



**New Milford Zoning Board of Adjustment
Work Session
February 14, 2012**

Chairman Schaffenberger called the Work Session of the New Milford Zoning Board of Adjustment to order at 7:34 pm and read the Open Public Meeting Act.

ROLL CALL

Mr. Appice		Present
Mr. Binetti		Present
Ms. DeBari		Present
Mr. Denis		Absent
Father Hadodo		Present
Mr. Rebsch		Present
Mr. Stokes	Vice Chairman	Present
Mr. Schaffenberger	Chairman	Present
Ms. Batistic-	Engineer	Present
Mr. Sproviero -	Attorney	Present

The Board Attorney swore in Joseph Loonam as a full member of the Zoning Board of Adjustment with a term expiring 12/31/15

REVIEW OF MINUTES

The Board Members reviewed the minutes for the Work and Public session and there were no changes.

RESOLUTION

11-02 Kominos – 229 Ridge Street – Block 301 Lot 29- Kitchen addition/ramp/shed

The Board Members reviewed the resolution and there were no changes

OLD BUSINESS

11-04 Akay – 404 Monmouth Avenue – Block 804 Lot 4

The Board Attorney explained there was a pending application made by the applicant to remove certain conditions of approval that were contained in the approved resolution. Mr. Sproviero explained those conditions that were the subject of the current application came as a result of a first application to remove a set of conditions that were imposed at the time of the original approval of this project. When final plans were submitted to the Building Department, it was noted that three conditions were not complied with and Mr. Akay made application to the Zoning Board to remove the conditions in lieu of correcting the conditions. A public hearing was conducted on January 10 at which time the applicant and his representative offered testimony. At the conclusion of that public hearing the applicant was advised by the Board to reappear at the February meeting telling how he proposed to remedy the deficiencies of this building plan. Mr. Sproviero stated the Board had received a series of correspondence both issued by the applicant

one dated February 6th stating one position and the second dated February 10th setting forth another position followed by correspondence dated February 10, 2012 from the Zoning Officer and Construction Official. Mr. Sproviero stated the Board Members have heard testimony and the applicant had asked the Board to consider his correspondence as part of the application.

The Board Attorney stated the business before the Board was to make a determination whether or not those conditions that were the subject for his non compliance should be removed from the resolution and removed as a condition of his building permit.

The Chairman clarified that at the last meeting it was resolved that the applicant was coming back to this meeting but it appears from his letter that he was not. The Board Attorney stated the Board had the testimony from the January 10th meeting, the February 6th and February 10th 2012 correspondence and the Boards determination on what to do with this information.

NEW BUSINESS

12-01 New Milford Redevelopment Associates, LLC - Block 1309 Lot 1.02 –Mixed Use Development

The Board Attorney stated New Milford Redevelopment Associates made the application for a mixed use development located at Block 1309 lot 1.02. The Board Attorney explained this would be the first night of a series of hearings involving this plan. He explained to the audience that there would not be a vote tonight for there were architectural, engineering and planning components to this application. Mr. Sproviero stated the Board had received an addition to the application tonight from the Board's Engineer Report. Ms. Batistic stated she would wait to review the letter with the applicant's engineer.

The Board Attorney explained the redevelopment of the Hackensack Water property started before the Mayor and Council where consideration was given to a potential rezoning of the property to accommodate certain proposed uses by this applicant for use of the property. During the course of those public hearings and discussions before the Mayor and Council certain members of the Board appeared there not in their capacity as Board members but as residents of the Borough of New Milford. He explained they made certain comments with regard to the application. Mr. Sproviero advised those members that they need to access whether those comments either for or against the application articulated in public a position with regard to all or some of the development initiatives contemplated by this application. In order to avoid the appearance of predetermination or unfairness and whether they should hear the application or recuse themselves will be determined at the public session. There had been a request by the Applicant for the Borough to consider if the Borough's planner should be involved with this application due to a conflict. The issue was raised and discussed before the Mayor and Council and the Board Attorney had been advised by the Borough Attorney that the Mayor and Council would appoint a special planner for the purpose of hearing this application.

The Board Attorney stated this was a very important application for the future of the community. He believed that no matter what the determination was from the Board when it came to a vote the chances the determination made would be challenged in court from one side or the other. The

Board Attorney stressed the integrity of these proceedings were very important. He stated to the members it was critical that the members maintain the integrity of the proceedings and asked their cooperation that their opinions and discussions about the application were on the record at the public hearings and nowhere else.

