

PLANNING BOARD MINUTES

June 26, 2002

Roll call

Minutes

Sign review

Update on pending items

Miscellaneous

Agenda items

Communications

AGENDA 8:00 P.M.

ITEM I

**Roy Jordan
Agricultural**

**REQUESTS DEVELOPMENT PLAN APPROVAL
FOR A 4 LOT OPEN DEVELOPMENT AREA AT
8422 STAHLEY ROAD.**

ITEM II

**Jerry Ritch
Major Arterial/Agricultural**

**REQUESTS SPECIAL EXCEPTION USE PERMIT
FOR MULTIPLE FAMILY RESIDENTIAL
PROJECT LOCATED AT 6407 TRANSIT ROAD.**

ITEM III

**Uncle Bob's Storage
Commercial**

**REQUESTS SPECIAL EXCEPTION USE PERMIT
TO ALLOW AMENDMENTS TO EXISTING MINI-
STORAGE FACILITY BY ADDING 10,000 SQUARE FOOT
ADDITION PLUS OUTDOOR STORAGE AT
8161 MAIN STREET.**

ITEM IV

**Gene Jason/Jim Beilmeier
Commercial**

**REQUESTS DEVELOPMENT PLAN APPROVAL
FOR CONSTRUCTION OF TWO (2) 8500 SQUARE
FOOT OFFICE BUILDINGS AT COUNTRY MEADOWS
OFFICE PARK LOCATED AT THE CORNER OF
FOXWOOD DRIVE & WEHRLE DR.**

ITEM V

**Tom Hollander
Agricultural**

**REQUESTS CONCEPT PLAN APPROVAL AND
RE-ZONING FROM AGRICULTURAL TO PURD
FOR 180 TOWN HOMES & 50 SINGLE FAMILY HOMES
EAST OF RANSOM ROAD AND NORTH OF JONES ROAD -
GABLES ON THE GREEN.**

ATTENDING: Harold Frey
Joe Floss
Michael Metzger
Reas Graber
Roy McCready

ABSENT: Frank Raquet
Patricia Powers

INTERESTED PERSONS:

Jim Bingeman
Marsha Bingeman
Harold McNeil
Irene Stoldt
Mark Bergum
Nancy Bergum
Roy Jordan
Jerry Ritch
Gene Jason
Karyn D'Amato
Nora Sullivan
Michael Songin
Cheryl Cipolla
Richard Cipolla
Florence Leong
Dorothy Leong
Robert Barton
Diane Huben
Robert Eck
Many people from Ransom Road, Jones Road, Rosewood area that did not sign in

ITEM I
Roy Jordan
Agricultural

REQUESTS DEVELOPMENT PLAN APPROVAL FOR
A 4 LOT OPEN DEVELOPMENT AREA AT 8422
STAHLEY ROAD.

DISCUSSION:

Mr. Jordan has all of his approvals. The letter of approval from Erie County Sewer District #5 has arrived. Chairman Frey read the comments from the Town Engineer Joe Latona.

1. A Flood plain Development permit is required from the Engineering Department prior to construction.
2. A Private Improvement Permit and pre-construction meeting are required prior to construction.
3. Applicant must comply with the conditions set forth in NYSDEC permit dated May 29, 2002.
4. A drainage plan must be submitted and approved by the Engineering Department prior to issuance of a building permit for Lot 4 showing drainage piping connecting from the proposed private road to the southeast corner of lot 4 to convey storm water from the east through the Open Development.

Mr. Jordan explained that he has extended their rear yard drain for neighbors to help solve their back yard drainage problems. He is willing to pay for those improvements.

He would like to put in the roads and the drainage pipes now, and build his home in the fall.

ACTION:

Motion by Michael Metzger, seconded by Roy McCready to recommend approval to the Town Board for a 4 lot open development at 8422 Stahley Road with the following conditions:

1. Subject to open space and recreation fees.
2. Engineering conditions met to the satisfaction of the Town Engineer
3. If the current issue relative to pavement depth is resolved, and it turns out that the pavement depth is lessened, that it would be handles through the Engineering Dept and would not have to return to the Planning Board.

ALL VOTING AYE. MOTION CARRIED.

