

November 14, 2011

A regular session of the Allendale Planning Board was held in the Municipal Building on November 14, 2011. The meeting was called to order at 8:13 p.m. by Mr. Sirico, in Mr. Quinn's absence. Mr. Sirico announced that the requirements of the Open Public Meetings Act were met by the required posting and notice to publications.

The following members answered roll call: Mr. Sirico, Mr. Fliegel, Mr. Zambrotta, Mayor Barra, Ms. McSwiggan, Ms. Sheehan, Mr. Walters and Mr. Sasso. Mr. Quinn arrived at 8:17 p.m. Also present were Mr. Snieckus, Borough Planning Consultant and Mr. Dunn, Board Attorney.

Continuation of Calvary Lutheran Church Major Subdivision application

Mr. Whitaker said this is a continuation of the public hearing for Calvary Lutheran Church. At the last meeting applicant had introduced a plan and testimony was presented with regard to that plan including amendments to the drainage system that is proposed. Comments were heard from the Borough Engineer. The purpose of tonight's meeting is to solicit testimony from the Borough's planner and to question the Borough Engineer with regard to his report of October 20 and also to receive comments from members of the public. The next meeting dates will be December 12th and 15th.

Mr. Whitaker said he has nothing to present this evening other than to note for the record that there is a letter from Hatch Mott MacDonald dated November 14th addressed to the Planning Board pertaining to water and sewer aspects of the application. The letter indicates that the current plan satisfactorily addresses their comments. Letter was marked Exhibit A-36.

Mr. Quinn arrived at this time and took over the chair.

Mr. Yakimik said he will be referring to his letter of October 20. He said since that date we have not received any new documents from the applicant except for the letter today from Hatch Mott MacDonald.

Referring to the comments in his letter with regard to zoning, he said the Board should refer to the Borough Planner's memo dated September 14th and his testimony. He said the Board should note that an additional variance has been requested for a 6 ft. high fence. It will be finished on both sides and he recommends that this be accepted because it provides a buffer in accordance with the master plan and the code. Item V refers to a comment with regard to the spacing of the Leyland Cyprus shrubs. They should be depicted in more detail on the plan since that will be the buffer between lots 2.01 and 2.02. Item 6a. refers to the sidewalk along the Ivers Rd. right of way fronting lot 17.03.

Mr. Yakimik indicated that the applicant has proposed a sidewalk from W. Crescent Ave. to proposed Couch Court but the plans have not been revised to show it to continue onto the frontage of lot 17.03. He recommends that the plans be revised to include a sidewalk along the frontage of 17.03 and that at the same time the plan should note that shoulder and centerline striping is to be installed the full length of Ivers Rd. by the Borough for safe passage of

pedestrians. He endorses the construction of sidewalks on the front of this development in order to have an accessible path for pedestrians to continue down Ivers Rd. He added that it would probably be a good idea to seek the Police Department's comments on that issue. Mayor Barra said he will convey this message to the police at the next Public Safety meeting on November 23.

Mr. Yakimik said the Board should note that if this application is approved and the sidewalk is to be constructed in front of lot 17.03, that several trees will need to be removed. He is asking that those shade trees be replaced and that this is reflected in the plans.

Mr. Yakimik said with the sidewalk fronting on Ivers Rd. and the frontage of lot 2.01 there are 10 parking spaces which angle park or front park toward Ivers Rd. The cars in those parking spaces will most likely overhang onto the sidewalk so he is asking that tire stops be placed for those 10 spaces so that the sidewalk is not encroached by those vehicles and that creates another problem. With those tire stops it is possible that the parking spaces might be pushed too far into the site and that the driveway that serves those parking spaces may be too narrow. He said this is something the applicant's engineer has to take a look at with regard to the parking configuration of the church to determine that once the sidewalk and the tire stops are in place what impact that will have on the parking configuration for the lot. A rough estimate is that several spots may be lost to reconfigure it in accordance with acceptable standards. He believes the applicant's engineer should provide the Board with information as to what affect that is going to have on the parking configuration for the church.