Motion to close was made by Ms. DeBari, seconded by Fr. Hadodo and carried by all.

**New Milford Zoning Board of Adjustment
Public Session
February 14, 2012**

Chairman Schaffenberger called the Public Session of the New Milford Zoning Board of Adjustment to order at 8:03 pm and read the Open Public Meeting Act.

ROLL CALL

Mr. Appice		Present
Mr. Binetti		Present
Ms. DeBari		Present
Mr. Denis		Absent
Father Hadodo		Present
Mr. Rebsch		Present
Mr. Stokes	Vice Chairman	Present
Mr. Schaffenberger	Chairman	Present
Ms. Batistic-	Engineer	Present
Mr. Sproviero -	Attorney	Present

PLEDGE OF ALLEGIANCE

OFFICIAL MINUTES OF THE WORK SESSION – January 10, 2012

Motion to accept the minutes were made by Ms. DeBari, seconded by Fr. Hadodo and carried by all.

OFFICIAL MINUTES OF THE PUBLIC SESSION – January 10, 2012

Motion to accept the minutes were made by Mr. Stokes, seconded by Ms. DeBari and carried by all.

RESOLUTION TO BE MEMORIALIZED

11-02 Kominos – 229 Ridge Street – Block 301 Lot 29 – Kitchen addition/ramp/shed

Motion to memorialize the resolution was made by Mr. Stokes, seconded by Fr. Hadodo

The motion passed on a roll call vote as follows:

For the Motion: Members Stokes, Hadodo, Binetti, DeBari, Appice, Schaffenberger

OLD BUSINESS

11-04 Akay – 404 Monmouth Avenue – Block 804 Lot 4

The Chairman clarified that the first resolution for this application was in December 2009 and the applicant returned to the Board in 2010. On the January 10, 2012, the applicant sought relief from the conditions in the 2010 resolution. The Chairman asked if the applicant, Mr. Akay, was present. The Chairman announced for the record the applicant was not present.

The Chairman read into the record the applicant's letter of February 6, 2012. The Board Attorney stated when the Board heard the application on January 10, 2012 the deficiencies with respect to the excessive front steps, excessive height on the patio and the failure to provide the landscape

requirements were made clear to the applicant. After discussions between the members of the board, the applicant and his representative indicated he wanted the opportunity to correct those deficiencies and consult with an engineer to tell the Board exactly how he would correct it and reappear before the Board at the February 14, 2012 hearing. Instead the Board received the February 6, 2012 letter read into the record referring to the alleged deficiencies and how he would access to deal with it. The Chairman also read into the record the February 10, 2012 letter from the applicant asking for the temporary certificate of occupancy to be extended while he addressed the issues of the front stairs, rear patio and landscape issues. Also read into the record a letter from Maria Sapuppo and James Taormina from the Building Department requesting the Board granting this extension request and a time frame to comply with the resolution.

The Board Attorney reviewed the proceedings for the 404 Monmouth application. He stated at the first hearing in 2009 certain relief was granted and series of conditions were imposed by way of the approved resolution that included landscaping requirements, restriction on the height of the patio and the extension of the steps into the front yard setback. After the house was built and these recorded initial round of corrections were allegedly implemented, the inspection of the property revealed the applicant was in non-compliance with landscaping, patio height and stair requirements. At that point, the applicant was directed to the Board where Mr. Akay requested that the Board consider the removal of those three conditions. The hearing in January was to consider whether or not to remove those conditions. Mr. Sproviero explained that was the only power the Board had and the Board was not the enforcement authority that was the Construction Official. The Chairman added the Board did not have the power to extend the temporary certificate of occupancy. The Attorney agreed and added the Board did not have the power to extend the time to effectuate compliance. He stated the Board's only role was to consider whether or not to excuse the applicant's performance of those conditions that the Board applied to the approval. When the Board met on January 10, 2012 the members heard the testimony from the applicant and his representative. He did not present any engineer, architect or landscape architect nor was he a builder. The Board urged him to reappear before the Board to explain how he would comply. Mr. Sproviero stated Mr. Akay represented to the Board at the last hearing he would appear at the February 14th meeting with an engineer, architect or a building professional to present evidence as to what remedial measures he would undertake to bring it to compliance or renew his request to be relieved from the obligations to comply with the conditions of the resolution. The Board Attorney explained the request for relief that was before the Board tonight as it was on January 10th was an application to relieve the applicant of his obligations to comply with the three conditions. He stated that was the issue before the Board to determine at this hearing.

