

**LAKWOOD PLANNING BOARD
REGULAR MEETING
MINUTES
NOVEMBER 21, 2006**

I. CERTIFICATION OF COMPLIANCE

Chairman Banas called the meeting to order at 6:00 p.m. with the Pledge of Allegiance and Mr. Kielt read the Certification of Compliance with the NJ Open Public Meetings Act:

“The time, date and location of this meeting was published in the Ocean County Observer and posted on the bulletin board in the office of the Township of Lakewood. Advance written Notice has been filed with the Township Clerk for purpose of public inspection and, a copy of this Agenda has been mailed, faxed or delivered to the following newspapers: The Ocean County Observer, or The Tri-Town News at least 48 hours in advance. This meeting meets all the criteria of the Open Public Meetings Act.”

2. ROLL CALL

Mr. Herzl, Mr. Franklin, Mr. Neiman, Mr. Banas, Mr. Akerman, Mr. Gatton, Mr. Percal

3. SWEARING IN OF PROFESSIONALS

4. NEW BUSINESS

Mr. Banas informed the audience that we did get an extension on our Master Plan to the state office. Accordingly, this meeting would be devoted entirely to hearing applications for approval to our development within Lakewood. If you are here for the master plan, be advised nothing will be discussed tonight. We are 4 months late on our applications, so tonight we will discuss applications.

1. Discussion/Adoption of the Re-examination report of the Master Plan & Unified Development Ordinances

Mr. Banas stated this would not be heard tonight

Motion was made by Mr. Herzl, seconded by Mr. Akerman, to approve the dates for 2 special meetings for the master plan, November 28, 2006, and December 12, 2006, both at 6pm.

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

2. **SD # 1509A** (No variance requested)
APPLICANT: MAJESTIC CONTRACTING LLC
Location: Massachusetts Avenue, south of Prospect Street
Block 445 Lot 18
Preliminary & Final Major Subdivision – 17 one family townhouses

Mr. Peters stated the applicant seeks 17 single family townhouse units on 2.295 acres. It is located in the R-M zone. Based on the comments from the June 13th meeting, the applicant has increased the off street parking spaces from 68 to 75. The applicant will be required to obtain all outside agency approvals from the OCPB, OC Soils Conservation District and NJDEP for treatment works approval. The applicant shall provide documents outlining homeowner's association agreement for review by the Planning Board Attorney, which shall include ownership and maintenance of the basin, roadway, and all other common areas of the development. The roadway maintenance shall include snow removal. On May 23, 2006, he attended a meeting with the applicant's professionals and the OC Engineer, along with an objector to discuss access to the development from Massachusetts Avenue. It was agreed upon that the applicant would provide a right in, right out access only to the site, and contribute money to the township for future roadway improvements. The plans should be revised to show the right in, right out only configuration at the entrance. The plans have been revised to show 25 ft. radius at the curbs at the intersection of the proposed street and Massachusetts Avenue. A curbed island has been provided to force all outward movements to be right turns. The width of 14 ft. between the curb and the islands appear tight for trucks making a turn into the site, and he recommends the width be increased to 16 ft. and the island be shortened. If the design engineer chooses to keep the width at 14 ft., a turning template should be added to the plans to demonstrate a trash truck can make the turn without hitting the curb. The applicant shall provide testimony on how garbage collection will be handled, whether private or public, and where the containers will be stored. The planning board previously approved the site plans for the improvements to neighboring lot 17. Lot 17 has a proposed retaining wall to close proximity to one being installed in the northern property line. He has concerns that the minimum separation between the 2 walls will impact their performance. The applicant's engineer must be aware of the tiered wall situation when designing the proposed wall. The stormwater management for the site has been designed in accordance with RSIS standards. The map has been prepared in accordance with "The Map Filing Law". The applicant indicated the proposed street will be a private road, and a note should be added to the final plat indicating the roadway will be private and dedicated to the homeowners association.

Mr. Truscott read from a letter dated September 15, 2006. The parcel contains a single family dwelling and an in ground pool. The majority of the parcel is wooded. The site has approximately 225 ft. of frontage on Massachusetts Avenue and is situated approximately 200 ft. south of the intersection of Prospect Street. Surrounding land uses consists of multi-family residential development to the east, and a proposed townhouse development on the adjoining vacant lot to the north, and single family residences to the south and vacant land to the west. The planning board granted site plan and subdivision approval in October 2005 to LWI Enterprises LLC for a 16 unit townhouse development on adjoining Lot 17 to the north. Currently in front of the board is an application from 319 Prospect LLC for 53 unit development directly to the east on Lot 1. In the review comments, the rear