ITEM II
Jerry Ritch

REQUESTS SPECIAL EXCEPTION USE PERMIT
FOR MULTI FAMILY RESIDENTIAL PROJECT

Major Arterial/Agricultural

LOCATED AT 6407 TRANSIT ROAD.

DISCUSSION:

Mr. Ritch has come in with plans for two in law units in the rear of the property, and his daughter will live in the house in the front. Mr. Ritch was cautioned to have a surveyor come in and do a new survey, making sure he is at least ten feet from the rear of the major arterial zone with the buildings. This way he can avoid re-zoning the remainder of the property which is zoned agricultural. Also, he will have to be ten feet from each side lot line.

ACTION:

Motion by Reas Graber, seconded by Harold Frey to recommend approval to the town Board for a multi family project located at 6407 Transit Road.

1. Subject to open space and recreation fees

ALL VOTING AYE. MOTION CARRIED.

ITEM III

Uncle Bob's Storage
Commercial

REQUESTS SPECIAL EXCEPTION USE PERMIT TO
ALLOW AMENDMENTS TO EXISTING MINI-STORAGE
FACILITY BY ADDING 10,000 SQUARE FOOT ADDITION
PLUS OUTDOOR STORAGE AT 8161 MAIN STREET

DISCUSSION:

Carl Millerschoen represented Uncle Bob's storage. Chairman Frey said they have discussed several items. One is the parking of the vehicles that are there, and the vehicles that they are going to put in. The first gentleman that brought this in said you wanted 16 to 20 parking spots. We now have 27 spots. There was a discussion about putting in a break away fence in here, and making some kind of agreement with your neighbor Mr. Jordan. Has this been done? No. Jim Callahan said he talked to Mr. Jordan and he doesn't have a problem with that. This could be used as a fire lane to come into the back. If there was a fire in the back, the hydrant on Main Street could make it very risky. Mr. Millerschoen has asked Wayne McNally to check with the water authority about tapping into the water line if a hydrant is needed. The Board requested Mr. Millerschoen to contact Mr. Jordan. Mike Metzger said the landscape

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plan has to be presented and approved. The breakaway fence has to be solidified. There have to be some very specific conditions. Jim Callahan said the Town Board will have to set a public hearing so there is time to achieve the conditions.

ACTION:

Motion by Michael Metzger, seconded by Joe Floss . The Planning

Board recommends approval to the Town Board for a special exception use permit for a 10,000 square foot addition plus outdoor storage at 8161 Main Street with the following conditions:

1. Outside storage to be a maximum of 27 spots.
2. Landscape plan submitted and approved by the Landscape Committee paying special attention to the eighteen foot (18') buffer outside the fence on the east side. Five foot evergreen planting inside along the east fence, and maintenance of the plantings outside the iron fences between the buildings where the cars are to be stored.
3. The fire hydrant be placed in the proximity of the southeast corner of the property.
4. An agreement be reached such that a breakaway emergency fence be placed in the proximity of the southeast corner of the site for emergency vehicles to enter the site from the property to the east.
5. Subject to open space fees.
6. Parking along the east property line be restricted to small vehicles.

ALL VOTING AYE. MOTION CARRIED.

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ITEM IV
Gene Jason/Jim Beilmeier
Commercial

REQUESTS DEVELOPMENT PLAN APPROVAL FOR
CONSTRUCTION OF TWO (2) 8500 SQUARE FOOT
OFFICE BUILDING AT COUNTRY MEADOWS OFFICE PARK
LOCATED AT THE CORNER OF FOXWOOD DRIVE AND
WEHRLE DRIVE.

DISCUSSION:

Chairman Frey gave a brief history of the project. There have been plans for two story buildings, and the current plan is for one story buildings. Chairman Frey read the conditions set by the Town Engineer for development plan approval. Michael Metzger asked