The Board Attorney stated the Zoning Board established the parameters and what elements the applicant had to do to bring the building into compliance. The applicant had to follow the Board's landscape, patio and stair directives if the Board voted those three conditions remain part of the approval. Mr. Sproviero added the letter received from Maria Sapuppo, zoning officer, asked for the Board to consider allowing an extension for him to complete the work. The Attorney stated it was not up to the Board to grant the extension. The Boards only jurisdiction was to enforce or remove the conditions. He added if the Building Department felt it would be appropriate for an extension be granted for a period of time or no extension be granted would be their call.

The Chairman was not suggesting but questioned if the application could be carried until Mr. Akay decided what to do. The Attorney answered that third option would be to do nothing. Mr. Sproviero felt the Board should decide one way or the other that the conditions apply or they do not apply so the applicant could take the appropriate action to deal with them.

Mr. Sproviero stated according to Ms. Sapuppo's letter it appeared that they were prepared if the Board stands by its conditions to give the applicant time to comply with the conditions. Ms. DeBari felt they had no intention of complying with the conditions and how long do we carry this on. Mr. Sproviero answered the Board's involvement should end tonight. He stated it was up to the construction official to determine how long he had to come into compliance and if after that period took place and the applicant did not come into compliance it would be up to the zoning officer to bring the appropriate enforcement action by way of issuance of summons and bringing those acts of non compliance before the municipal court judge.

Mr. Appice stated he had not been on the Board that long and did not know as much about the application as the other members. The Board Attorney answered if he felt he did not possess the knowledge to make a determination he had the option to abstain from the vote.

Mr. Loonam agreed that the Board should end this tonight because the letter submitted to the Board from the applicant did not ask for this to be considered at a later date but stated he was not partaking in these proceedings. The Chairman agreed and asked if any of the members felt they should not do anything. No members replied.

The Chairman asked if someone would make a motion. The Board Attorney explained the members would make a motion to grant the application to remove the conditions or a motion to deny the application to remove the conditions. If there is a motion to deny the application, a yes vote means the application stays.

Motion was made by Ronald Stokes to deny this application so all the conditions remain in effect, seconded by Mr. Binetti. The Chairman clarified that a vote for this motion was not to give the applicant relief from these conditions

The motion passed on a roll call vote as follows:

For the motion: Members Stokes, Binetti, DeBari, Rebsch, Schaffenberger

Recused: Hadodo

Abstain: Appice

NEW BUSINESS

12-01 New Milford Redevelopment Associates, LLC - Block 1309 Lot 1.02 – Mixed Use Development

Mr. Andy Del Vecchio introduced himself as a member of the law firm Beattie Padovano, LLC on behalf of the applicant New Milford Redevelopment Associates LLC and Co-Counsel Stephen Eisdorfer from the firm of Hill Wallack LLP from Princeton, NJ also appearing for the applicant.

The Board Attorney asked if there were any other Attorneys who would be entering appearance on behalf of any interested parties in this matter.

Mr. Marc Leibman Council of Kaufman, Semeraro, Bern, Deutsch and Leibman stated he was representing Austin Ashley 939 Boulevard, New Milford, NJ.

Mr. Sproviero explained to the public the procedure for an application at the Zoning Board of Adjustment. He stated the applicant would present a series of witnesses to support the application for development. At the end of each witness, the Board Members may ask questions for the witness and after that the public had the right to cross examine the witness as well. He explained that was the time to ask questions of the witness not to give your overall comments on the application. This would apply to each witness the applicant calls. Once the Board had heard all the witness testimony then the public would be able to make their comments for or against the application.