setback of buildings 2, 3, & 4 to the southern property line must be 20 ft. to the property line as required by the ordinance, otherwise a variance is required. A retaining wall is proposed along this property line, and the wall will have a bearing height but never exceeding 5 ft. in height. Since the wall will be in the edge of the property we ask the applicant to provide additional information addressing the setback from the building to the retaining wall. The wall shown as vertical wall without terracing, should terracing be required at a future date which would reduce the effective setback and use of the rear yard, the applicant should be required to submit revised plans to the planning board and request relief for a lesser setback. Architectural plans have been submitted for review of the planning board and basements are proposed. The floor plans indicate that there will be 4 bedrooms in each unit plus a child study, and the board should note that a full bathroom is proposed on the third level. Section 902H1D of the Lakewood UDO states "notwithstanding the definition of townhouse in this chapter for purposes of this section, any townhouse with a basement should be considered two units". The applicant is providing 75 parking spaces, of which 57 spaces will be in front of the residences, 4 on street, and 14 at the terminus of Alpine Court. The proposed parking ratio is 4.4 spaces per unit, and the applicant should discuss parking compliance with the RSIS and the UDO provisions that deems a townhouse with a basement as 2 units. The proposed lot numbers must be approved by the tax assessor's office. The existing structure should be razed before submission of the map for signature, or a performance bond posted with the township. All areas put into common ownership for common use by residents should be owned and maintained by a non profit homeowners association. Two street trees are required by ordinance on the north side of Alpine Court along Massachusetts Avenue; however a tree protection plan was modified at his request to preserve existing vegetation. A waiver of the street tree requirement may be required. The turn around radius should be reviewed by DPW to comply with use by waste vehicles and revised if necessary. The proposed street lighting should be reviewed by the Township Engineer. The balance of comments were technical in nature.

Salvatore Alfieri Esq. appeared in behalf of the applicant, and Ron Gasorowski appeared on behalf of objectors Howard and Janet Payne. He faxed a request earlier to Mr. Kiert that his planner, John Chadwick, was unable to attend tonight's meeting. He is requesting a decision not be made on this matter as we have adjourned public hearing at which point he could present expert testimony from his planner in opposition to this application.

Mr. Banas stated that he announced at the last meeting that if the state gave an extension, then the applications would be heard tonight, and his client questioned him on that announcement. If you faxes something today, there is nothing that can be done at this point. Mr. Gasorowski objected. His planner has been present at 3 separate occasions on the last application, and now they come back with what he feels is identical to the one they withdrew last year, he has been here for 2 meetings with his planner prepared to go, and case law demands that he be permitted to have the opportunity at a later meeting to provide expert testimony.

Mr. Alfieri stated his client will not consent to an extension for the purpose of allowing the objector to proceed on the basis that his client has been ready to proceed for several meetings as well with all of his professionals present. Council for the objector is competent to cross examine the witnesses and build a record for his client's objections and typically,

he refers that the fact that the board has discretion not to extend or adjourn applications to accommodate an objector.

Mr. Banas asked him to cite that for him. Mr. Alfieri stated in Cox page 571, "note that objectors to an application stand in a different position than the applicant regarding extensions. The board need not obtain their consent to an extension and may proceed on an application despite an objectors' request to adjourn".

Mr. Gasorowski said he doesn't believe that case stands for the proposition council is putting forth. In 2005 the board gave great weight to testimony of Mr. Chadwick. At the beginning of this first hearing, he took jurisdiction and his position was that the board should make as a part of this record, the earlier hearing which took place in 2005 which would have made those transcripts and that testimony of Chadwick a part of this record. Council at that time objected to it and this board agreed with council and said we will start afresh, and now here we are. When Mr. Gasorowski spoke with Mr. Jackson this morning, he was unsure if you were going to proceed with the regular agenda or the Master Plan, so this is not something which is that cut and dry. Mr. Jackson said that he was unsure, and that was his fault.

Mr. Banas said the application that was before the board in 2005 was an application with variances if he remembered correctly, and asked Mr. Flannery or Mr. Carpenter to confirm. Mr. Carpenter thought it was without variances. Mr. Gasorowski said this application has a provision for more parking than last time. Mr. Banas said Mr. Gasorowski's comments were well taken and asked Mr. Jackson for his opinion on the Cox book, but said there was a gray area, and he would have to look further. He told Mr. Gasorowski he had the opportunity to question the witnesses and wanted to proceed with the application.

