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DUNKIN DONUTS (09-13) ROUTE 207

MR. ARGENIO: First regular item on tonight's agenda is Dunkin Donuts (Georgallas) site plan. This application proposes the demolition of the existing residence on the site and the development of the .85 acre site with a retail restaurant. The plan was previously reviewed at the 11 March 2009 Planning Board Meeting.

Is there somebody here representing this application? Sir, would you please come forward, turn the easel towards the board, post your plans and let us know what you're thinking here, what you want to do and what progress you've made since your last visit.

MR. INTERRANTE: My name is Ciro Interrante. I am the architect for the project. Since our last visit here we had a meeting with the fire department because they were asking us, they said we weren't in compliance because the curb opening had to be 30 feet wide. Prior to our meeting with the fire department we met with the DOT engineer, Sibby, I forget her last name.

MR. ARGENIO: Sibby Zacharia Carbone.

MR. INTERRANTE: That's it. At the site, and the requirement for the DOT is actually a 16-foot curb opening on the highway. So what we are showing on this plan is 16-foot curb opening. I believe we probably sent these plans in to you for review. So we're in the process of submitting to the DOT and the --

MR. ARGENIO: Excuse me, can I interrupt you? Are you the trailer park guy?

MR. GARRISON: Yes.

(The JHCS Mobile Home Park agenda item was taken.)

133.00

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DUNKIN DONUTS (09-13) ROUTE 207 - (Continuation)

MR. ARGENIO: I'm sorry for the interruption. I desperately tried to follow the order of the agenda, just trying to keep things moving.

MR. INTERRANTE: No problem. So we met with the DOT prior to our meeting with the fire department and we met with the fire department and explained the situation. They agreed that the 30-foot curb openings were not required and they sent documentation in a note in the town in that regard because I have a copy, correspondence. So we have engaged the services of an engineer to design the storm water retention pond, I just haven't gotten the design back from him yet. I did get Mark's comments this afternoon, or this morning rather, and we've made all the changes on the site plan in your letter, Mark, except for I do have a couple of open items I'd like to discuss with you if it's okay with the board?

The first paragraph second item talks about the cross connection and the grades and so on.

MR. ARGENIO: That's the first item I was going to hit.

MR. INTERRANTE: When we left the meeting here a couple of months ago the owner of that property said that he would design it through his own engineer. The engineer was going to send me the drawing and I was going to attach it to my drawing. I haven't heard from the man since. So my question is Mark, you're suggesting that this cross-connection be omitted from this approval. My question is we're fine with that as long as it doesn't hold up this approval?

MR. EDSALL: My recollection to the board is that that is, let's call it an accessory to this, meaning that it's not critical for this plan to get approval. It's really just a cooperative effort between the two property owners. If they have not completed their design of the interconnection and this application moves forward what I'm suggesting is you move on this approval and defer any action on the cross-connection till they figure out what they're doing.

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MR. SCHLESINGER: I know they were ruffling your feathers a little bit at the last meeting and my thoughts on it were if it isn't part of your project and it isn't your plans why have it in there at all. You're trying to accommodate somebody, that's fine and that's nice, but you're trying to get approval on a plan and if you have to curtail to what they're going to do don't put it in the plan.

MR. INTERRANTE: I'm fine with that.

MR. SCHLESINGER: It's my opinion.

MR. INTERRANTE: I agree with you 100%. The gentleman approached us. Out of a courtesy we accommodated.

MR. SCHLESINGER: You know what, it's not an easy project.

MR. INTERRANTE: No, it's not. Most of the challenge lies on his property, not on ours.

MR. SCHLESINGER: That's correct. So why don't we address that when it needs to be addressed.

MR. INTERRANTE: Then my next question is we're showing the curb opening here. Does the board or does Mark recommend we not show it and just run our curb, just keep our work on our property?

MR. EDSALL: Well, my reason for just leaving it and maybe taking the word proposed to possible is that at minimum if it's ever approved by the board in the future the board on this plan is looking in a location that if they can make it work the board is saying relative to this site plan you don't object to it being there.

MR. INTERRANTE: So we're going to change --

MR. EDSALL: I don't know if that's acceptable to the board but.

MR. VanLEEuwEN: I have no problem with that.