Chairman Schaffenberger made a statement for his reasons to recuse himself from the application. He explained in 2011 there were public hearings conducted before the Mayor and Council regarding the disposition of the property attached to the application at this hearing before the Zoning Board of Adjustment. He attended the meeting on November 28, 2011 where representatives of United Water appeared before the Mayor and Council to discuss with the public the flooding that New Milford has dealt with in recent years. The Chairman spoke at the meeting and was identified by the Mayor as the Chairman of the Zoning Board but he was there as a private citizen and concerned resident and did reference this property. The Chairman stated the proposal presented at the Mayor and Council meeting was substantially different from that at the Zoning Board. He stated for the record he did not prejudge the first one or the current one nor had he an opinion on whether the Board should grant or deny any or all of the requested variances. The Chairman had concerns with the environmental impacts that any proposed development of this property would have on the surrounding area. He felt he made his position clear on November 28th. The Chairman decided to recuse himself in the interests of maintaining the highest level of impartiality and fairness to the applicant, residents, governing body and Zoning Board. Chairman Schaffenberger stated he would not relinquish his rights as a citizen, taxpayer, resident, a 24-year veteran of the environmental commission and a person who has been personally affected by the flooding. He reserved the right to question witnesses who testify on this matter and to address the Board with his concerns. The Chairman turned over to Vice Chairman Ronald Stokes the chair for this application.

Father Hadodo recused himself from this application and explained he also spoke at a Mayor and Council meeting on being in support of the project regarding taxes and against part of the project burdening the sewer system.

The Board Attorney stated there were now six voting members and one absent and asked the applicant's attorney if he had any objections to proceeding with the application with six members. Mr. Del Vecchio would proceed with the meeting and asked the absent member listen to the recordings of the meeting. Mr. Sproviero asked if there would be transcripts. The applicant's attorney stated they had a court reporter but there had been no determination on ordering the transcripts.

There was correspondence issued by Mr. Del Vecchio's office regarding a potential conflict involving the participation of the borough's planner with this application. He stated the subject matter had not been discussed with the members of Zoning Board but had been taken under consideration by the Mayor and Council. The Borough Attorney advised Mr. Sproviero that Mayor and Council would appoint a special planner.

There was discussion regarding Special Meetings.

Mr. Del Vecchio questioned if there were Board members within the 200' of the property. The Board Attorney asked if there were any Board Members or family members residing within 200' of this property. The Board Attorney stated let the record reflect there was a negative response from the Board Members.

Mr. Del Vecchio stated the owner of the property was United Water and his client was New Milford Redevelopment Associates LLC, the contract purchaser of the subject property. The property was part of block 1309 lot 1 and was approved for a portion of it to be redesignated as lot 1.02 by way of a subdivision that was approved by the land use board. The parcel that is to become lot 1.02 was a 13.61-acre tract that lays within the residential A zone. The application was a proposal to construct a mixed-use development consisting of 221 residential multifamily housing units of which 33 units would be set aside for affordable housing. They were also proposing to construct a 70,500 sq ft supermarket intended to be occupied by Inserra Supermarket, a 4,300 sq ft bank with drive thru facility and as part of the residential construction they proposed a four level residential parking garage with 428 parking spaces. The application triggered a use variance for maximum number of families per lot and for the multifamily housing, supermarket, bank, 4 story parking garage and for maximum building height and bulk variances for maximum building and improved lot coverage, minimum number of parking spaces for the supermarket. The applicant also requested preliminary and final site plan approval and approval for tree removal application and management plan.

Mr. Eisdorfer highlighted the nature of the application as an application that was known in NJ law as an inherently beneficial use. He explained under NJ law since 1970 housing for low or moderate income persons had been recognized as an inherently beneficial use. Mr. Eisdorfer stated affordable housing was an inherently beneficial use independently of whether this municipality had met its housing obligation. He added based upon this municipality master plan there was an unmet need for low or moderate income housing in excess of the amount of low to moderate-income housing proposed in this project. Mr. Eisdorfer asked the Board to consider this application in light of those considerations.