Mr. Alfieri said this is an application for 17 single family townhouse units in the R-M zone. Brian Flannery testified as the engineer and planner for the applicant. He showed an aerial photograph showing the property lines in yellow and was marked as exhibit A-1. The aerial photograph available on the NJDEP GIS website and it accurately depicts the area. The property has frontage on the southerly side of Prospect Street, also on the westerly side of Massachusetts Avenue. High Point apartments are on the east along with the Wyndham development. Property contains a single family home with garage. The proposal is for 17 conforming townhouses with access on Massachusetts Ave. and 75 parking spaces. Mr. Flannery showed a board, sheet 2 of 9, prepared by R.C. Associates. There is a tot lot on the southerly side of the road and the stormwater management on the northerly side. The stormwater management system is collected and conveyed to the basin and the tenuation and recharge are provide for in the basin and the flow is released at standards well below the existing flows. There are 4 bedroom being proposed and has 2 letters from DCA, one dated September 18th 2006 and the third paragraph states the 4.4 parking spaces per unit would be sufficient, and indicates a hammerhead is an acceptable means of a turnaround for a street of this type. The second letter relates to the parking for the basement, 1.8 spaces is the recommended if specifying less than 2 bedrooms (1 or less).

Mr. Banas discussed the parking tabulations with regard to R-M zone and the basement being an additional unit. Mr. Jackson had the letter, but Mr. Banas was not sure he wanted to accept it. He said the board can impose standards that are greater than suggested in

this document. Mr. Truscott confirmed Mr. Banas' statement. Mr. Jackson said that the letter alludes to that in the letter, that it was a local decision. Mr. Gasorowski said that it wasn't certain that the author of the letter actually had these plans for review, that it is a self serving letter that serves no purpose. Mr. Banas stated they do not allow letters to be introduced at any meeting because it could not be questioned.

Mr. Alfieri said the rules of evidence are relaxed at a planning board meeting it is not similar to court cases. The admission into evidence does not mean it is fact, just that it is a document in evidence and will be weighed accordingly.

Mr. Gasorowski said the applicant could have called a traffic consultant to give testimony and be subject to cross examination, and a review of what he is basing his opinion on. Here is a letter that is simply guidance.

Mr. Flannery said the letter is straight forward and mentioned tables in the RSIS and tables he is happy to testify as an engineer, and come to the same conclusions as the letter. If you read the RSIS 5:21-1.5 scope and applicability Item B, the last sentence these rules shall control all matters concerning the construction alteration, addition, repair, etc. of any site improvements constructed by a developer in connection with residential development. Except as otherwise required by the rules, or other permits regarding DEP and stormwater management, the rules are to interpreted as the minimum required to ensure public health and safety and the maximum that may be required in connection with residential development. In this case, the applicant is not arguing that an unfinished basement is a unit, which clearly it isn't, but is saying sometimes in Lakewood unfinished basements have more people in it and you need more parking, and the applicant is providing 4.4 spaces per unit.

Mr. Jackson read from Cox about reports from outside agencies, and it says on page 609; "in order to understand fully all of the problems relating to a particular matter before it, a board may find it helpful to refer an application to another person or agency for a report, and this may be done as provided as such reference shall not extend the time within the board must act." "Such information can often be of great value to the board in arriving at a decision concerning a particular variance but due process requires that such reports from other agencies be made available to the applicant and to other interested parties for examination and refutation. Indeed the applicant and other interested parties have the right if they wish to subpoena the officer making the report for the purposes of cross examination as to its' contents and the basis for its conclusions." This is an opinion that the applicant has sought from the DCA related to its' interpretation of community affairs guidelines. Mr. Jackson recommended that they do not accept this letter into evidence. Mr. Banas agreed with Mr. Jackson. Mr. Truscott agreed with the RSIS and its' standards but stated that the board is dealing with bedroom sizes that are outside the charts, so in the sense the board could require more, since we are not dealing with the charts but with the unknown. He recollected presentations in front of the board that had used the charts as a maximum but that is not the case anymore. His feeling is that there are experts that can testify as to the number of spaces needed. The RSIS also allows for alternative parking standards shall be accepted if the applicant demonstrates that these standards better reflect local conditions. The board does have some flexibility with the required number of parking spaces and should rely on testimony and local knowledge.

Mr. Jackson wanted the letter to reflect he marked the letter of September 18, 2006 as P-2 for identification, and the Chairman has not allowed it into the record, and P-3 would be the October 11, 2006 letter from Amy Fenwick-Frank from the DCA, only for identification purposes, not permitted into evidence.

Mr. Banas stated that in the past the board has required 4 parking spaces for 5 bedrooms, and required that in the event of a basement in the R-M zone, they want 2 additional parking spaces.

Mr. Flannery respectfully disagreed with the Chairman on that fact, since he has done many applications in the past and has never recalled that happening. Mr. Jackson stated the Chairman should make the statement that the board has done this in the past, and when the board makes its' decision in this case, it should be on the facts of this case.