MR. ARGENIO: I agree. Howard, do you have any

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thoughts on this?

MR. BROWN: No.

MR. ARGENIO: Danny?

MR. GALLAGHER: Not right this second.

MR. ARGENIO: I think that Neil is correct, and I think Mark also brings up a good point if there ever is going to be something it's going to be there, not in the back, not in the front, not 7 feet off the state right-of-way, not 2 feet off the state right-of-way and I think it's a good idea. I don't think it hurts anything. And if in the final analysis when we do come here for final approval all of that is is a piece of curb. If that neighbor who you're trying to accommodate and I think you should try to accommodate him we all want to get along.

MR. INTERRANTE: We have no problem with that.

MR. ARGENIO: To show on the plan a straight piece of curb across there is a zero effort. It's not going to affect you at all.

MR. INTERRANTE: How about we do this instead of showing the curb with the radius going into his property, how about if we leave the curb?

MR. ARGENIO: Don't do that. Because it's a butt end and somebody is going to hit it, it's going to be plowed into.

MR. INTERRANTE: Okay. Either we put a straight curb in there and hammer it out in the future or we put the curved portions.

MR. VanLEEUVEN: He's got to get off his duff.

MR. ARGENIO: Go ahead, continue, sir.

MR. INTERRANTE: The next item, Mark, on yours was item number two the second bullet in the first comment where you talk about the width, the lot width is measured parallel to the road at the front yard setback. Now, Mark, what I did was I drew a line across here which represents the front yard

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setback. So I extended this over to these property lines and then projected that parallel with the road, is that how it's supposed to measure?

MR. EDSALL: Basically you take a setback from the road right-of-way.

MR. INTERRANTE: Which is this line right here.

MR. EDSALL: Equal to the front yard setback and that's the line and then you measure from property line to property line.

MR. INTERRANTE: Project it up and put the measurement right here.

MR. EDSALL: Yes.

MR. INTERRANTE: Okay. I'll send these two for review but this is the only copy I have here. So I think I did.

MR. ARGENIO: I want to try to stay a little bit away from the engineering aspect, you guys can tie that up. Guys, take a look at it. I just have a couple of questions.

MR. INTERRANTE: I'm not finished yet, I have two more items.

MR. ARGENIO: I understand that.

MR. INTERRANTE: Then let me limit it to one item which I think is pretty much important. It has to do with this retaining wall. I spoke to two companies that have, that offer modular block systems and they both are confident that this can be done module block. The highest difference is right here which is nine and a half feet. Now, the owner is doing another project near Middletown and he has a lot of large boulder size rocks coming off that property, it's the size of like washing machines and refrigerators. What he'd like -- and they're rectangular in shape. He'd like to bring them here and build this, his excavator contractor suggested it bring them here and build this wall out of those large --

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MR. ARGENIO: Not going to happen.

MR. INTERRANTE: Why is it that?

MR. ARGENIO: Because it's not going to happen. That's a commercial corridor. We are not going to have piles of rock dividing properties. If you want to build that in your backyard, knock yourself out. It's not going happen on that site.

MR. INTERRANTE: Okay.

MR. ARGENIO: Does anybody disagree with that?

MR. VanLEEuwEN: Even if you put the big cement blocks in it would be all right with me.

MR. ARGENIO: Let's stay on the wall since we are talking about the wall. You mentioned a modular block wall, what type of modular block wall?

MR. INTERRANTE: They look like concrete blocks. They're built with nylon grid. They're built with a nylon grid.

MR. ARGENIO: Unilock, unilock.

MR. INTERRANTE: Exactly.

MR. ARGENIO: Let me give you some insight into that. This board, and I'm going to go around the room after I make my statement, typically this town and this board does not look favorably upon those SMU segmental masonry unit block walls. Not that I need to get into it, but they are prone to failure. Much more prone to failure than other types of walls that can be erected. Typically we try to, when an applicant is insisting on using an SMU wall try to limit it to a height of typically not higher than what would you say, Neil, five feet, six feet? We typically don't go over four, five feet is typically what we look for. So I believe we would be looking for an alternate wall design other than that. Have I represented that pretty accurate guys?

MR. SCHLESINGER: Yes.