Mr. Del Vecchio marked as Exhibits:

- A-1 Affidavit of Public Notice booklet
- A-2 Site plan drawings prepared by L2A consisting of 20 sheets dated 11/14/11
- A-3 Architectural plans prepared by Lessard Design Group consisting of 9 sheets dated 11/2/11
- A-4 Subdivision Plat prepared by Johnson, Mirmiran and Thompson last revised 8/11/11
- A-5 Traffic Report prepared by Dolan and Dean dated 11/9/11
- A-6 Garbage and Refuse Report prepared by L2A dated 11/30/11

- A-7 Trip Generation and Level of Service Calculations prepared by Dolan and Dean 11/9/11
- A-8 Stormwater Management Report prepared by L2A dated 11/14/11
- A-9 Zoning Officer's Letter of Denial dated 1/11/12
- A-10 No Further Action Letter issued by NJDEP dated 3/25/10
- A-11 DEP Letter of Interpretation dated 4/5/11
- A-12 Site aerial photo
- A-13 Colored version of sheet A2.03 Perspective
- A-14 Colored version of sheet A1.01 site plan
- A-15 Colored version of sheet A1.02 residential building plan
- A-16 Colored version of sheet A2.01 elevation
- A-17 Colored version of sheet A2.02 elevation
- A-18 Colored version of sheet A3.01 section

The Board Attorney swore in Christian Joseph Lessard Sr.

The Board Members accepted Mr. Lessard's qualifications as an expert in the field of architecture.

Mr. Lessard was the first witness and the focus of his testimony would be architectural. Mr. Lessard reviewed the boundaries of the property on Exhibit A-13. The architect described the residential component on Exhibit A-14. He stated the parking for the multifamily was all included within the parking structure with 428 parking spaces. He stated the 221 multifamily housing had 15% affordable housing based on a state requirement. Mr. Lessard pointed out the location of the multifamily housing, courtyards, a pool management and leasing area. Mr. Lessard reviewed the square footage for the one, two and three bedroom units on Exhibit A-15. He described the leasing amenity, which was also a sales office, bathhouse, clubroom and exercise facilities for residents using the pool. There was discussion on COAH units available for low to moderate-income use and were intended to be rental units. Mr. Lessard pointed out the entry and exit points for the garage and multifamily housing and access points used for fire egress requirements. Mr. Del Vecchio and Mr. Lessard described the fenced in pool having landscaping for privacy.

There was testimony regarding Exhibit A-16 on elevations. He discussed the three-story elevation along John Cecchino Drive across from the High School. The architect explained it would go to a four-story elevation at a point to make up the grade difference. He explained the elevation at River Road was 37'2" from the eave and from Madison Avenue 47'10" from the eave to the first floor. The materials would be brick, Hardie lap siding, composite shingles and vinyl windows.

Mr. Lessard reviewed the elevations on Exhibit A-17 explaining the locations of the Shopping center and bank. He added the leasing area would have a retail look. The architect discussed the grades on River Road on Exhibit A-18. Mr. Del Vecchio clarified the grade from River Road to Madison Avenue dropped by 17 feet and the finished floor for the proposed grocer was approximately 12 ft below River Road. The architect discussed the closed court, open court and height of the bank elevation and heights of the buildings and grade on the property in section B on Exhibit A-18. The architect discussed heights of buildings in section C which depicted the

grocery and a section of the garage. The architect stated there would be a non-sprinkled open garage for residential parking with a sprinkled residential building.

RECESS

Chairman Stokes opened up to Board Members questions for the Mr. Lessard.

Mr. Del Vecchio asked Mr. Lessard what was intended for the architectural elevation for the proposed grocer. Mr. Lessard answered when they did the perspective they did not know what Inserra was going to do and the Supermarket store would be run similar to the standards of the Lodi supermarket store and the elements of the building would be more of a festive street façade along River Road.

Mr. Sproviero understood there was not a final exterior design plan of the Supermarket but questioned if applicant was locked into a dimensional design. Mr. Lessard answered the footprint of the building was locked in. The Board Attorney verified that would include height elevations. Mr. Lessard agreed. Mr. Stokes questioned if there was a definitive height on the building. Mr. Lessard agreed.

Joseph Loonam questioned how a fire truck would access the interior units facing the closed courtyard in case of fires. Mr. Lessard answered the building code did not require getting to every part of the building and there were fire lane requirements and standpipes located in each stairwell. Mr. Loonam also questioned access points.

Mr. Appice questioned that the plans showed Cecchino Drive as a two way street and it was currently a one way with parking. Mr. Lessard thought the exhibit was incorrect and it was a one way. Mr. Appice commented how fire trucks would access that street being one way with parking. Mr. Lessard pointed out access points.