With regard to the spacing of shade trees Mr. Yakimik noted from the plans that the shade tree spacing is slightly in excess of 50 ft. The Borough Code says that the spacing should not exceed 50 ft. so he asked that the applicant's engineer revise that accordingly. In addition, the dimension from the curb line to the proposed shade tree should be 16 ½ ft. and not 13 ½ ft. as indicated in previous correspondence from the Director of Operations.

Mr. Yakimik said he has been asking for a report with regard to parking for several months. He did receive a report with regard to the demand for parking but never received an analysis from the applicant on the future demands of parking and how the parking complies with the Code with regard to the number required for the use so he and the Borough Planner have taken it upon themselves to analyze the site and to compare it to the Borough Code which outlines parking requirements. They came up with an analysis and they are working with numbers they are guessing at as far as what the demands of the church are going to be. He said there are 73 spaces on site and approximately 69 spaces are required in accordance with the plan presented by Conklin Associates. In accordance with the Borough Code a parking space is defined as a 10 x 20 ft. area. The space presented on this plan appears to be smaller. He said if these spaces were enlarged to be 10 x 20 the result would be about 61 spaces would be provided on site. During his research on the site he found a site plan presented to the Planning Bd. in 1986 that roughly showed the spaces that are depicted on the plan by Conklin Associates. He said it is unknown if that plan was ever formally approved by the Board in 1986 but there is some evidence that it did come before the Board at some time. He said it is up to the Board to determine if we need to do a more formal analysis of the parking on the site or whether the testimony to date by the applicant has satisfied the Board that there is adequate parking on the site. He added that he would say it is border line and there are still some questions that need to be answered. He said

that secondary to storm water management which has been satisfied to some extent, his next concern would be parking and whether parking has been adequately addressed by the applicant. Mr. Quinn commented that he believes the Planner has some questions on parking as well.

Ed Snieckus of Burgis Associates, the Borough Planning Consultant, said the correspondence provided by the applicant dated September 15 indicates that the sanctuary can accommodate 231 parishioners due to the pew size seating. With 231 parishioners 1 parking space per 3 seats is required by Borough code or 77 spaces. In addition 1 parking space is required for each employee and testimony indicated there are 2 employees making a total of 79 parking spaces required. The plans indicate there are 73 parking spaces on site.

Mr. Snieckus said Mr. Yakimik brought up an interesting point that with the configuration of the proposed sidewalks that are proposed there may be an impact on the adjacent parking spaces with their configuration so there may be a loss of parking spaces. If there is not a loss of parking spaces, in his opinion the Board may approach this as a pre-existing non-conforming condition. There isn't any change proposed to the church facility on the property in the current plan. There is really just a reduction of the lot area so the parking standards deficiency does not come to the surface because there isn't a change being proposed to the parking spaces. There is a change proposed for the lot area so it could become a more active facility and there could be a need for more parking. He pointed out that a new religious institution could pursue more active use of the subject property. He added that if there is a loss of parking spaces that will trigger an additional variance. Mr. Walters pointed out that the parking lot is not being decreased in size. It is just the lot area that is changing.

Mr. Whitaker commented that a report signed by Carl Glaeser indicates that on an average Sunday there are 52 parishioners attending church and there are two employees. The minister walks to church from his home so there has been more than sufficient parking for the last 50 years.

Mr. Yakimik said that as a result of the sidewalk being introduced, he is asking that the parking spaces be reconfigured so that they would not encroach on the new sidewalk. As a result of that if we have a loss of spaces would a variance be required. The Planner indicated that a variance would be required. Mr. Yakimik added that when tire blocks are installed in those spaces you are going to severely restrict the capacity of those spaces from what they once were. The vehicles that park in those spaces now overhang into the grass area that is between the parking lot and Ivers Rd. With a sidewalk constructed that type of overhang is not allowed by Code. As a result of that the cars will be pushed back from Ivers Rd. and that may decrease the aisle width to below standards behind those spaces. He said we need more information from the applicant to show what the impact is with installing those tire stops and what affect it would have on the parking in that area. Mr. Whitaker said he will provide a response tonight and he believes there are a number of different options. The applicant is not objecting to the sidewalk if the Board grants a waiver for certain spaces to be deficient in area, rather than 10 x 20 to be 9 x 18. He added that they could designate a few spaces for compact cars or remove a few pews in order to make the parking conforming. His recommendation would be that the Board grant a waiver to allow certain spaces to be deficient in size and the reason for the waiver would be that the Borough is getting the benefit of sidewalks and curb stops. Mayor Barra said it is his