Gene Jason the height of the buildings. They will be 34 feet in height. Mike also wanted to know what materials would be used on the outside of the building. Mr. Kochis of William Schutt, said it would be wood frame construction. Mr Jason said he would like to reserve his right for the exterior of the building. It will be wood frame construction, it could be made of vinyl, brick, or stucco. Mike said it is typically something that the Planning Board gets involved with. The Town Board has architectural approval, but they look to us for recommendations. Mr. Jason said the intent right now is to build brick veneer all around with the exception of the rear. The neighbors were concerned about the residential look and the neighbors preferred that they use vinyl siding on the rear of the building facing the subdivision. Mr. Jason said he would prefer masonry all around the building. Mike said if the board is to move on development plan approval, they would need to know what he intends to use on the exterior of the building. Mike said there was a memo from David Metzger, the commercial building inspector pointing out that no vehicles could be parked nearer than ten feet to a combustible wall or from an opening in a noncombustible which is not equipped with an opening protective. Their drawing shows some portions that come within five feet. Based on the building code, it would have to be ten feet if it has a wood frame. It is not a planning board issue, only in that if you are stuck on the building foot print, it will have an effect on the site plan. Mike said in 1996, there was to be a thirty foot buffer along the north property line of the buildings, and along the east line of this building it was to be fifty feet. When the concept plan was approved, the Planning Board along with the neighbors agreed to make that 30 feet if it was heavily

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landscaped. You do have quite a heavy landscape plan that has been approved. Shown on the plan we have now, it shows twenty five (25'). It should be 30 feet. Chairman Frey said "We have been through this numerous times with the neighbors, so unless anyone has anything definitely new to say - something new we have not been told. Someone said that they wondered if the issue of going out to Wehrle Drive had been addressed. Chairman Frey said that the DOT did not find that favorably. He does not have anything in writing about that. Mike Metzger said that the concept plan was approved with the ingress and egress off Foxwood. It is actually safer because there are fewer conflict points. Another resident said the street coming out to Wehrle Drive is very steep. Chairman Frey said this has been through the engineering department, the Highway Department has looked at it, as well as Traffic Safety - without any negative comments from anyone of these departments. This was

laid out and presented when this whole concept went in for Country Meadows. The problem with this project right now, is that they did not build these buildings before they built all the houses. Some of you; may not have bought your lots, if they would have been built. The buildings have been on the plans since day one. Nora Sullivan said "Isn't the other problem the buffer?" The buffer that was originally approved, no longer exists? Isn't the size of the buffer, we live right behind there.....Chairman Frey said "We all know they took down the buffer when the drainage went in there. What do you want me to do put sixty foot trees back there, and then watch them die?" Mike Metzger said "I don't know if you have had the opportunity to look at the landscape plan yet, but there is a very heavily landscaped buffer that is going to be placed there as part of this project. That was the resolution to the issue of the natural buffer." Mike Songin read a partial quote from Planning Board member Patricia Powers. (On the Question) "We ought to seek the opinion of the Town Attorney on what has to do with the thirty foot buffer, start with where they left the trees standing. We would need legal counsel on that, but I think it is an idea whose time has come." Mike Songin said "What is the opinion of the Town Attorney on that issue?" Mike said he didn't think it was ever referred to the Town Attorney. Joe said "I think we should check it out. That was what Pat Powers said. There is no letter from the Town Attorney.

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Mr. Songin said "Why didn't you? You told 50 or 100 people at the meeting that was going to occur." Mike Metzger said "No, no, no that is not the case. That was one board members opinion of what needed to happen. That was not made a part of the motion. That was not made a part of the motion for this project for concept approval. Mr. Songin said "Well, we asked the Town Attorney in writing for a legal opinion on that matter, and for his position on it. We also asked the Town Attorney to pull the SEQR out I tell you this project is no where close to what that SEQR report .. the zoning and everything else was based upon...It is not even close. That SEQR report is over five years old, and it states that the project will be completed in twenty four months, and that all permits will be applied for in 1997. This is five years later. The map that was submitted with that SEQR report doesn't even have Foxwood Lane or Thornwood Lane on it, Country Meadows subdivision isn't even on the map. At the time this project was presented and evaluated in that SEQR process. Secondly, the legal description of the property in that SEQR report is shown to be a vacant lot on Wehrle Drive not on Foxwood Lane. It leads the reader to believe that this is a Wehrle Drive project, not a residential subdivision project. The third thing is, there is no determination of significance shown on the copy in the