Mr. Flannery wanted to know what the application were that he referred to and Mr. Banas stated his question is on the record. Mr. Gasorowski objected on the testimony of Mr. Flannery to testify on parking because he is not a traffic consultant. The board thought it was okay for him to testify based on his engineering and planning experience. Mr. Flannery spoke about the figures in the RSIS and 2.4 spaces for townhouses, but they were providing 2.6. Mr. Truscott had no response to that statement and Mr. Peters said that the bedrooms being for small children, and we should not stop at the 3 bedroom rule. It is more common in Lakewood to have more driving age children still living home.

Mr. Flannery said the parking needs in the R-M are no different than other zones, and Mr. Banas said he would not accept that. Mr. Gasorowski said this was pure speculation. Mr. Flannery said based on his knowledge of Lakewood and the development going on, a townhouse in an R-M zone requires no additional parking. Mr. Banas did not want to argue this anymore. Mr. Flannery said 4.4 far exceeds the number of parking spaces requirements for townhouses.

Mr. Banas asked whether the board asked for a cul de sac at the previous meeting and Mr. Flannery said there was discussion about a cul de sac but due the geometry of the property, the cul de sac did not work, and the hammerhead turn is approved by RSIS. Mr. Peters was asked his opinion about the cul de sac, and he said it could fit but they would have to loose some units. Mr. Flannery said there was a meeting with the county engineer and it was agreed the applicant would provide a right in and right out, along with a contribution for traffic flow in the area. Utilities would be provided by public sewer and water, NJAWCO. Landscaping is provided on the plan, a 6 ft. decorative fence is provided along the southern property line, as much to buffer the proposed townhouses from the home occupied by the objectors. This project requires no variances and is conforming to Lakewood's UDO and RSIS. As far as the planners report, Mr. Flannery stated that the retaining wall is less than 5 ft. and can be done without terracing. They area showing unfinished basements, and it is not the applicants' intention to finish the basements. Mr. Banas stated that in the UDO if basements are found in an R-M zone it is a basement is considered 2 units, and Mr. Flannery agreed. They agreed with the remainder of the review comments, except for parking, which they have discussed in length. The hammerhead turn around was discussed with Mr. Franklin, who asked if the last parking

spaces could be removed for a little more room, and Mr. Flannery agreed to comply with that request. With regards to Mr. Peters report; they agreed to most items, item #4 indicates that the ordinance states there must be a 2ft. variation offset in the structures, and the offset has been done architecturally in the buildings rather than shift each unit, we put a jog in the units themselves, which he testimony states complies with the ordinance and it is similar to other townhouse projects. There are trash enclosures in front of each of the units and they would roll their cans to the curb for pick up. They agree with the rest.

Mr. Banas questioned the entrance triangle, and Mr. Flannery stated it was a concrete island with mountable curb, meaning if the fire truck drives over it, it is not going to cause a problem.

Mr. Gasorowski cross examined Mr. Flannery on behalf of the objectors he represents. He asked Mr. Flannery to tell him the difference between this plan and the plan before the board in 2005. Mr. Alfieri objected to this question. Mr. Flannery stated he was not involved in the prior application. He was cross examined in the prior meeting, the same application as now but revised based on the professional's comments. Mr. Flannery stated the differences in the applications is the number of parking spaces has been increased, the hammerhead turn around has been modified, the entrance has been changed, a few trees have been saved. Basically, comments of the professionals and board that could be complied with were complied with. Mr. Gasorowski spoke of the hammerhead vs. the cul de sac. Mr. Flannery agreed that to use a cul de sac in this development, they would lose some units. Mr. Gasorowski stressed the master plan and UDO stressed saving the topography of the town and the existing trees, and Mr. Flannery said there are many goals and in order to satisfy some goals, you have to sacrifice others. The property is heavily treed, and Mr. Flannery stated those trees would be removed.

Mr. Alfieri stated on the record that the testimony of Mr. Flannery, as a planner, as connected to the master plan, in irrelevant, only that the application conforms to the ordinance.

Mr. Gasorowski asked Mr. Flannery if his testimony was that this application does not require one variance, and Mr. Flannery agreed. In the earlier meeting he had architectural plans entered into exhibit (Mr. Gasorowski had a copy). Mr. Flannery confirmed they were the plans and they were marked O-1 for evidence, by Feldman & Feldman Architects, 5 sheets, no revision date. There is a basement reflected in the plans, and there is an egress into the basement, so the owner can access the basement without going into the house. There are 2 entrances to the basement. one from the exterior, one from the interior. The first floor contains a study, which would provide on office, etc. The second floor contains 5 rooms, the smallest of which is bedroom #3, 4 of those rooms are identified as bedrooms, 1 as a children's study. Would it be fair to say that 5 rooms are capable of being bedrooms. Mr. Flannery agreed. The third floor, there is also a bathroom, and the stairs that are fixed (compared to pull down stairs) and is called habitable attic space, which means a person can live there. Mr. Flannery pointed out that the window in the children's study is only on the end unit. He asked Mr. Flannery if most people have bathrooms in their attics. Mr. Flannery stated that if the kids played in the attic it make sense for a bathroom so they don't have to go down the stairs. There is also a chart on page 3 of 9 of R.C. Associates plans for the zoning requirements, and the maximum height which is 35 ft. of 2 ½ stories.