understanding that we are only talking about 10 spots along Ivers Rd. The rest will be conforming. Mr. Yakimik said most, but not all of the lot spaces are 9 x 18 and 9 x 18 is certainly acceptable for a church. For a use such as a shopping area where there is a large turnover it is preferred that the parking spaces be larger because of doors flying open, carriages, etc. In this case 9 x 18 is fine as far as he is concerned. He said the problem arises with the 10 spaces along Ivers Rd. They are angle parking so those spaces require slightly different dimensions in length because of the way that they are angled. He does not have enough information from the applicant on this plan to make a determination that those spaces are angled properly and that the driveway behind them is wide enough after we put the tire stops in and push back the spaces. He added that it is not so much the 9 x 18 size but the way they are configured with respect to the driveway behind them. Mayor Barra suggested restricting those spaces to small cars. Mr. Yakimik said he is not a fan of designating small compact car spaces because he believes it is violated constantly. Large cars park in them anyway and then we have safety problems. He would recommend that the loss of 1-2 spaces would be an acceptable loss to make sure that those spaces are configured correctly. Mr. Whitaker said they will revisit that issue and provide various alternatives. In this case he does not think it will cause a planning problem if they are deficient by a few spaces. The spaces are not all used now. 53 parishioners does not mean they are each coming in a car.

With regard to Item No. 10 Mr. Yakimik reminded the Board that the rear and side yards of lot 2.02 may be burdened by physical restricted access to the homeowner due to the wetland condition, zones and the requirements by DEP. Item 11 asks for a note on sheet 1 of the site plan to be revised to reflect that sidewalks will be constructed along Ivers Rd.

Mr. Yakimik said the proposed use of the created wetlands has been reviewed by the wetlands experts at Dewberry. They have met with Conklin Associates on several occasions. Originally they had some concerns on the constructed wetlands material submitted by the applicant; however, since that time the applicant has provided all of the information they had requested. They have reviewed the material and are essentially confident that the CSW will work at this site. He said a very important point is that the use of a CSW will require the applicant to employ an impermeable liner along the bottom of the basin. The applicant has requested a waiver from the Code requiring ground water infiltration. He recommends acceptance of this waiver by the Board since a created wetlands appears to be the most feasible storm water control device for the site due to existing high ground water conditions. The CSW will most likely not be successful without the use of the impermeable liner. He said that although he has commented previously that his contacts at NJDEP knew of no successful CSW in northern New Jersey, Conklin Associates had demonstrated that they have successfully created two such basins in the immediate area. He said the liner should not exacerbate and may improve existing ground water conditions in close proximity to the site. Therefore, with the use of an impermeable liner they no longer have concerns regarding possible adverse affects regarding ground water. As a result of the design of the CSW the storage volume of the basin has increased and it has increased enough to offset any concerns about loads from sump pumping or lost infiltration due to the impermeable liner. With regard to the Rockland Electric right of way that was blocking overland flow, that has since been corrected to some extent by the Borough with the cooperation of Rockland Electric and Public Service. A pipe has been constructed to drain the rear yards of Ivers Rd. He has provided some minor comments to the Dept. of Public Works to adjust the

intake of that pipe and that will be discussed further in future meetings with the Mayor and Council.