Town files. In other words, the lead agency which is the Town of Clarence never made a determination favorable or unfavorable on that SEQR report. In 1997, it states that after completion the SEQR report says there will be four tenths of an acre remaining forested. That is more than 18% of the total project acreage. This 2002 plan shows zero forested acreage. The SEQR report also states that the present project site does include views that are known to be important to the community. This was before there were forty homes built. Now that issue has been magnified at least forty fold. The SEQR states there will be ninety six proposed parking spaces. It also states there will be 90 jobs created at this project site. It shows there will be a maximum of twenty nine vehicle trips planned for this project. How are you going to get 90 cars out of there at drive time when the SEQR report says that there are only 29 maximum vehicle trips per hour planned in this project? How are you going to get ninety cars out of there at five o'clock when ninety employees leave? It doesn't make any

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sense. The dimensions of the 1997 SEQR report show the project to be a 60 x 100 footprint. It is almost 50% bigger than that now. It is almost 9000 square feet instead of 6000 square feet. The height of the building was stated to be thirty feet. The last thing we saw was 35 feet, which is 17% higher. The SEQR report states that the project is compatible with the surrounding land uses in 1997. Well, the subdivision that you are putting it in wasn't even there on the map that was attached to the SEQR. Now it is a residential upscale subdivision. The 1997 SEQR report states that the proposed project will not result in traffic, significantly above the 1997 levels. We don't even need to talk about that one. Now you have 88 homes there, and ninety more cars at least, entering and exiting that project on a regular basis especially at rush hour. By denying the fact that it will not result in traffic significantly above the 1997 levels, it doesn't address the question of whether the existing road network is adequate to handle the additional traffic." Chairman Frey said "What road were you referring to that is addressed to handle the traffic?" Mike Songin said "It just says question #12 is does the existing road network adequate to handle the additional traffic. I am reading right from the SEQR report. There are about 20 things in that SEQR report, not the least of which is the legal description is misleading, and the entire character and existing conditions of that project has changed in five years. We have asked the Town Attorney to review this, to determine whether the project that has been approved is substantially different from the one that is being considered now. And we asked them for an updated traffic study, based on the fact that we believe that because you have children

waiting in the street for school busses, people who walk, jog, and play in the street. None of that has been considered in this SEQR report. I understand that this SEQR report is the foundation of this entire project. The whole thing has changed. The entire character is different. I don't mean some, I mean 80% of it." Joe Floss said "The date of the SEQR review that is in the file is 3-12-97, and that is a negative declaration. On 1-20-97 is the date that Robert Pidanick signed this as project manager. I don't know what description you are reading from but this description is for two 12,000 square foot office buildings on two sites involving 2.2 acres plus." Mike Songin said "I have a copy of it right here. This is the same one, and if

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you look at the footprint it is a 6500 two story building." Joe said the footprint has increased, and the square footage has substantially decreased. You folks said you didn't want a two story building, and we told the applicant to bring it down to a one story building, so it is back and forth. Mike Songin said "The question is you asked for something new, here is a SEQR report that is completely different than the project you are considering. You need a new SEQR report, and you need a traffic study that is the prudent thing to do, and we have asked the Town Attorney to give an opinion on that. Joe asked Mr. Songin "Has he given you one yet?" Mr. Songin said "He hasn't responded yet." Chairman Frey asked "When did you give it to him?" Mr. Songin said "Today." Chairman Frey said "You can't expect him to have a report tonight." Mr Songin said "I didn't. I am just telling you that we have asked in writing for a legal opinion on all these issues. And whether in fact, the SEQR report based upon the fact that the project is five years old, and existing conditions have substantially changed, as has the nature of the project - whether this whole thing should go back to square one." Someone said "Can't this whole thing go back to the Town Board?" Joe Floss said "It will. We are a recommending body only, and that is what I am going to suggest because they are the ones who accept the lead agency, they take care of the architectural approvals, and we are simply land use." Someone said "They can address all the issues that we are bringing up, why don't you send it back to them?" Joe said "Sure." Mr. Songin said "One of your conditions for approval was SEQR review, I am curious to see, I mean I asked for all copies of the SEQR report here, and the only one I got has no determination here by the Town. Joe said the negative declaration is in the file, he read it to the residents. Chairman Frey told Mr. Songin that he agreed with him on a couple of the issues that things have changed. Like I stated, the problem was when this should have built, it wasn't. Consequently, now it comes along with a lot of

changes. It is too bad you didn't send your letter to the Town Attorney two weeks ago so he would have had a chance to answer or that you would have given a copy to Jim Callahan. Mr. Jason is here for development plan approval. We can table this until we get a letter from the Town Attorney. Chairman Frey asked for a motion to table this until a response is given by the Town Attorney.

