ms. Unkles: If the wetland line and the ground water level is rising getting closer to that system then the carry capacity seems like it diminishes for carrying anymore water that flowing down to it or maybe not.

Mr. Durand: No, the pipe is at the bottom of the basin. Mr. Durand's response could not fully be interpreted.

Mr. Durand: The basin after rain falls build up and then it drains all the way down and it's empty before the next rainfall comes. It will still drain out. Mr. Durand's response could not fully be interpreted.

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Ms. Unkles: for the new standards, thank you.

Mr. Krol: Okay, thank you. The last thing I have on the agenda. Joel you had provided us a market demand report. Could you talk to that?

Mr. Kahn: Yes , I'll walk may comments brief if I could. The data that was utilized for trying to do this is from a company ESRI which is the largest geographic information system company in the world. One of the things they do is they do population protections. I printed this one in color because I provided you even printed color graphs that go with it. I'll just hit a couple key bullets.

Please see information provided by Joel Kahn.

Mr. Krol: Let me ask you about this report per application process I think one of the things we asked and I don't have the document in front of me. The applicant needs to demonstrate the need for this type of housing in Sunderland. Is this market analysis meant in some part to fulfill that requirement?

Mr. Kahn: There are two types of documents that were provided to you Mr. Chairman one was a market study of the major projects in the area.

Mr. Krol: Right

Mr. Kahn: Of which at the time indicated a vacancy factor of approximately 5% I don't remember the exact number but it was somewhere around it. Anytime in the market you have a vacancy factor of 5% or less or somewhere around that indicates need for product. Secondly the question was raised as to the demand for rental housing and this report here goes to the question to show that in fact according to an independent company of rather substantial nature that they project at 40% of the populace requires rental form of housing or 40% of the housing units of which were again we're proposing a very small increase t that of approximately 1% so if you have a 5% vacancy in the market sampling that was done. An indication of how you're impacting it just shows again that it is continuing to fill a gap and secondly that in fact that there is a portion of the population that qualifies to rent such housing and according to information provided by the Commonwealth.

Mr. Levine: Jason may be the nay sayer I tend to be the heavy but I would respectfully suggest if that's what your application says that is not consistent with 40B. I don't want to parody, 40B allows for the proposed as I think you might be familiar only because it's in the next town over in Amherst case where they exceeded the 10% the court went into discussing the regional need aspect in that case with a board approved project and the neighbors appealed because they said the town was of excess of 10%. So the regional need is the issue. I don't think the requirement by this Board or the Selectboard or any board whether it's single family, whether it's condominium whether it's rental whether it's appropriate or not. I don't want to parody about this. I think we proved a need. We've tried to come ½ way or more than ½ way with the study. We did what you asked us for. We got debating about whether we should or should not do it but we did it because you asked us for it. Rental housing if anything is favored under 40B. The town gets 100% credit for it so I think this issue is something we shouldn't get to carried away with. I think it supports it. I don't think…the Board is free to do what they wan n any issue and you have competent counsel but I just don't

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think it's issue we should…I would respectfully suggest we should dwell on but we've given the report I think 40B speaks for itself. Rental housing is favored and I think the Amherst speaks talks regionally not Sunderland okay that's kind of where we are.

Mr. Krol: There's a couple things that you stated there. You state there's a regional need but the region is not going to be absorbing the impact of this project. This is going to have big impact on the Town of Sunderland and you know the market analysis that accompanied your…the application stated almost exclusively housing that's designed for students and this many people have come before you to state that there's a lot of concern that this is going to end up being student housing a hub for UMASS. The analysis here of this data was done within a 10 mile radius close to UMASS . In looking at this application as a whole and what market it serves. I know there are people that are struggling that this is going to be family housing. It's going to be affordable family housing along the lines at talk it to be. I look at even this may be a little off topic the affordable guidelines of $1,000. or $1,045. a month for a single family or single bedroom apartment I mean that's far above what are current, what we have in town now go for. Another thing that wasn't touched on this town has a high percentage of rental properties as it is. I'm just having a little bit of a struggle seeing how…what you've presented us so far demonstrates a lack of this type of housing. I'm just struggling with that and I just feel that some of these issues that we've talked about before about family housing versus student housing. In this report there's no mention of the large amount of rental housing that's already here. I mean I think those things are being over looked.