Mr. Yakimik said they have found that Conklin Associates has demonstrated through extensive analysis and in general accordance with NJDEP Best Management Practices Manual that the CSW will have an adequate water supply except in a year of extreme drought. In this case intermediate marsh vegetation may die and if so, may need to be replaced. The introduction of invasive species and vegetation also remain as residual concerns. Therefore, the NJDEP requires a 5 year monitoring period for most CSW's. If a maintenance failure occurs during this period, the applicant is normally required to determine, design and implement a solution which can sometimes be costly. For this particular application the cost could range from a few thousand dollars for a limited replanting to over \$10,000 for grading and re-planting. He said his office will recommend a specific maintenance guarantee for such a failure as a condition of a possible approval. He said his office finds that the CSW basin has been designed in accordance with the NJDEP Best Practices manual and the Borough code with the following clarifications to be provided by the applicant. He considers the items A through I in his report as relatively minor. There are preferences on types of species to be planted and where they should be planted. These items could be given as conditional approval items if the Board decides to conditionally approve the application. He said there are some corrections in numbers that need to be given in some locations that do not affect his comments on the CSW in any major way. He suggested that Mr. Snieckus offer his comments with regard to the wetlands.

Mr. Snieckus commented that the design and landscaping of the proposed storm water basin has been significantly updated. The applicant has now provided details on the revised drawings. He noted that the delineation of the basin has been reconfigured to a curvilinear design as suggested in his last review of the application. As a result the storage volume has increased. He noted that the basin now includes 3 approximately 3 ft. deep micro-pool scour holes. They are in the actual basin and define the channel or water course within the basin area. He said there is also a 12 inch high row of boulder retaining wall that is proposed on either side of that water course as it travels through the basin area and that generally helps control the erosion and channeling of water as it flows through the basin area. They will be looking at the detail of that boulder wall in the future as to what stone is being proposed. He said the planting design for the basin is to create a constructed wetland. A liner is being used to reduce the negative impacts to the ground water infiltration. A constructed wetland will have a natural appearance. The approach that is being provided is to provide an upper sloped area and a split rail fence. In his opinion that is going to provide the appropriate transition from a manicured landscape to a more naturalized landscape. He concurs with the maintenance requirements as provided in the Borough Engineer's letter regarding initial years of establishment. They are discouraging the use of seed and recommending using live plant material such as plugs and quarts instead because it is a difficult environment for the plant material to get established. He said the report also provides for wild life or water fowl exclusion flagging which is the use of strings and flag material to help deter ducks and geese from landing in that area to keep them from eating the plants.

Mr. Snieckus said he defers to the Borough Engineer's wetlands expert with regard to the plant choices to be used within the basin. With regard to item D pertaining to the topside slopes or outer boundary of the basin area, instead of a pachysandra ground cover that is proposed for that

area there should be a seed mix used within that upper basin. He also recommends that the fence area be slightly realigned to follow the same alignment of curving around the basin. Mr. Snieckus noted that the revised plans now provide specifications on seed mix and the application rate. He requested that the applicant provide specifications on the mulch cover materials being proposed.

Mr. Whitaker said he has no objections to the recommendations for the basin and applicant will work in conjunction with the Borough's experts with regard to the type of plants being suggested and the modifications proposed and it will be an ongoing project if approved and there can even be changes as seen in the field which applicant accepts as a condition.

Mayor Barra said he has been particularly concerned with all of the rain and flooding that has occurred this year and he is very concerned about the impact of this development. He said applicant's engineer has testified that once this development is built there will be twice as much runoff going off this property as there is today. He asked if Mr. Yakimik concurs with this statement. Mr. Yakimik said yes. Mayor Barra asked if he is reasonably sure that we will not adversely affect the houses downstream from this development and he does not mean just the houses on Ivers, but the houses that are on Talman. He added, "Are you comfortable that there will not be any adverse affect on those houses downstream in addition to what they are experiencing today?" Mr. Yakimik said he believes the applicant has reasonably satisfied the conditions of the Borough code with regard to storm water management. His office is reasonably confident that adverse affects will not be exacerbated downstream with this development and he believes that conditions will improve for certain properties. He pointed out that we can only rely upon models that are developed from historical and empirical data that has been gathered for decades to render an opinion. He added that we have had a historical year with regard to rainfall and there are no guarantees with this, but the applicant has demonstrated through his calculations that he complies with the Code and he can say he is reasonably sure that there will be no adverse affects downstream or upstream as a result of this development.