This is a three story home, and Mr. Flannery testified it is only 2 ½ stories, the 3rd floor is a ½ floor in the BOCA code. The parking cross examination was not allowed. Mr. Gasorowski stated the plans as drawn provide for a maximum of 5 possible bedrooms on the 2nd floor, and the 3rd floor provisions for at least one bedroom, possibly more. Mr. Flannery said you can envision any possibility. They also talked of the buffering, and the amount of trees to be removed. Mr. Flannery stated there was no buffering required in this project, but Mr. Gasorowski tried to have Mr. Flannery agree to a buffer in this case if the zoning was different. Buffering is required in a single family zoned area with townhouses proposed adjacent to it, but not in the R-M. Mr. Flannery agreed that if you were a townhouse development adjacent to a single family home you must buffer 30 ft., but said his testimony for an R-M zone is not for single family but single family homes are a permitted use. Mr., Gasorowski objected to Mr. Flannery's constant referral to the Township Committee and what they wanted and Mr. Alfieri objected again. There are 14 parking spaces on the individual lots, the rest off street. Mr. Gasorowski spoke about the basement units, and the need for additional parking spaces, and the board recommended 2 parking spaces be allocated for the basement units, and Mr. Flannery thought it was just a straw poll, and the board does not set parking requirements, only the RSIS. Mr. Gasorowski stated these units have the capacity for a minimum of 2 bedrooms in the basement, 5 bedrooms on the second floor and 1 bedroom on the 3rd floor, for a total of 7 bedrooms. Mr. Flannery stated his plans show 4 bedrooms.

Mr. Gatton said he didn't hear any testimony for the provisions for children to get picked up for school, and the safety for bus stops. Mr. Flannery said there was a bus stop on the plans along Massachusetts Avenue. Mr. Banas asked why the bus stop could not be inside the development and Mr. Flannery stated his opinion was that the BOE would not come into private roads, and cannot turn around in the hammerhead, buses won't back up. Mr. Gatton said the cul de sac, which would make it much safer to turn around, is not being considered because it would require a fewer number of units.

Mr. Neiman stated his opinion was that he considered the 2nd floor 5 bedrooms, 2 in the basement, and 1 in the attic, so he looks at this as 8 bedrooms. Mr. Flannery said if they could put a deed restriction in the basement for no kitchen would that change how the board looks at it. Mr. Banas stated that deed restrictions don't work unless a neighbor complains. Mr. Neiman said 6 parking is not needed but the parking spaces should be somewhere between 4 and 6. There will definitely be 8 bedrooms here. Mr. Neiman does not see any fire hydrants in this development. Mr. Flannery said they would request the Board of Fire Commissioners for the hydrant.

Mr. Franklin agreed there are a minimum of 8 bedrooms.

Mr. Akerman said that the applicant provided a tot lot even though there are less than 25 units, and if he removed it he could put more parking in. Mr. Banas said he liked the tot lot, and Mr. Akerman agreed. The board requested a tot lot that is why it is there. Mr. Akerman said in a home this large there usually a child who drives, so the need for more parking is a requirement. You can't use the other developments as examples, we learn from past mistakes.

Mr. Percal took issue with hammerhead turns. He does not like them and will propose at the master plan meeting to not allow them. Mr. Banas stated that Mr. Flannery and Mr. Alfieri knows the board's position and might be looking at ways to change it.

Mr. Jackson said they can only work with the laws in existence now, not what might be changed.

Mr. Gatton said if there were any possibility that some of this property be used for bus pick up, but was told that no bus would go into this property. Mr. Gatton questioned the walking traffic, and was told sidewalks are only being provided along the frontage of the proposed developments.

Mr. Herzl asked if the applicant would agree to eliminate the stairs to the basement. Mr. Alfieri stated no.

Mr. Akerman asked how the parking spots work, and Mr. Flannery said depressed curb and driveway apron, and the indentation is 18 ft.