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ACTION:

Motion by Michael Metzger, seconded by Reas Graber to table this item until a response is given by the Town Attorney.

On the Question?

Joe Floss said "I was compelled to move this along as a land use issue, and to give it to the Town Board as this gentleman suggested. There is not one person on the Town Board today, that was on the Town Board when this was approved. We have dotted our i's and crossed our t's for land use reasons. I think the Town Board has the ultimate authority to approve or disapprove. With all due respect, for the four or five years that we have been trying to work this out - I think we will leave it up to the Town Board to decide if they want to try to go for a new SEQR. Ultimately that is their decision with the Town Attorney's assistance. If you want to table it that is fine.

Chairman Frey said there is one thing we all agree on, that this is a good land use. Maybe this should go back to the Town Board. Do you want them to handle it, or do you want to handle it here? Mr. Songin said he would like to hear from the Town Attorney first. Mike Metzger said he would like to amend his motion.

:

Motion by Mike Metzger to table this matter pending review of the SEQR document to see if there has been enough change to warrant a new review. If we do determine that it does warrant reviewing again, that it would be referred back to the Municipal Review Committee for review of the SEQR. Also, that these other matters that were brought up relative to the building setback and others reviewed at this time to expedite this so everyone doesn't have to come back ten more times. The SEQR document will be reviewed by the Town Attorney Bob Friedman. Chairman Frey said the Planning Board

Executive Committee will review this on Tuesday morning. This will allow us enough time to get into it with Jim, and see what the changes are. If you would like to be present at nine o'clock - if you would like to hear what is said. If there is a change we will get in touch with you and let you know it is at a different time. I don't think the Planning Board is going to change their position on the

land use, but

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I do think you have some good points. Mike Metzger said he would like to clarify his motion

ACTION:

Motion by Michael Metzger, seconded by Reas Graber to table this project pending review of the Town Attorney and the Executive Committee on the SEQR. If in their opinion it warrants further review that by this motion we also refer it back to the MRC for the next available meeting.

Mr. Jason said "Before the vote comes in, I would just like to place something on the record. I take exception to this motion for tabling. I feel as the applicant that we have met all the criteria that was asked of us. We brought in the landscape drawings that have been available to anyone that wanted to look at them. I feel we have met all the requirements that were asked of us, and for the record I do take exception to the tabling.

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| Reas Graber | AYE |
| Mike Metzger | AYE |
| Roy McCready | NAY |
| Joe Floss | NAY |
| Harold Frey | AYE |

MOTION DEFEATED.

ACTION:

Motion by Joseph Floss, seconded by Roy McCready to recommend development plan approval to the Town Board for construction of two 8500 square foot office buildings in Country Meadows office park located on the corner of Foxwood Drive and Wehrle Drive subject to:

1. Open Space fees.
2. Town Board to look into the SEQR review, the changes that have been made and the request that has been sent to the Town Attorney.
3. All previous commitments would apply such as lighting, landscaping etc.

On the Question?

Mike Metzger said he would like to add a few conditions on to the motion.

4. Obtain resolution to the building setback code issue that was brought forth earlier.
5. Building is moved to the thirty foot setback that was

approved at the concept plan.

6. Resolution of Engineering Department comments prior to going to the Town Board.

7. Resolution of the building materials question prior to going to the Town Board.

Joseph Floss said he would be happy to amend his motion to include those items. Roy McCready seconded the motion.

ALL VOTING AYE. MOTION CARRIED.

Mr. Jason said for the record, he would like to make the whole building masonry.

ITEM V
Tom Hollander
Agricultural

REQUESTS CONCEPT PLAN APPROVAL AND RE-ZONING FROM AGRICULTURAL TO PURD FOR 180 TOWN HOMES & 50 SINGLE FAMILY HOMES EAST OF RANSOM ROAD AND NORTH OF JONES ROAD - GABLES ON THE GREEN.