Mr. Yakimik said he would like to remind the Board that the applicant is removing 123 trees from the site and the Board should consider whether it is in compliance with section 244-16 of the code prohibiting the clear cutting of trees. The applicant has responded that the development is planned with some trees remaining as opposed to a clear cut.

Mr. Yakimik said that in accordance with the Code the existing parking lot should have an average light intensity of 0.8 foot candles, a minimum light intensity of 0.2 foot candles and a uniformity ratio of 4:1. It appears that the current lighting does not comply with these values and the Board should determine if the applicant should provide proposed improvements to the lot lighting if approved. Mr. Whitaker said this is a pre-existing condition. It is not being changed or modified by virtue of this subdivision and it has existed for many years in its current state. It has been satisfactory to the church as well as the neighbors and there have been no complaints that he is aware of.

Ms. McSwiggan asked if Mr. Yakimik agrees with Mr. Latincsics statement that the basins he referred to in his testimony were successful. Mr. Yakimik said one has been successful and the other has been marginally successful only because the owner of the site has chosen not to

maintain it correctly and it has become overgrown and unsightly. However, as far as storm water management is concerned it probably still operates as a successful storm water management device. Mr. Quinn commented that in this case if the application is approved we will have a maintenance contract so theoretically it will be maintained. Mr. Yakimik added that if this is approved his recommendation is to have a 5 year maintenance period which is bonded. Absent that he believes there will be safeguards and if there was a violation the property owner would be obliged to maintain it. If it is not maintained, liens will be placed on the property.

Ms. McSwiggan said she has a question about the clear cutting of trees. Do we have a sense of what percentage of the trees on the property are going to be cut down and has any consideration been given to provide for not cutting down 123 trees. Mr. Whitaker said the applicant has made a concerted effort to look at the site and there are certain trees that have to be removed for the roadways, ingress and egress and the houses themselves. They had stated previously that they made a commitment to preserve what they can based on field conditions. Mr. Latincsics said the tree removal includes what is essential for the roadway construction and the utilities. It provides a coordinated grading plan. The home footprints are representative at this time but it shows the grading for the driveways, on-site drainage, etc. and it does necessitate tree removal. It is his adamant recommendation, particularly in light of recent storms that generally speaking trees within 20-25 ft. of a home should be removed. Taking all of those factors into consideration the tree removal shown on the plans is representative of the end result but certainly efforts can be made to look at trees on the fringe of the grading and Mr. Snieckus has already made some recommendations

Mr. Snieckus said as applicant has pointed out the individual homes are examples of what the home configurations may be, so therefore the grading could change with the development of each individual lot and will be subject to final review. In his experience you have to pay attention to the limit of disturbance and how much root removal actually occurs when the property is graded to construct the road. Because of the high water table there will probably be a lot of surface roots in this area and therefore the trees become more sensitive to disturbance and become more unsafe. In that instance it is better to remove the trees and plant new trees rather than try to save trees on the fringe of the area of disturbance but it all depends on conditions in the field as well as the value of the trees.

Mr. Yakimik said if this application is approved the applicant is required to submit a plot plan for each individual plot. When the configuration of the lots is finalized and the builder is ready to build the house for that particular lot, that plot plan is submitted to the Borough Engineer and one of the things they look at is to try to save as many trees as possible. The applicant has proposed extensive cutting on the site based on approximate locations of where these homes are going to be located. He suggested that if this application is approved there could be some phased tree removal. First phase removal would only be for infrastructure such as the roadway and the detention basin. The second phase which would not be approved as part of this application would be subject to the individual homes and if and when they are individually developed they will be scrutinized at that time. He said the applicant has tried to grade these lots so that they grade toward the road so that the lots and the houses themselves are higher than the road. When you do that you increase the number of trees that you have to remove because you are moving much more dirt and soil to get the lot to drain properly. What he has seen in the past are failed