Mr. Gasorowski presented a witness, Mrs. Janet Payne, who was sworn in. She said she is immediately adjacent to the site on the southerly side, and has resides there 25 years. She described the tree line in the northern section. The original part of her house is from 1830 and those oak trees are huge. That parcel that they want to strip out and drop the grade 5 ft. down, everything on that property would be destroyed. Her and her husband's trees located next to that 5ft. drop are going to die, what is going to happen to her trees. Her zoning was changed without her knowing, and they want a buffer. She said Mr. Neiman stated at the last meeting the older kids needed a place to play, not at a tot lot. She is begging for some conserved land, some buffering of 30 ft, saving her trees from being destroyed because they are going to cut that grade, it doesn't seem fair to her that this is happening the her things will be ruined with high condo's with lighting higher than the 6 ft. fence they are providing. Massachusetts Avenue us a hill and High Point needs to park there at night, so parking will be a nightmare. She said they are looking for reduced condos here, and she quoted Mr. Banas' with his statement that this development looks stuffed. She is a proponent for saving trees and wants to start here with the saving of the trees.

Mr. Banas opened the microphone to the public.

JoAnne LaRocca, 22 Brian Street, was sworn in. Mr. Flannery alluded to the fact that since 1982 he has been part and parcel of the denigration, the destruction, the abuse and obnoxious zoning malfunctions in this town that have produced these hazards. We have put people on railroad tracks, on Route 9 and now want to the State to bring in the railroad, and then widen Route 9. Houses that have come into the town saying they were single family homes are now 2 and 3 family homes. Mr. Flannery had no comment to her onslaught.

Bill Hobday, 30 Schoolhouse Lane, was sworn in. He wanted the board to know that Mr. Gasorowski has represented him in cases, but not in this one. He gave statistics on this development. They applicant is advocating a private road, but with 17 dwelling units, the approximate dwellers is 136, which is 102 children. For a private road, it would be

difficult for fire engines and garbage trucks, and the hammerhead would require them to back up. There is nothing more dangerous than a truck backing up with approximately 102 children in the area. Also it is close to the corner of Prospect Street, very dense with High Point, which also has many children. The school buses tie up traffic for long periods of time, since they have to stop on Massachusetts Ave. Parking is harmful for people to see children walking between parked cars. It is extremely dangerous to introduce 102 children to an area with already 102 children from High Point, with the traffic and sight problems and the time to load and unload children on the 2 lane county road, would make the road impassable. This road is also used by ambulance to get to Kimball Medical Center and as a bypass from Route 9. If we choke any artery, what about the person having the heart attack, we won't be able to get to them. His objections are to the hammerhead out and the cul de sac in, so maybe no parking there. It might even entice bus drivers to pick up the children there instead of the busy roadway. This development is too dense and it is like adding a flame to this area.

Noreen Gill, 192 Coventry Drive, was sworn in. As a resident for 34 years she objects to this application for several reasons. People coming into this town, they think this is Brooklyn, and this is not Brooklyn, Children need a backyard to play in and not tot lots. She also feels there should be a buffer. When you take down our trees, you affect our environment, our drinking water and our wildlife, and the quality of life of the existing homes in the area. What this means to the builder is that he is going to loose money. She is for the person moving into Lakewood, not the builder.

Larry Simons, 7 Schoolhouse Court, was sworn in. He had a question on the parking and asked how many cars are supposed to be parking on street, meaning Prospect Street or Massachusetts Avenue, and was told none. He does not see any positives in this development, only negatives and that the Planning Board has a responsibility to fulfill its' obligation to make sure that Lakewood is properly zoned and developed. This is a disgrace.

Christine Abrams, 755 Pearl Avenue, was sworn in. He question is about guest parking, where will they park. Mr. Flannery said the RSIS tabulated ½ space per unit for guest parking and that is included in their tabulations. That would be 8 extra spaces for the entire development, for parties, holidays, etc. She also questioned the total square footage for the homes and was told 1,261 sf 1st floor, 1,248 sf 2nd floor and habitable attic is 417 sf. Total living area is 2,926 sf plus the basement which is 1.261 sf.

Gerry Ballwanz, 208 Governors Road, was sworn in. She talked about the 1999 Master Plan, and quoted from page 56 of that plan and the Environmental Commission statements, "pristine environmental areas in wetland areas are worthy of preservation" (then on page 57) "also identified by the Commission is the Massachusetts Avenue protection area. This area was identified as a pristine forest area deemed by the Greenways Commission to be worthy of preservation given the relatively few pristine forest areas remaining in town." The argument that the R-M zone does not need a buffer, it should have a buffer. She went back to how this was rezoned in 1999, and it took 6 years for the Township Committee to rezone it. The Paynes are now paying the price of the township not notifying the residents that their land was being rezoned.