Mr. Levine: I don't have anything to say. The only thing I want to add is the 25% affordable requirement it's going to be affordable. It's the lynch pin of this whole process the whole statue. So what ever way you want to denominate who lives there, what they do for a living, whether they go to school, 25% of the project is going to be restricted and denominated to those affordable folks and that process is a given and that's what the statue's about. A certain percentage at least 25% is for affordable people. I can't change that. We understand your concern. Your concern may be 80 miles down the road to Beacon Hill but in terms of the statue that we're dealing we're dealing with here and the process has been going on since 1969. It is what it is. You may not like it. I may not like aspects of it and I know Jason doesn't like aspects of it but it is what it is, okay. If you feel and I'm going to straight forward if you feel that its student housing I can't change your mind. If you feel that's a reason not to approve this project and you've heard what we said over and over again then take that action. The quicker you do it; I don't think you'd be serving the Town well but take that action. The quicker you do it. We shouldn't be sitting here talking about drainage issues all of which has been pretty much resolved so that been a lynch pin day one from your concerns. We recognize it. I recognize that the other issue is the height of the buildings and your ability to deal with a ladder truck and you've heard our position on that over and over again. It is an issue we can go back and forth. These are the issues that trouble the Board. The quicker you address them the quicker we can all move on. You've done a very, very, very thorough job and I appreciate VHB input in terms of you know whether or not we, this project, not "we" I apologize, if generally can be built. Whether the plans…and I think you've heard tonight and you've done a good job at least for the last six months you know going though the seps and subseps of the various functional aspects of the project and I think the bottom line is there not a lot of any outstanding issues. They're the deal breaker we can debate that it seems to be the issues that the Town is struggling with are two. The student housing the subset of that is parking okay and we've told you our position over that. We don't do it in a disrespectful way we just do it and we've done it over and over again and we don't want to be inconsistent. The second thing is the fire truck the ying and the

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yang well geez wiz if this project needs a fire truck we can't afford to pay for it. We understand that. We appreciate the Selectmen's letter. We told you our position about that. That's where we are. We can't change that unless you have a suggestion we can't change it. It's a rental project. Whether it's 10 units or 150 units if your premise is correct it will be student housing. If that matters I suggest, respectfully, it does not matter 10, 15, 100, 150 it doesn't matter under the statue under the regulation. I respect what you've done the watershed is clear and we'd like the process up. If there's something we can do to make …to mitigate these issues to come to a clear conclusion. We're willing to do it we're willing to consider it. I think you've done a very good job as chairman. I think the Board has done a very good job. You consultants has done a very goof job ticking off issues. We're to the bottom line. I think Joel gave you a report. I don't think you disagreed with the report. I think like all reports you can take aspects out of it and you have and that's what every board of appeals has. All the cases not the 40B cases but all the other 40A cases when they talk about Board of Appeals they also talk about they have local knowledge therefore under general 40A stuff the zoning stuff, special permit stuff they always give discretion to the board because of their local knowledge and the implantation. It's different in 40B world. Whether it is should be okay, but it is different and you know we're a society of laws and we just try to do the best we can. I understand Sunderland is different than Sudbury and it's different then Somerville its State statue. Maybe they should have carved out exceptions from know from Sunderland to other communities but you know in reality the urban communities were the first to meet their quotas because they had public housing before there was a 40B. In any event I don't mean to digress, I think the Board knows the issues and we come to the end tonight and we'd like to schedule another meeting but I don't think we have much more to offer unless minor issues which we'll address between now and the next meeting but you have to grapple with what you want to do. I think we've had a fair and open dialogue. You've heard the issues. You can get more counsel from Jason but you've heard our position at nauseam already. I'd be happy to present a post decision you know I think we're to that point at least for the Board to review and to use it as a template in terms of agreeing or disagreeing on issues, conditions, etc. I think we're to that point.

Mr. Talerman: Steve can I get a couple comments?