attempts to grade pockets along property lines where you would try to save trees and what happens is the root system of the trees die and the trees die eventually after all of the maintenance bonds have expired. He said that his point is that there are some real concrete ways we can save trees with this development. He added that creating arbitrary areas where we are going to save trees at this time might not serve any purpose. He does agree with Mr. Snieckus that peripheral trees could be looked at and saved but he would suggest we go further and if this is approved by the Board we do not necessarily remove all of these trees that are to be taken down at this time and that it be more of a phased process. The first process to be the infrastructure improvements and second, the individual lots to be subject to the Borough Engineer's review, Mr. Snieckus' review or Shade Tree review as per the Borough code.

Mr. Whitaker said it has been his experience in the past with other developments that there has always been removal for the infrastructure, roadways, utilities and drainage. It has been his experience with other developers that the time when the final decision is made about tree removal is at the time the actual house plans go through various reviews. He added that if trees are not saved it is usually recommended that something else be planted. Mr. Whitaker said the resolutions usually say that prior to tree removal on an individual lot an individual plot plan must be approved by the Borough Engineer and tree removal will be subject to that review.

Ms. McSwiggan asked if we still want to go ahead with the bird house and do we want to have a further discussion about the whole mosquito control issue. Mr. Yakimik asked if there is a better solution that the applicant can propose to combat mosquitoes. Mr. Snieckus said what has been done in the past is to put bluebird houses adjacent to these basins to help control insect populations. Since there are other wetland areas adjacent to this property, these birds migrate to new locations and get established to control the insect population. He said in his opinion we should do some sort of improvement such as the bat house and some bird houses. Mr. Whitaker said they will do whatever is necessary.

Mr. Snieckus continued with his report. He said the revised plans have not indicated as yet that a conservation easement be provided for buffer areas on the subject property. He said lot 2.02 as well as the church lot should have some sort of delineation of a conservation limit to identify to a future homeowner on the record where these limitations are on the subject property. Mr. Whitaker said that will be on the revised plans.

Mr. Snieckus said he defers to the Board Engineer relative to restricting basements. He had indicated that there may be ground water conditions that may generate trouble for a future basement. Mr. Snieckus said the applicant has revised the variance list to indicate the fence variances being sought. He finds no issue with these variances because the fence will provide what he feels is an appropriate buffer to mitigate the adjacent parking lot that is being proposed. With regard to buffer landscaping he said his previous memo recommends a maintenance easement be provided on lot 2.02 to encompass these plantings and the plans have not yet been revised to indicate this easement. He also requests the specifications for the buffer proposed on lot 17.03 for the euonymus hedge that is being proposed. He asked that the proposed height, spacing and quantity be indicated for that buffer. Mr. Snieckus said the revised plans indicate a landscape buffer around the outside of the split rail fence around the detention basin and the applicant is again proposing the use of euonymus. He recommends that an alternative species be

used because to over-use a single species generates what is called a monoculture which may encourage insect infestation. He suggests a height of 3-4 ft. for planting. Mr. Whitaker said he has no objection to this proposal.

Mr. Snieckus said the applicant has indicated a sidewalk on Ivers Rd. to the intersection of Couch Court but yet will be provided the extension of the sidewalk along lot 17.03. He added that the revised plans indicate there are 133 trees to be removed. With regard to parking, the applicant has a pre-existing nonconforming amount of 6 spaces short or 73 parking spaces. He added that the lighting plan does not conform with the minimum standards and is an existing non-conforming condition in its current configuration. He said it is not proposed to be changed so therefore there is no new waiver or variance required as a result of that condition and the applicant is assuming the risk associated with the lighting levels that exist.

Since there were no questions from the Board members, the Chairman opened the meeting to the public for comments.