Amelia Squeo, 406 Monticello Lane, was sworn in. She is a new resident to Lakewood, and moved here because of the good things she and her husband heard about this town. In the short time she is here she has been educated. She has not heard anything about the density and the parking it required. She was born and raised in Brooklyn and does not want all this density. Mr. Banas said the planning board does not deal with density, that would go to the zoning board. She is against this proposal.

Helen Fertitta, 18 Ivy Hill Road, was sworn in. She mentioned that the planning board plans for the future. Mr. Neiman was correct with the parking, more cars are needed as the children grow, they will be using more cars. Think of the planning for the future.

Frank Gagliano, 229 North Drive, was sworn in. He was born in Brooklyn and knows what it is like to live with an alley between homes and it is not the kind of place he wanted to raise his children in, that is why he moved to Lakewood, and to have a backyard not with house towering over his. In the 20 years of his living here, the town looks nothing like it did, and his backyard is now another single family development, but they left him a 30 ft. buffer. He believes this project needs a buffer, there is not another project that is the same as this project. Those trees are 200 years old and you are undermining their life. The parking issue is a problem and Mr. Gasorowski statement of the great unsaid. He has looked at some of these projects, these unfinished homes and found the basement are plumbed out, the attics are plumbed out and there is going to be something in these attics. It is likely to be the case here. He has a 3 bedroom home and a car for each child. He can't fit 4 cars in his driveway, and he has no room for them. There will be overflow parking on Massachusetts Avenue. With a right turn in and a right turn out, people are going to be looking for a way to turn around and go back, and they will use his street as a u-turn and the front of his house would be dangerous for his family.

Mr. Banas closed this portion to the public.

Mr. Alfieri, said it is his client's position that his application is variance free, complies with RSIS, and has addressed all the professional's comments and would request a vote in the affirmative.

Mr. Gasorowski said every time he comes to these meetings, he learns something from the public. They live in this community. This project can be summed up in one word – arrogant. He would request that the board deny it.

Mr. Neiman had questions for the professionals. Can they explain the buffer for this zone?

Mr. Jackson said the board has to see what makes sense for each development, each quote from the zoning requirements was correct to an extent. Mr. Truscott said they had arguments for both sides, he thinks it could have been written a little clearer, but buffers provide transitions between developments that are not compatible and are different than what is there.

Mr. Peters said the ordinance is a little gray and it is open to interpretation. There is a single family home there, even though it is not a single family development.

Mr. Banas said page 4 of 9 the topography of this area, the hill that is there provides a lot of gradation to the south. With the amount of forestation that is on the boundary, would it be advisable not to disturb the land and keep the forestation along that entire tract. Mr. Truscott said there would need to be a construction easement, but Mr. Banas is looking at the contour lines, and what they are going to be cut down to be. Mr. Peters said depending on the size of the trees and damage down to the root zone of the neighboring property. Mr. Banas wanted to know about the grade and how far could they go before the damage the root structure of the trees on the other side. Mr. Peters stated from an engineering standpoint the limit would be the drip line of the trees, the limit of how far the branches come out. Mr. Franklin said page 2 of 9 they located the trees on the property to be constructed but no one located the trees on the Payne property, and when you see their trees they are huge. Mr. Franklin said they should have been located on the plans, and he sees a problem that they would be disturbed based on the clearing, grading and construction of the wall.

Mr. Neiman questioned that that back of the homes are approximately 20 ft. away from the Payne property. Is there anything they could do to make sure that no trees in that 20 feet be removed? Mr. Truscott said if you had a different grading plan, you would not have to build that retaining wall. If the applicant eliminated the hammerhead and put in a cul de sac, how many units would need to be removed? Mr. Peters said it would be a balancing act between units and parking spaces, but he thinks no units but loose a large amount of parking spaces, but the drop to the catch basin is gigantic so there would be a huge retaining wall there. Mr. Neiman said if they eliminate the attics on all of these units, it eliminates 1 bedroom, do the cul de sac, and still is unsure about the buffer. He would like a cul de sac on a project like this. Mr. Peters said they would loose 8-10 parking spaces to do the cul de sac and have a huge retaining wall.

Mr. Percal said that would be 2 units at 4.4 spaces per unit.

Mr. Banas said something needs to be done about the wall not to destroy the trees on the neighboring property. Mr. Franklin agreed. Mr. Gatton also agreed. Mr. Banas is looking for direction before the board votes. Mr. Flannery said the applicant would certainly eliminate the attic completely. He believes they could do a cul de sac closer to the units, knock out 2 units, and try to maintain the parking as it is. That would eliminate 2 units, make 75 parking spaces with 15 units. With respect to the buffer, if they move the retaining wall away from the property, it would mean that the rear yards would be smaller, and leave 8ft. of trees on their property, leaving 12 ft. from the back of the unit to the retaining wall, and make some provisions to use that area in the back but it remain wooded and maintained.