DISCUSSION:

Chairman Frey said the Planning Board has met with the neighbors and heard their concerns. This is not a meeting that is going to be turned open to the public. If anything comes out of the meeting tonight, all it will be is to either go forward to the Municipal Review Committee or be tabled. Chairman Frey told the applicant "I was disappointed that the applicant did not give him enough time to review this, you knew I was going out of town. I asked you to wait until I got back, and then I could go over this plan. I am very disappointed that you were not giving me this time. You wrote two letters both from you and your attorney. I asked you to wait until July at the last meeting, so I would have time to review this. I have been out of the country for two and a half weeks, and I take a little personal affront from you. All the effort that we have put into this thing, that you weren't willing to wait for me to come back." Joe Floss said "I will just restate what I said the last time. I think it is time to send it on to the MRC to look into the matter of tree preservation, building locations, water pressure issues, and traffic issues so that we have more definitive information in order to make a

decision on what might or might not be able to be built there." Roy McCready said "I agree with Joe. We cannot make a good decision until we hear from Traffic Safety, and the MRC and the other committees" Chairman Frey said "I disagree with both of you

because I think that the tree problem that is there is the number one item. Until we can go out and determine from his plan where he wants to get into these trees, we have also made the determination that we wanted to keep that row of trees - the perimeter around this present subdivision. I don't feel that sending this to the MRC Board is going to accomplish this. Once he gets to the MRC Board, if he comes out of there with a negative declaration, by the time he gets through the DEC and everything else, he is going to feel that is his approved plan, and you are going to have a tough time to change his mind. I personally, my own opinion is - we have done it in the past, and we have had problems afterwards, and we will have problems with this one I am sure. Trying to get anything changed when it comes back. Does the Board care to take any motion on this?

ACTION:

Joe Floss said "Mr Chairman I would like to make a motion to forward the project presented by Tom Hollander - a request for concept approval and re-zoning from Agricultural to PURD for 180 town homes and 50 single family homes east of Ransom Road and north of Jones Road to the Municipal Review Committee so they can enter into the SEQR process, Traffic Safety Board, and Fire Advisory Board so we can get more accurate information in order to make decisions in the future. I will agree with you Mr. Chairman that the applicant - the old adage - be careful what you ask for you might just get it. In regards to moving along, I think we are doing our part, it is due process. He is asking for this tonight, and if he gets it tonight, he is spending money in order to facilitate the SEQR process at his own peril. We are not giving any indication if this motion passes, of any kind of approval at all. It is simply the next step for us to gather the proper information to make an educated decision. I agree with you in terms of the fact that he is asking this request at his own peril. That is my motion Mr. Chairman?"
Chairman Frey said "Is there a second to the motion?" Roy McCready said "I will second it."

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On the Question?

Michael Metzger said "Joe, would you consider some conditions?"
Joe Floss said "I would be happy to entertain some conditions Mike." Mike said "When we move this along to the MRC, there are a few points that I know we feel strongly about that need to be looked at closely. There are four or five items that I think we should ask the MRC to pay specific attention to.

1. Water quality especially as it relates to the proposed septic system sewage treatment.
2. An understanding of the hydro-geology of the area.
3. Density of the zoning in the proposal, and the impact upon existing upon community character.

4. Traffic impacts especially regarding road entrances on the existing streets.

Joe Floss said "I will so amend and add on the tree preservation which I mentioned earlier. As well as water pressure concerns and traffic." Joe asked Roy McCready "Will you second that amended motion"? Roy said "Yes, I will second it. We need specific answers to these questions." Reas Graber said "That will address that question that Harold has, right? About the trees and the perimeter and so on?" Chairman Frey said "It won't address the tree situation at all, as to where these houses are going, where the roads are going and what is going to happen. It won't address that at all. We will have that all when they come back. I think it should be resolved before it goes there. We have a motion on the floor, and it has been seconded. Does anyone have anything else on the question? Mike

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| Metzger | AYE |
| Reas Graber | NAY |
| Roy McCready | AYE |
| Joe Floss | AYE |
| Harold Frey | NAY |

ACTION:

Motion by Joe Floss, seconded by Reas Graber to table this until the meeting that will be held on July 17, 2002.

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| Mike Metzger | AYE |
| Reas Graber | AYE |
| Roy McCready | AYE |
| Joe Floss | AYE |
| Harold Frey | AYE |

MOTION CARRIED.

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Chairman Frey told Mr. Hollander he would like to meet with him and go out to the site. Mr. Hollander said the site has been prepared and the areas in question easily viewed.

Meeting adjourned at 10:10 p.m.
Harold Frey, Chairman