Jim Wright, 498 Franklin Tpk. was sworn. He said he is representing the Celery Farm and the Fyke Nature Association and they are very concerned about storm water runoff and flooding in the Celery Farm. He said it has been stated that twice as much water will run off the site but peak will be reduced. He has looked at the plans and has questions and he was told he could ask these questions tonight. Mr. Wright asked how much longer will it take the water to leave the site. Mr. Latincics said that unfortunately he did not bring the report with him but going by memory the time of concentration for this watershed is 20 minutes. It is his opinion that the detention basin will drain down in approximately 60 minutes. It does not drain to the Celery Farm. He said if the concern is drainage to the Celery Farm, the terminus of this water course is at the downstream end of the Franklin Tpk. culvert. Mr. Wright said water flows backward into the Celery Farm from there. He asked if Mr. Latincics has calculations for how much water will be running off the site including the surface to be included with all of the additional sidewalk. Mr. Latincics said the sidewalk was added after the design at the request of the Borough. He said there is significant overage or extra capacity in the basin as a result of the curvilinear nature that was added to the basin. Mr. Wright asked if he knows how much additional impervious surface would be created by the sidewalks. Mr. Latincics said it would be the length times the width. He does not have the number.

Mr. Wright asked what happens in the spring and summer when the ground is already saturated and a big storm hits. Mr. Latincics said the design encompasses that situation. They did perform an analysis under a high water condition and a low ground water condition and provided that information. The runoff rate reduction is provided and it exceeds or meets the Borough code in both scenarios. Mr. Wright asked what is the mosquito prevention plan at this point. Mr. Latincics said he is relying on natural methods such as bluebirds and bats. He did speak with the Bergen County Mosquito Commission and they offered to put it on the list of spraying routes. The intent is to provide a natural wetland setting. Spraying for mosquitoes is contrary to that goal but ultimately it will be the Borough's decision. Mr. Wright asked if the spraying will entail pesticides. Mr. Latincics said it will.

Mr. Yakimik said there appears to be 70 trees for the phase I tree removal to install the main infrastructure. It would be a reasonable request to ask the applicant's engineer to revise his calculations to include the sidewalk as an impervious area.

Mr. Wright said it was his understanding that they would be able to ask questions about the proposal given last month and he would like to reserve the right to have their expert testify next month. Mr. Dunn said the Board anticipated having comment from the public this evening. He said the Board has time constraints and prevailed upon applicant's attorney to extend the time to December. He is concerned that the Board may not be able to comply with those time constraints. Mr. Wright said it was his understanding his expert would not be able to speak tonight so they did not bring him to the meeting and run up his charges. He asked that his expert be able to give his comments next month. Mr. Whitaker said the purpose of tonight's meeting was to listen to Mr. Wright's professionals and hear testimony from members of the public. The Monday meeting in November is for summation and Thursday's meeting is for purposes of a decision. Mr. Wright said that was not his understanding. He said we do not know the impact of impervious surfaces, additional sidewalks and trees cut down so how can his experts testify tonight when they have not heard all of that information. Mr. Whitaker said an expert witness should be present for all meetings and have the benefit of a complete review. Mr. Wright said if we look at the percentage of time spent here and the amount of public input it is only fair that he be allowed to have their expert's testimony next month.

Mayor Barra asked if he has any idea how long the expert will testify. Mr. Wright said he would think no more than 20 minutes or less. He added that he would guess that he could submit what he has to say 10 days in advance. Mr. Dunn asked if the expert is preparing a report. Mr. Wright said that he is.

Ms. McSwiggan said she feels that the public has been very patient. She would like to grant the public the right to have their expert speak at the next meeting. Mayor Barra asked if the expert could submit his report in advance so the Board can read it prior to the testimony. Mr. Dunn said it can be read but there can be no comments. Mr. Dunn said it is his recollection that the Board agreed to go through the December meetings in order to hear from the public. Mr. Whitaker said he recalls a discussion at the last meeting that the public was going to bring their expert for the next meeting. He had originally agreed to an extension of time to December 12 and agreed to extend it to the 16th for a decision. He said if the expert is going to be heard at the next meeting he will formally register his objection to that. If the Board is getting a report ahead of time that report is only something that is admissible if the person then appears and testifies. Mr. Dunn said that if the material is going to be sent to the Board members prior to the meeting, they have to be present at the next meeting and be subject to cross examination under oath. Mr. Whitaker said the material has to be submitted to the applicant as well.