Mr. Krol: Sure

Mr. Talerman: Joel did a nice report here. It wasn't the report you asked for. I recall nine months ago asking for a report and then we deferred to later obviously. The report you asked for was to support their claim their application that this would be family housing and the Board's concern was, "Well your comp. shows student housing, family housing good, student housing not what we're looking for." A couple things though just to put that in the record they're obviously not going to do anymore work on this issue as Lou has said. He must be reading a different Amherst case then I am because Amherst didn't stand for that _____ in fact the regulations state that when you're going on local need, it's the local need you're considering given where Sunderland's numbers are. It's the local need you're examining here. That's in the regulations, marketability is something you can look at for good cause in this or in HAC proceedings and that's in the regulations. In fact the MassHousing letter says that they encourage the applicant to work closely with the zoning board due to the substantial impact on the overall housing stock in the town and that's in the MassHousing letter itself that letter was issued as a result of the same concerns we're mentioning now through the Board of Selectmen's letter saying "hey we're concerned that this is going to be a 9% increase in our housing stock and large student population" Joel's report says there's 40%

rental housing. It's actually 50% in Sunderland as I understand it. It might be second in similarity situated towns in the State in terms of percentage of overall rental housing stock and that's a significant number. That numbers going to go up a lot as a result of this project because the project itself increases your housing stock by 9%, the important thing there to note and I'm not drawing value judgment necessarily us the Board has comment and make a decision on whether or not this is the type of project that's good for them. Respectfully the Housing Appeal Committee has never considered this exact issue, student housing versus family housing, ever, it just hasn't happened. They can say that it's happened. Nor has that Housing Appeal Committee ever considered the issue of compelling the Town to buy a ladder truck. A lot of these are novel issues that you're going to have to wrestle with. We're getting past the hill where we're heading to the finish line. We're not there yet. We might be on this issue because they're obviously are not going to provide anymore information. They're not going to provide anymore information on a number of issues, fine. We've asked they've answered. We know what we're going to get. There obviously still a wetlands issue out there. We obviously still a wetlands issue out there. We obviously haven't seen a revised proforma that it takes into account some of the expenses associated with water the increased amount of fill and all the other things that we have out there. I think we're getting there. I agree with Lou that we're getting closer but I still think there's some things to examine. I don't recommend trying to beat them over the head on issues that they clearly intend to refuse to respond to because that doesn't seem to be productive use your time. I think you ask and you ask again and give them all the rope that they need to and then you just make your decision accordingly. There are some outstanding issues. I just want wanted to point out that Joel's memo was thoughtful and accurate as it is on a particular issue isn't what you were looking for and that I considered what you were looking for to be relevant and material and not something in Lou's calculus has to get shifted to the side of the road and that you can never look at it. You can look at it. It might seem like a peripheral issue. If it was a peripheral we wouldn't be having 20, 30 people here once a month every month about exactly that issue.

Mr. Krol: Thank you. Okay Board member?

Mr. Levine: The question is the pro forma we provided you if anything. I just spoke to Joel is going to show a lesser return if we sharpen our pencil and factor some of these increased costs. It's not going to show a greater return. I guess looking for everyone's benefit to bring this to a conclusion hopefully satisfactory or a satisfactory for everybody at least a conclusion. You know the pro forma you have is not getting better. We can give you a slightly revised pro forma. It's not going to materially change. My question is are you going to do a pro forma review? If you're going to we don't want to wait another month to have that discussion and if you're not then that's fine too. I've spoken to Jason in between the meetings, clearly he can't speak for the Board, we just generally talked about the Board considering if they want as Jason rightfully said, "It was the Board's decision not his." I think we're at that juncture right now. We'd like to know what you want to do. We can clearly give you further revised pro forma. It's going in the wrong direction from the Board's perspective but we'll give it to you. I'd like to know if you want to do a pro forma. If you do we would like to move forward on it between now and the next meeting.

Discussion ensued on whether a pro forma should be performed between the Board and the applicant.

Barre Tozloski made a motion to empower the chairman to review the updated pro forma and subsequently select one or more proposals to choose a pro forma review. Motion was seconded by Jim Williams. The motion passed unanimously (5-0).

The Board discussed the next meeting date which will be October 18, 2007 if Mr. Kahn does not have a conflict or on October 23, 2007 if he does. Either way it would be 7:00pm at the Town Offices.

Mr. Reed a Sunderland resident was concerned if the applicant had addressed the demand for low income housing.

Mr. Kahn offered to answer his questions after the meeting and gave him a copy of his report.

Meeting adjourned at 9:38pm to be continued either October 18th or 23rd.

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