MR. VanLEEuwEN: Yes.

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MR. ARGENIO: And that's not something that is directed solely at you, it's the way this board has been going for probably five or six years. There's been a few failures in the area.

MR. INTERRANTE: What kind of failures, like structural failures?

MR. ARGENIO: Wall falls down.

MR. INTERRANTE: Okay.

MR. VanLEEuwEN: The frost pushes it out, unless you put a lot of stone behind it so the water can get away.

MR. INTERRANTE: We are showing a lot of stone behind it. This geo grid system, which is intended to stabilize this wall, if they're not built correctly they will fall down.

MR. ARGENIO: Not designed correctly they will fall down.

MR. INTERRANTE: If we show you an engineered design and it's built correctly why would you not accept it? The fact of the matter is this is an elevation to you of that wall. There's only about half of it that's probably, this is nine and a half feet, this is probably about eight feet. This is the total section probably the front half and the rear half doesn't approach that height. I mean I don't understand why if it's engineered correctly --

MR. ARGENIO: I just explained it to you. Even if they're engineered correctly they're still prone to failure.

MR. INTERRANTE: Only because they weren't built correctly in the field.

MR. ARGENIO: You know what, I'm not going to argue with you about it quite frankly and that's about enough of that. I'm not going to argue with you about it. I've personally seen these things fail. I have seen them with my eyes.

MR. INTERRANTE: I've seen them also.

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MR. ARGENIO: And I built probably 15 to 20 of these things in my life.

MR. INTERRANTE: Did any of yours fail?

MR. ARGENIO: No.

MR. INTERRANTE: Because you built them correctly.

MR. ARGENIO: Thank goodness. The reality of it is when I do have a subcontractor build it for me I require him to bond it because they are prone to failure, more so than other types of walls. That's it.

MR. INTERRANTE: You are in the construction business, correct?

MR. ARGENIO: Yes, I am.

MR. INTERRANTE: So you built yours correctly and what I'm telling you --

MR. ARGENIO: That said what I think you should do is, and before you continue down this road, what I think you should consider is, and I happen to know it's cheaper, we all know people like to save money, what I think you should consider is one of those walls that is over at Guardian Self-Storage on 32, one of those walls that is next to the storage, Jerry's Storage there near Neil's restaurant.

MR. INTERRANTE: Precast lock-keyed in system.

MR. ARGENIO: It's cheaper than that wall.

MR. INTERRANTE: Really. Even on a small wall like this?

MR. ARGENIO: It is cheaper.

MR. VanLEEUVEN: And it's better.

MR. ARGENIO: Per face foot it's much less prone to design errors, much less prone to construction errors, much less prone to problems with the materials whether they be wet or whatever they are.

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I think you should consider that. I think your owner would be happy that you did it and you'll save him a couple of bucks.

MR. INTERRANTE: One of the people I contacted offers both systems, the precast and the modular system.

MR. ARGENIO: Not unilock.

MR. INTERRANTE: It wasn't unilock, it was actually the guys from around here Sagalli, you might even know him.

MR. ARGENIO: I know him well.

MR. INTERRANTE: He suggested the modular system as opposed to that precast system.

MR. ARGENIO: Check it out, I think you should.

MR. VanLEEuwEN: We like it better.

MR. ARGENIO: The business with the fire, I'm surprised that the firemen have approved 16-foot openings. Do you have any insight into that, Mark? 16-foot ingress and egress because I have no approval here as of yet from the fire department.

MR. EDSALL: Barney and I have discussed this site several times.

MR. ARGENIO: I'm certainly okay with it. I think the board is typically okay with it if the firemen sign off on it.

MR. EDSALL: They're obviously desiring the width adjoining the building for access to the building and then movement of the vehicles around the building, so that's why they want the larger lane. Here in this case I think they used good wisdom in looking at the fact that it's a small lot, it's a small building. There's not -- the use doesn't have the manufacturing of the product at the site. It's purely retail. So they took all of that into account and went to the bureau of fire prevention and they've given a waiver for the 30-foot acknowledging it's a little bit smaller for the lane

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going around the building relative to the access off the highway. I suspect that between now and the time it's built they may ask that the DOT consider taking the jog out and making the width a little larger.