Mr. Stokes questioned the street line from Cecchino Drive to Main Street regarding the 2 ft pitch. Mr. Lessard said it was 19' elevation at Main Street, 17' at Cecchino Drive and 16' at the grocery store having a little bit of shift in the site. Mr. Stokes asked if the embankment along Cecchino Drive would be removed. The architect answered the planner would be better to answer the pitching and draining along the site.

Ms. DeBari asked if the entrance to the grocery store was from River Road. Mr. Lessard showed the two entrances from River Road and one from Main Street on Exhibit A-14. Ms. DeBari asked if there were plans to widen River Road. Mr. Lessard answered the engineer would be best to answer that question.

Mr. Appice asked if all the cars for the parking garage would use either Madison Avenue or River Road. Mr. Lessard would assume so but said the traffic expert would answer that question.

Mr. Stokes questioned the testimony on affordable housing and if it was predetermined how many units would be one, two or three bedrooms. The architect answered the requirements were a minimum 20% 3 bedrooms, no more than 20% one bedroom and 40% two bedroom units.

Ms. DeBari verified there were no plans for senior housing. Mr. Lessard answered not at this time.

The Board Engineer asked if the parking stalls would be assigned in the residential component or could anyone park in the garage. The Architect answered that would be a management decision. Ms. Batisite's concern was a shopper would be able to use that garage because the shopping center had a deficiency in parking and the residential component had more parking than required. Mr. Del Vecchio stated the garage would be assigned for residential only.

Ms. DeBari asked if all these units were rentals. Mr. Del Vecchio answered at a minimum the affordable units would be rentals whether the market rate units would stay that way would depend on what the market looked like after these hearings.

Mr. Marc Leibman asked how many units had one bedroom, two bedroom and three bedrooms. Mr. Lessard responded there were 90 one bedrooms, 115 two bedrooms and 16 three bedrooms units. Mr. Leibman clarified there were 368 bedrooms. Mr. Lessard agreed. Mr. Leibman asked if he ever designed another project like this with an integrated parking deck. The architect answered yes. Mr. Leibman asked how many levels for the parking garage. Mr. Lessard responded it varied because of the ramps but was basically four levels. Mr. Leibman questioned if every level had sufficient parking for residents. The architect answered most of the residents would have their car close to their residence. Mr. Leibman asked if the number of units had any correlation to the size of the retail. The architect answered no. Mr. Leibman asked if there was a parking analysis. The architect was not aware of a report. Mr. Leibman questioned the building break and firewalls in Exhibit A-15. The architect answered in Exhibit A-16 there were shifts in the window heads to get the meaning of the grade in that location and they have not yet split the firewalls. Mr. Leibman asked if the building would be fully sprinkled and what type of construction would be used. The Architect responded it would be fully sprinkled and they were using 5A construction. Mr. Leibman asked what the façade was made of. The architect referred to Exhibit A-16 showing the lower area being brick, hardie lap siding above that location, shingles on top and vinyl windows. Mr. Leibman asked for the size of the parking spaces. The architect said the spaces were 9x18. Mr. Leibman asked if there was a basement. The architect answered no. Mr. Leibman asked if each unit would have their own mechanicals. The architect agreed.

Mr. Loonam questioned how he designed and maximized the best layout for a project of this nature. The Architect stated with this project there was a retail relationship on River Road that had existing retail shopping on River Road that meant retail would want visibility to River Road to get maximum value. The architect felt the residential components were compatible with the bulk mass of the high school. Mr. Loonam asked if this was the best potential layout for the bank, grocery store and multifamily housing. Mr. Lessard thought this was their best layout.

Motion to open to the public to ask questions of the architect was made by Mr. Rebsch, seconded by Mr. Binetti and carried by all.

The Board Attorney swore in Mr. Thomas Williams 206 Washington Avenue. The resident had concerns on the traffic flow pattern and how much traffic was anticipated coming out of River Road and Main Street. Mr. Del Vecchio answered this witness could not testify to traffic patterns.