Mr. Franklin asked if they could also get rid of the outside cellar windows.

Mr. Gasorowski said they have gone down this road with the applicant on the plans previously produced, heard the tenure of where the board was going, withdrew the application without prejudice, and now comes back with the same plans. Mr. Alfieri said the applicant wanted a vote this evening, you have the plans before you, the testimony is closed, and it makes no sense to come back now with proposed revisions. Vote on the plans, as is.

Mr. Alfieri said it was more efficient for the applicant to make changes, than to have a denial, then have to re-submit everything.

Mr. Jackson said it is within the board's province to make changes, but there comes a point when you make significant changes that is not fair to the public when there are so many significant changes that it is a different application.

Mr. Banas commented on Mr. Gasorowski's statement and said the in the past this board has worked with applicants to remedy a situation as it is. That said, he is totally annoyed with the fact that the board gave specific directions at the last meeting as to what they expected to have, and he agrees with Mr. Gasorowski, nothing was done. Everything we asked for was forgotten, and we wasted an entire evening on something that could have been resolved real fast. As it stands now, we are pointing out again what is wrong with the plans. It will not be approved today, these changes are major and they need to be surveyed completely.

Mr. Gasorowski said that these are new plans and if denied it forces the applicant to make changes because if he comes back with the same plans again, he would be faced with res judicotta. This is the evening to make a decision.

Mr. Franklin said to do away with the stairs into the basement and make it a part of the resolution they can not make them into apartments.

Mr. Gatton had a comment. Even though the representatives of the developer have said they would make major concessions, they have said nothing about improving the quality of life of the people in the development. Mr. Banas said if a cul de sac was there, it would be 2 less units, no back yard, but a tot lot. Mr. Gatton had difficulties as to why the board has to bring up quality of life issues and not the developer.

Mr. Peters said one of the higher priorities of the board is protecting the trees in the lot and Mr. Flannery offered to moved the retaining wall 8 ft, in the right direction. But without the size of the trees on the plans, we do not know what the limits of disturbance really are.

Mr. Akerman said if they were guiding the applicant, and eliminating the exterior entrance to the basement but these houses will not have sheds, rather than treat it as a 2 units, let them keep the exterior entrance for storage of mowers and bikes.

Mr. Franklin said he would like to see the basements eliminated entirely, but to give them a chance to have room in the basement for storage, he doesn't think they use mowers.

Mr. Neiman said if we are treating this as a 2 family home, and we are asking for parking, he would rather eliminate the attic if we need that for parking. He would have personally been able to approve this plan with removal of the cul de sac and removal of the attic, but the issue of the buffer, we can not approve this and say work it out. It needs to be redone.

Motion was made by Mr. Gatton, seconded by Mr. Akerman, to deny this application with the understanding that this application will come before us again with the items that were discussed in detail this evening.

Mr. Gatton wanted to comment that the quality of life would have to be addressed when this application comes back, with reducing the number of units.

Mr. Herzl said maybe a deed restriction for no kitchens in the basement, but bathrooms are ok.

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

- 3. SD # 1549** (Variance requested)
APPLICANT: MORRIS WEINBERG
Location: Spruce Street, between Funston Avenue and Caryl Avenue
Block 842 Lot 3
Minor Subdivision to create two lots

Tabled until December 19, 2006
Moved by Mr. Herzl, seconded by Mr. Akerman

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

- 4. SD # 1550** (No variance requested)
APPLICANT: SEYMOUR INVESTMENTS LLC
Location: Cross Street, west of River Avenue (Calgo Gardens Nursery)
Block 533 Lots 3 & 10
Preliminary & Final Major Subdivision-74 townhouse units, community center and tot lot

Tabled until December 19, 2006
Moved by Mr. Neiman seconded by Mr. Gatton

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

- 5. DISCUSSION-Ordinance for review and recommendation re: to delete Multi-Family and townhouse uses in ROP Zone**

Tabled until December 19, 2006

6. CORRESPONDENCE

None at this time

7. PUBLIC PORTION

JoAnn LaRocca, wanted to thank the board for using common sense.
Mrs. Payne and Mrs. Gill said hip hip hooray

8. APPROVAL OF BILLS

Motion to approve the bills made by Mr. Neiman, seconded by Mr. Franklin

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

9. APPROVAL OF MINUTES

Minutes from 10/31/06 Plan Review Meeting
Minutes from 11/02/06 Special Planning Board Meeting

Motion to approve the minutes for 10/31/06 and 11/2/06 made by Mr. Akerman, seconded by Mr. Franklin

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

10. ADJOURNMENT

The meeting was hereby adjourned. All were in favor.

Respectfully submitted
Chris Johnson
Planning Board Recording Secretary