MR. INTERRANTE: We're going to ask for that ourselves.

MR. EDSALL: It makes sense. It seems foolish to me to have that silly jog in the line. We might be able to convince the DOT of that, but they're okay with the plan.

MR. ARGENIO: Sir, were they the ones that told you to put that silly jog in there?

MR. INTERRANTE: No, I put that in there because the DOT requires 16 feet.

MR. EDSALL: He was stuck with it.

MR. ARGENIO: They told you 16 feet, the DOT?

MR. INTERRANTE: Yes.

MR. EDSALL: He's stuck with one width inside the site for the fire inspector, and he's stuck with the site dimension outside.

MR. INTERRANTE: The fire department said it would be highly unlikely to bring the equipment in the site to fight the fire. You fight it from the highway. So that was part of their justification to allowing us to not comply with that 30-foot requirement. And they said it was a small site, you know, and they just wouldn't fight it from on the site but, and I got a letter from the secretary of the fire department which stated that our variances that we had requested were approved. We had requested a variance from the 30-foot requirement and a variance from the curb opening.

MR. ARGENIO: Jim, we need to chase that down or Nicole, somebody chase that the last insufficient fire length 30 feet insufficient access at curb.

MR. INTERRANTE: Right.

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MR. ARGENIO: Why don't you chase that down. I don't doubt you at all. I want to make sure --

MR. INTERRANTE: If I can find it in my file. Do you want me to fax it to Nicole?

MR. ARGENIO: The fire inspector's office is seven paces outside of her office, I hope she can track that down.

I want to read from the county here, pre-site plan appears to be consistent with the county comprehensive plan. Dominic, follow me on this, I'm curious about this, the site in question is within the watershed of Brown's Pond, a water supply. It is particularly important to properly execute the erosion and sediment control plan as well as the drainage and grading plan to ensure protection of the potable water supply which I'm certainly okay with. Is there any other areas of concern that this board needs to be concerned about relative to the City of Newburgh or the Brown's Pond?

MR. CORDISCO: No, I don't think so. I think you know we're covering those requirements under the Town of New Windsor erosion and sediment control requirements. There are public health codes relating to Brown's Pond, but those are really about prohibitions against throwing dead carcasses, you know, into Brown's Pond because it's a drinking water supply and doesn't have anything in particular to do with erosion or sediment control. I think as Mark has correctly pointed out the amount of disturbance at this site does not trigger the need for a full storm water pollution prevention plan.

MR. ARGENIO: But they will have an erosion control?

MR. EDSALL: Yes.

MR. CORDISCO: That's correct.

MR. ARGENIO: Have you gotten that, have you reviewed it yet?

MR. EDSALL: No. Mr. Interrante has acknowledged that his engineer is working on that. We have made

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it clear we are not looking for a full SWPP. All we want is some design to support the sizing and configuration of the pond and then an erosion control plan so we can protect the stream. But that's as far as we need go given the amount of disturbance.

MR. CORDISCO: And that's consistent with New York State requirements.

MR. ARGENIO: Okay. If any of you guys have anything please jump in. I feel like I'm leading the charge here. Go ahead.

MR. SCHLESINGER: Is that an enclosed block dumpster, lower right-hand enclosure dumpster?

MR. INTERRANTE: Concrete block on three sides.

MR. SCHLESINGER: That's your dumpster enclosure?

MR. INTERRANTE: Yes, it is. It wasn't indicated.

MR. SCHLESINGER: The menu order board is in the back of the building?

MR. INTERRANTE: The menu order board.

MR. SCHLESINGER: Is in the rear of the building?

MR. INTERRANTE: Is right here.

MR. SCHLESINGER: Pick up area is that little jug?

MR. INTERRANTE: Jug out.

MR. SCHLESINGER: You stop to order, they say go to the window, pick up at the window and we've got enough feet for that line and cars go around it to park?

MR. INTERRANTE: Yes.

MR. SCHLESINGER: You got 20 feet, I think, right?

MR. INTERRANTE: We showed on this plan maintaining 24 feet all the way around. We've got a 12-foot lane for drive-through, 12-foot bypass for people to

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drive around and park.

MR. SCHLESINGER: You don't stripe that at all, do you?

MR. INTERRANTE: We can mark it as two separate lanes.