A Board member summarized that at the Monday meeting in December the Board will hear from the expert for the public and the remaining public commentary and then a summation and vote on Thursday.

Mr. Wright said his concern is water flowing from this new development into the Celery Farm. He can show videos and photos of water flowing backwards into the Celery Farm before it really

starts to rain. He said the water is coming the wrong way in the Allendale Brook to the Celery Farm and adjacent properties, including his own. He said the water does not stop draining from the Celery Farm and the trails are under water for 18 hours later. His concern is that this is going to affect downstream residents and the Celery Farm and that it is not just Franklin Tpk. but also all of the road leading from Ivers and Myrtle and all of the other locations. He is also concerned about mosquito control as it affects the Celery Farm. He would not like to see the chemicals going downstream and back into the Celery Farm.

Mayor Barra asked for Mr. Yakimik's comments about Mr. Wright's testimony that the water goes back north across Franklin Tpk. into the Celery Farm when it rains. Mr. Yakimik said he has observed that. Mayor Barra asked if he agrees with Mr. Wright that the water goes upstream back into the Celery Farm. Mr. Yakimik said he agrees that it does occur.

John Pastore, 77 Ivers Rd. was sworn. He asked about the vegetative buffer along Ivers Rd. and between the wetlands. Mr. Latincics said the plans do show the buffer and Mr. Snieckus has made a recommendation on alternative plantings. Mr. Snieckus said he recommended plantings of 3-4 ft. Mr. Pastore asked if there is any alternative that would be a little taller, Mr. Snieckus said the plant material that he recommended will grow to 5-6 ft. tall. Mr. Pastore asked if there is anything that will grow 10-12 ft. that may work. Mr. Snieckus said there is but you have to worry about the width. In this location he would avoid planting arborvitae because of deer eating problems. He said that ornamental grass and a few small trees within that buffer might be another alternative.

Mr. Pastore thanked the Board for their efforts during this difficult process.

Jim Downey, 10 Schneider Rd. was sworn. He said he is concerned about the maintenance of the liner. It is his understanding that the drainage pit would not be successful without the liner. If the church is responsible for the first 5 years, assuming the liner lasts 7-8 years, to replace it could be a very big expense. He asked who would be responsible to replace the liner. Mr. Whitaker said the maintenance is a requirement that runs with the land and it is the responsibility of the owner of that property, the church.

Mr. Latincics said usually the concern with liners is UV light. This liner is buried. There is a concern about maintaining water in the constructed wetlands and potential impact on adjacent properties. The plans specify compacting the soil once the basin is excavated. That is probably sufficient by itself to keep water in the basin but then they specified a liner and on top of that is a 6 inch layer of impermeable soil that will also be compacted. On top of that goes a planting medium which seals the bottom of this constructed wetland even more. He said if the concern is does the liner need to be replaced in the future because it is degrading, that is not the situation because it is protected at the bottom of this constructed wetland.

Mr. Yakimik said it is reasonable to understand that this liner will last quite a long time and the system that has been proposed by the applicant's engineer will last for decades. He has no reason to fear that this liner is going to fail. If there is a defect with the material itself he would expect that it would occur once and we would have the appropriate maintenance bond in place, but he would not expect the liner to fail. Mr. Dunn added that the bond is good for a couple of

years but after that the way this would work in the event of a failure years from now there would be a lien upon the land and there would have to be some sort of agreement or a restriction in the deed. Mr. Whitaker said it is a storm water management agreement. It is recorded with the book of deeds and it is a notice to any future property owner.

Mr. Downey asked if the town has considered allowing two homes to be built instead of the three which would eliminate a lot of the drainage issues because there would be more open land.

There being no further comments, the meeting is closed to the public.

On a motion by Mr. Sirico seconded by Mr. Walters, the meeting adjourned at 10:25 p.m.

Respectfully submitted,

Barbara Knapp