Al Alonso 45 Clover Court asked the architect if he was aware that Cecchino Drive flooded at the intersection of Cecchino Drive and Madison Avenue and if it was impassable due to the floods the fire trucks would not be able use Cecchino Drive to fight a fire. The architect answered there were meetings with their civil engineer regarding water and flooding and he would be better to answer those questions. Mr. Alonso asked in regard to the layout what were his contingencies with respect to fire fighting if there was flooding on Madison Avenue and Cecchino Drive. Mr. Lessard showed on Exhibit A-15 other locations for fighting fires and added the code does not require 100% access to everywhere on a building for a fire truck. Mr. Lessard asked if Madison Avenue flooded was there any contingencies for traffic exiting the property. The architect stated the planner would be able to answer that question. Mr. Alonso wanted an answer from a design perspective. Mr. Del Vecchio objected and stated that Mr. Lessard already gave his answer. Mr. Alonso stated that Mr. Lessard testified that such issues were coordinated with experts and his question was if there was coordination with respect to this issue. The Board Attorney said the architect could answer that question. Mr. Lessard clarified that he asked information which he relied on to do his planning from the planner. Mr. Alonso asked if he designed a contingency plan in the event Cecchino Drive flooded to exit the property. Mr. Lessard answered there were plenty of locations to the site. Mr. Alonso had questions on the prototype of the store. Mr. Lessard stated they follow the normal standards for the store but do not layout the inside because their own architects usually do it. Mr. Alonso asked if he spoke with anyone from Inserra with the regard to the operation of the building. Mr. Lessard answered they gave him the footprint and told him the relationships to follow. Mr. Alonso asked questions on the phasing of construction for the three separate buildings and which would be built first. Mr. Lessard answered sometimes the economy dictated the phasing operations but he was not aware of the phasing. Mr. Lessard asked the Chairman for the applicant to provide someone to testify on the phasing of construction.

Lori Barton 399 Roslyn Avenue questioned that the area he referred to as a grade difference by Madison Avenue had flooding issues. Mr. Lessard answered they did take that in consideration in designing the site but the engineer would be able to answer that question. The resident also inquired about the one bedroom plus den units and if there were a maximum capacity per unit. Mr. Lessard answered they were designing them as a one bedroom with a study that was allowed under RSIS and parking according to those standards. The resident questioned his testimony that the buildings along River Road would have a retail look. She asked what was across the street from the retail space. The architect answered single-family homes.

Mary McElroy 297 Greve Drive questioned if COAH obligations were suspended. Mr. Del Vecchio answered there was a constitutional obligation to provide affordable housing in a community regardless if there was an administrative agency to enforce it. The attorney added that COAH's powers had been transferred to the DCA and the obligations still existed.

Fei Chen 140 Hirschfeld Place questioned if the proposed pool was necessary because a town pool existed which was already struggling with memberships. The architect stated because of the multifamily nature it was more important to socialize within the buildings and it was not unusual for a residential area of this size to have a pool.

John DeSantis 190 Powell Drive asked what the setback was on River Road to the Bank. Mr. Lessard answered approximated 65' from the curb to the bank and approximately 750' from River Road to Madison Avenue. Mr. DeSantis had a question regarding the gap in the berm along the back of the property by the river and whether the berm would stay or the gap be closed. Mr. Lessard answered that would be grading question for the civil engineer

Angelo DeCarlo 783 Princeton Street asked for clarification on the southern exposure access to the building regarding how it would be designed and if there would be a berm or fencing. Mr. Lessard answered it would be a civil engineering question. Mr. DeCarlo also questioned that the architect testified that the parking garage was not required to be sprinkled. Mr. Lessard agreed because it met the open parking requirement. Mr. DeCarlo asked if he received a referral letter from the fire department. Mr. Lessard answered there was a conversation with a member of the fire department and there would be a meeting. Mr. DeCarlo asked the Board if they had a referral letter from the fire advisory Committee. Mr. Stokes answered the Board received a referral, which stated they would not make a decision until they met with someone of authority. Mr. Lessard agreed and said they would sit down and go into more detail with the advisory committee.

Motion to close to the public was made by Mr. Binetti, seconded by Mr. Appice and carried by all.

Mr. Del Vecchio requested the Board be prepared with dates at the March meeting for consideration for special meetings. The Attorney asked the matter to be carried to the March 13th hearing date without any further public notice and extend any extension of time required by the applicant to allow the meeting to continue thru the March 13th date.

As there was no further business to discuss, a motion to close was made by Ms. DeBari, seconded by Mr. Binetti and carried by all.

Respectfully submitted,
Maureen Oppelaar