MR. SCHLESINGER: You have to drive around the building in order to get into the parking spot if you want to drive to the drive-up window.

MR. INTERRANTE: We can mark that with paint.

MR. SCHLESINGER: The lane where they pick up, you know, right where -- just where that pick-up area, just that's fine.

MR. INTERRANTE: We'll do a stripe here to separate the two lanes and we show arrows.

MR. EDSALL: It may pay to even just where you show the drive-through text on the west side of the building to at the beginning of that stripe lane to actually put the term drive-through on there because that way as you drive in you'll know what's the through lane and what's the drive-through lane.

MR. INTERRANTE: We actually show that on the plan.

MR. EDSALL: Some of these I'm sure are information for the board, but as far as pavement striping it may make sense.

MR. INTERRANTE: If you're okay we'll mark the pavement exactly as it's shown on the plan.

MR. EDSALL: Turning the lettering around so you can read it from the way you're coming in.

MR. INTERRANTE: That's a good idea.

MR. ARGENIO: I want you guys to think about the necessity or not of a public hearing. In the meantime we circulated for lead agency. I assume we got no response.

MR. CORDISCO: You got a response from the county

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planning.

MR. ARGENIO: From the county saying we don't want it. Other than that we have no response. We have a response in the affirmative, how's that, Mr. Attorney.

I'll accept a motion that the Town of New Windsor declare lead agency.

MR. VanLEEuwEN: Approved.

MR. SCHLESINGER: Second.

MR. ARGENIO: The planning board will declare itself lead agency on the Dunkin Donuts site plan.

MR. SCHLESINGER: Aye.

MR. BROWN: Aye.

MR. GALLAGHER: Aye.

MR. VanLEEuwEN: Aye.

MR. ARGENIO: Aye.

MR. ARGENIO: Sir, I'm not going to go through all of Mark's bullets because he's pretty, you know, he's pretty thorough with them and pretty self-explanatory. I just want to hit this one, are wheel stops or curb proposed along spaces adjacent to the retaining wall when you visit that retaining wall discussion maybe you want to just hit that as well.

MR. INTERRANTE: We show wheel stops so we did put the wheel stops. This is my marked up plan.

MR. ARGENIO: I see. We don't have that in front of us.

MR. INTERRANTE: Revised as of this morning. I just got Mark's comments this morning.

MR. ARGENIO: You will show wheel stops on the plan to this board. Do you show on the plan that we don't have the benefit of right now do you show a fence on top of the wall?

MR. INTERRANTE: No, I do not.

MR. ARGENIO: I think you should. It's a code

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requirement on top of us insisting on it. It is a code.

MR. INTERRANTE: Say that again, code department?

MR. ARGENIO: Code requirement of the building code, anything over 4 feet you have to have a fence.

MR. INTERRANTE: Okay.

MR. ARGENIO: What kind of fence?

MR. VanLEEUEWEN: A nice wood fence, but you can't do that on top of the block.

MR. INTERRANTE: We can.

MR. VanLEEUEWEN: One side driveway, one side gas station.

MR. SCHLESINGER: Driveway and somebody's house.

MR. VanLEEUEWEN: Trailer park?

MR. ARGENIO: The gas station is here and this is another residence that's in similar condition as this residence here.

MR. VanLEEUEWEN: I thought it was the old house.

MR. EDSALL: The ice cream place is next door.

MR. SCHLESINGER: You are adjacent to the ice cream place?

MR. INTERRANTE: Yes. This is the ice cream, this is the gas station right in between.

MR. SCHLESINGER: Okay.

MR. VanLEEUEWEN: I'm in the wrong place then.

MR. INTERRANTE: We can do a post with like a three by 12 rail fence and the curb stops and that'll stop people from running into the fence.

MR. ARGENIO: What you should do if you do that is hang some black chain link from that as well from

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the wood fence.

MR. INTERRANTE: From the rail down?

MR. ARGENIO: Jen has got the code. There's a certain height you have to get to. My point is that a rail fence is not going to prevent a child running from his car to the car, a four year old, maybe the parents are inattentive, the child climbs over the rail and falls 9 feet and kills himself.

MR. INTERRANTE: Maybe we'll put a regular chain link.

MR. EDSALL: Were you looking at split rail?

MR. ARGENIO: I think what Henry was suggesting was a split rail. I don't want everybody talking at once. I would think, I think what Henry was suggesting was a split rail fence and I suggested the chain link.

MR. EDSALL: Ciro, we've had a lot of good luck aesthetically with split rail fence with the black vinyl coded link because you actually at that point really don't see the chain link, you lose it and you just see the split rail, but the safety factor is added in.

MR. INTERRANTE: Okay.

MR. ARGENIO: We need to come up with a plan whether we should have it or not. The applicant still is in -- do you have final from DOT?

MR. INTERRANTE: No, we don't.

MR. ARGENIO: You don't. Still waiting for DOT which certainly takes a bit of time. The applicant is certainly fairly responsive to Mark's comments. He's going to need to revisit that retaining wall. I don't think the public hearing is going to represent any egregious amount of time. Let me start on my right and I'll go to Neil and Howard, what are you guys thought on the public hearing?

MR. SCHLESINGER: Commercially I think the proximity to a residential area is quite close and therefore I

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think it should have a public hearing.

MR. BROWN: I agree.

MR. ARGENIO: Danny?

MR. GALLAGHER: We're pretty close to that trailer home park. I believe there is a residence directly across the street from this house right on the corner as if you were to turn into the gas station. To the right there is a big brown house right there.

MR. ARGENIO: Henry?

MR. VanLEEuwEN: I agree. If it was the old house I would disagree, I want that down.

MR. ARGENIO: I'll accept a motion that we, let me just read this in, that we schedule a public hearing and those plans that will be presented at the public hearing will not be this set of plans, they will be the next generation that you've already prepared. Can you get them to us in time?

MR. INTERRANTE: Sure.

MR. ARGENIO: The motion has been made. Do I have a second?

MR. SCHLESINGER: Second.

MR. ARGENIO: Motion made that the Town of New Windsor schedule a public hearing for the Dunkin Donuts site plan application Route 207. Roll call.

MR. SCHLESINGER: Aye.
MR. BROWN: Aye.
MR. GALLAGHER: Aye.
MR. VanLEEuwEN: Aye.
MR. ARGENIO: Aye.

MR. ARGENIO: I'd like you to make sure you get the plans in to Nicole, she'll get them to Mark and we'll make sure we have the latest version for that meeting.

Yes, Mark?

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MR. EDSALL: I think the only outside agency we need that response from is DOT. So I will contact them and let them know the public hearing date and request that they get the technical comments in for that meeting. Obviously, that's not a permit but all we're looking for is their technical response they have no objection.

MR. CORDISCO: The public hearing will likely be the first meeting in June, I think would be the soonest it could be. We have another meeting in May but that's --

MR. ARGENIO: Is that enough time, Dominic?

MR. CORDISCO: Not enough time between now and then.

MR. ARGENIO: June is not enough time.

MR. CORDISCO: June may or may not. I'm saying that's the earliest it possibly would be. It wouldn't be the May meeting.

MR. EDSALL: Many times the delay in getting the public hearing scheduled is we're waiting for the applicant to respond to the comments. None of these comments are heavy lifting. He has already indicated he's resolved most of them, so I would suspect if he hustles the first June meeting is a reality.

MR. INTERRANTE: I can get the drawings sent off to you tomorrow. How many do you need?

MR. ARGENIO: It seems you've been very responsive. I agree with Mark, there is no heavy lifting here. I want the wall addressed. It's important, and you are not the first person that's come in here with this and said the same things to this board that you just said to us. We've heard them before and it's the way we're headed.

MR. INTERRANTE: Do you want that wall addressed before I send these drawings in for the public hearing?

MR. CORDISCO: Correct.

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MR. EDSALL: Yes.

MR. VanLEEUWEN: Absolutely.

MR. INTERRANTE: All right.

MR. CORDISCO: At least that's what I'm hearing.

MR. VanLEEUWEN: Many an architect that's come in here and said we'll do this. When the contractor goes to work, if he can save ten dollars without putting the proper footing down, he'll do it.

MR. ARGENIO: We're done with this. Anybody else got anything else with this? You looking for anything else?

MR. INTERRANTE: No.

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